

Award Form  
Crown Copyright 2020

# Award Form

Model Version: v1.2

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

<b>Buyer</b>	<p>HM Revenue and Customs (the Buyer).</p> <p>Its offices are on: 100 Parliament Street, London, SW1A 2BQ</p>
<b>Supplier</b>	<p>Name: <b>Equal Experts UK Ltd</b></p> <p>Address: 2nd Floor, 4 Beaconsfield Road, St Albans, Hertfordshire, AL1 3RD</p> <p>06191086</p> <p>Registration number:</p>
<b>Contract</b>	<p>This Contract between the Buyer and the Supplier is for the supply of Deliverables.</p> <p>Professional Services for Multi-Channel Digital Tax Platform.</p>
<b>Contract reference</b>	<p>SR1489825806</p>
<b>Deliverables</b>	<p>Building and operating a Continuous Integration-Continuous Delivery (CI-CD) capability in public cloud, currently AWS, using open source technologies.</p> <p>See Schedule 2 (Specification) for further details.</p>
<b>Buyer Cause</b>	<p>Any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier.</p>
<b>Collaborative working principles</b>	<p>The Collaborative Working Principles apply to this Contract.</p> <p>See Clause 3.1.3 for further details.</p>

	<b>Financial Transparency Objectives</b>	The Financial Transparency Objectives apply to this Contract. See Clause 6.3 for further details.
	<b>Start Date</b>	1 <sup>st</sup> July 2023
	<b>End Date</b>	30th April 2024
	<b>Extension Period</b>	Not applicable
	<b>Ending the Contract without a reason</b>	In accordance with Clause 14 of this contract; The Buyer has the right to terminate the Contract at any time without reason or (unless the Award Form states something different) liability by giving the Supplier not less than 90 days' notice (unless a different notice period is set out in the Award Form) and if it's terminated Clauses 14.e)i)(2) to 14.e)i)(8) applies.

<p><b>Incorporated Terms</b>        (together these documents form the "<b>the Contract</b>")</p>		<p>The following documents are incorporated into the Contract. Where numbers are missing we are not using these Schedules. If the documents conflict, the following order of precedence applies:</p> <ol style="list-style-type: none"> <li>1. This Award Form</li> <li>2. Any Special Terms (see <b>Section 10 Special Terms</b> in this Award Form)</li> <li>3. Schedule 31 (Buyer Specific Terms)</li> <li>4. Core Terms</li> <li>5. Schedule 1 (Definitions)</li> <li>6. Schedule 20 (Processing Data)</li> <li>7. The following Schedules (in equal order of precedence):</li> <li>8. Schedule 2 (Specification)</li> <li>9. Schedule 3 (Charges)</li> <li>10. Schedule 5 (Commercially Sensitive Information)</li> <li>11. Schedule 6 (Transparency Reports)</li> <li>12. Schedule 13 (Contract Management)</li> <li>13. Schedule 14 (Business Continuity and Disaster Recovery)</li> </ol>
		<ol style="list-style-type: none"> <li>14. Schedule 16 (Security)</li> <li>15. Schedule 21 (Variation Form)</li> <li>16. Schedule 22 (Insurance Requirements)</li> <li>17. Schedule 25 (Rectification Plan)</li> <li>18. Schedule 28 (ICT Services)</li> <li>19. Schedule 30 (Exit Management)</li> <li>20. Schedule 32 (Background Checks)</li> <li>21. Schedule 26 (Corporate Social Responsibility)</li> <li>22. Schedule 4 (Tender) as long as any part of the Tender that offers a better commercial position for the Buyer (as decided by the Buyer) takes precedence over the documents above</li> </ol>

	<b>Special Terms</b>	N/A
	<b>Buyer's Environmental Policy</b>	Appended at Schedule 31
	<b>Buyer's Security Policy</b>	Appended at Schedule 31
	<b>Social Value Commitment</b>	The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, that it will comply with the social value commitments in Schedule 2.
	<b>Commercially Sensitive Information</b>	Appended at Schedule 31 and standard information at Schedule 5 (Commercially Sensitive Information)
	<b>Charges</b>	Details in Schedule 3 (Charges)
	<b>Reimbursable expenses</b>	Recoverable as set out in Schedule 3 (Charges)
	<b>Payment method</b>	Purchase orders and Invoices transacted via MyBuy.

		To facilitate payment, the Supplier shall use an electronic transaction system chosen by the Authority and shall: <ul style="list-style-type: none"> <li>1 - register for the electronic transaction system in accordance with the instructions of the Authority;</li> <li>2 - allow the electronic transmission of purchase orders and submitting of electronic invoices via the electronic transaction system;</li> </ul>
	<b>Service Levels</b>	Not applicable
	<b>Insurance</b>	Details in Annex of Schedule 22 (Insurance Requirements).

<b>Liability</b>	<p>The annual total liability of either party or all property defaults will not exceed 125% of the charges payable during the call off contract term. The annual total liability for Buyer Data defaults will not exceed 125% of the charges payable by the buyer to the supplier during the call off contract term. The annual total liability for all other defaults will not exceed 125% of the charges payable by the Buyer to the Supplier during the call off contract term.</p> <p>Subject to Clause 15.1, the Supplier's total aggregate liability relating to all Losses will be limited the sum of £10,000,000.</p> <p>For the avoidance of doubt, this section 'Limitation of Liability' shall prevail over Clause 15 (below)</p>
<b>Cyber Essentials Certification</b>	Not required
<b>Progress Meetings and Progress Reports</b>	<p>The Supplier shall attend Progress Meetings with the Buyer every month.</p> <p>The Supplier shall provide the Buyer with Progress Reports every month.</p>
<b>Guarantee</b>	Not applicable
<b>Supplier Contract Manager</b>	<p>██████████</p> <p>Business Unit Lead</p> <p>██████████</p>
<b>Key Subcontractors</b>	<b>Not Applicable</b>

<b>Buyer Authorised Representative</b>	[REDACTED] Deputy Director Applications – IT Commercial [REDACTED]
--	--

For and on behalf of the Supplier:		For and on behalf of the Buyer:	
Signature:	[REDACTED]	Signature:	[REDACTED]
Name:	[REDACTED]	Name:	[REDACTED]
Role:	Business Unit Lead	Role:	Associate Director - IT Commercial
Date:	13 July 2023	Date:	13 July 2023

Information redacted under section 43 (2) of FOI Act 2000.

# Core Terms – Mid-tier

## 1.1.1 Contents

1. Definitions used in the contract .....	8
2. How the contract works .....	8
3. What needs to be delivered .....	8
4. Pricing and payments .....	10
5. The buyer’s obligations to the supplier .....	11
6. Record keeping and reporting .....	11
7. Supplier staff .....	12
8. Supply chain .....	13
9. Rights and protection .....	14
10. Intellectual Property Rights (IPRs) .....	15
11. Rectifying issues .....	16
12. Escalating issues.....	16
13. Step-in rights .....	16
14. Ending the contract .....	17
15. How much you can be held responsible for .....	20
16. Obeying the law .....	20
17. Insurance .....	21
18. Data protection .....	21
19. What you must keep confidential .....	22
20. When you can share information .....	23
21. Invalid parts of the contract .....	23
22. No other terms apply .....	24
23. Other people’s rights in the Contract .....	24
24. Circumstances beyond your control .....	24
25. Relationships created by the contract .....	24
26. Giving up contract rights .....	24
27. Transferring responsibilities .....	24
28. Changing the contract .....	25
29. How to communicate about the contract .....	26
30. Dealing with claims .....	26
31. Preventing fraud, bribery and corruption .....	27

32. Equality, diversity and human rights .....	28
33. Health and safety .....	28
34. Environment .....	28
35. Tax .....	29
36. Conflict of interest .....	30
37. Reporting a breach of the contract .....	30
38. Further Assurances .....	30
39. Resolving disputes .....	30
40. Which law applies .....	31

## 1. Definitions used in the contract

1.1 Interpret this Contract using Schedule 1 (Definitions).

## 2. How the contract works

- a) If the Buyer decides to buy Deliverables under the Contract it must state its requirements using the Award Form. If allowed by the Regulations, the Buyer can: i) make changes to the Award Form; ii) create new Schedules; iii) exclude optional template Schedules; and iv) use Special Terms in the Award Form to add or change terms.
- b) The Contract:
  - i) is between the Supplier and the Buyer; and
  - ii) includes Core Terms, Schedules and any other changes or items in the completed Award Form.
- c) The Supplier acknowledges it has all the information required to perform its obligations under the Contract before entering into it. When information is provided by the Buyer no warranty of its accuracy is given to the Supplier.
- d) The Supplier acknowledges that, subject to the Allowable Assumptions set out in Annex 2 of Schedule 3 (Charges) (if any), it has satisfied itself of all details relating to: i) the Buyer's requirements for the Deliverables; ii) the Buyer's operating processes and working methods; and iii) the ownership and fitness for purpose of the Buyer Assets.
- e) The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
  - i) verify the accuracy of the Due Diligence Information; and ii) properly perform its own adequate checks and enquiries.
- f) The Buyer will not be liable for errors, omissions or misrepresentation of any information.
- g) The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

## 3. What needs to be delivered

### a) All deliverables

i) The Supplier must provide Deliverables:

**(1) that comply with the Specification, the Tender Response and the Contract;**

- (2) to a professional standard;**
    - (3) using reasonable skill and care;**
    - (4) using Good Industry Practice;**
    - (5) using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract; (6) on the dates agreed; and**
    - (7) that comply with Law.**
  - ii) The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects or for such other period as specified in the Award Form.
  - iii) Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to any Buyer Third Party and act at all times in accordance with the following principles:
    - (1) proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";**
    - (2) being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties;**
    - (3) adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties;**
    - (4) providing cooperation, support, information and assistance to Buyer Third Parties in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and**
    - (5) identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and performance throughout the relationship lifecycle.**
- b) **Goods clauses**
- i) All Goods delivered must be new, or as new if recycled, unused and of recent origin.
  - ii) All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.
  - iii) The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.
  - iv) Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.
  - v) The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
  - vi) The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.

- vii) The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- viii) All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- ix) The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- x) The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- xi) The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier uses all reasonable endeavours to minimise these costs.
- xii) The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause 3. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.

**c) Services clauses**

- i) Late Delivery of the Services will be a Default of the Contract.
- ii) The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions of the Buyer or third party suppliers.
- iii) The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services.
- iv) The Supplier must allocate sufficient resources and appropriate expertise to the Contract.
- v) The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- vi) The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- vii) The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

## **4. Pricing and payments**

- a) In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Award Form.
- b) All Charges:

- i) exclude VAT, which is payable on provision of a valid VAT invoice; and ii) include all costs connected with the Supply of Deliverables.
- c) The Buyer must pay the Supplier the Charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Award Form.
- d) A Supplier invoice is only valid if it:
  - i) includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer; and
  - ii) includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any).
- e) The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- f) The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do so by a court.

## 5. **The buyer's obligations to the supplier**

- a) If Supplier Non-Performance arises from a Buyer Cause:
  - i) the Buyer cannot terminate the Contract under Clause 14.d)i);
  - ii) the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract;
  - iii) the Supplier is entitled to additional time needed to make the Delivery; iv) the Supplier cannot suspend the ongoing supply of Deliverables.
- b) Clause a) only applies if the Supplier:
  - i) gives notice to the Buyer of the Buyer Cause within 10 Working Days of becoming aware;
  - ii) demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause; and iii) mitigated the impact of the Buyer Cause.

## 6. **Record keeping and reporting**

- a) The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.
- b) The Supplier must keep and maintain full and accurate records and accounts in respect of the Contract during the Contract Period and for 7 years after the End Date and in accordance with the GDPR, including the records and accounts which the Buyer has a right to Audit.

- c) Where the Award Form states that the Financial Transparency Objectives apply, the Supplier must co-operate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer: i) on or before the Start Date; ii) at the end of each Contract Year; and iii) within 6 Months of the end of the Contract Period,
  - 1.2 and the Supplier must meet with the Buyer if requested within 10 Working Days of the Buyer receiving a Financial Report.
- d) If the Supplier becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:
  - i) Supplier's currently incurred or forecast future Costs; and ii) forecast Charges for the remainder of the Contract,
    - 1.2.1 then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.
- e) The Supplier must allow any Auditor access to their premises and the Buyer will use reasonable endeavours to ensure that any Auditor:
  - i) complies with the Supplier's operating procedures; and ii) does not unreasonably disrupt the Supplier or its provision of the Deliverables.
- f) During an Audit, the Supplier must provide information to the Auditor and reasonable co-operation at their request, including access to:
  - i) all information within the permitted scope of the Audit;
  - ii) any Sites, equipment and the Supplier's ICT system used in the performance of the Contract; and iii) the Supplier Staff.
- g) The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a material Default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- h) The Supplier must comply with the Buyer's reasonable instructions following an Audit, including:
  - i) correcting any identified Default; ii) rectifying any error identified in a Financial Report; and iii) repaying any Charges that the Buyer has overpaid.
- i) If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:

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

## 7. **Supplier staff**

- a) The Supplier Staff involved in the performance of the Contract must:
  - i) be appropriately trained and qualified;
  - ii) be vetted using Good Industry Practice and the Security Policy; and iii) comply with all conduct requirements when on the Buyer's Premises.
- b) Where the Buyer decides one of the Supplier's Staff is not suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.
- c) If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach Clauses 31.a) to 31.d).
- d) The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.
- e) The Supplier indemnifies the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

## 8. **Supply chain**

### a) **Appointing Subcontractors**

- i) The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to: ii) manage Subcontractors in accordance with Good Industry Practice; iii) comply with its obligations under this Contract; and iv) assign, novate or transfer its rights and/or obligations under the Sub-Contract to the Buyer or a Replacement Supplier.

### b) **Mandatory provisions in Sub-Contracts**

- i) The Supplier will ensure that all Sub-Contracts contain provisions that:
  - (1) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;**
  - (2) require the Supplier to pay all Subcontractors in full, within 30 days of receiving a valid, undisputed invoice; and**
  - (3) allow the Buyer to publish the details of the late payment or non-payment if this 30-day limit is exceeded.**

### c) **When Sub-Contracts can be ended**

- i) At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:
  - (1) there is a Change of Control of a Subcontractor which isn't pre-approved by the Buyer in writing;**
  - (2) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 14.d);**
  - (3) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;**
  - (4) the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or**
  - (5) the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Public Contracts Regulations 2015.**

### d) **Competitive terms**

- i) If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may either:
  - (1) require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items; or**
  - (2) enter into a direct agreement with the Subcontractor or third party for the relevant item.**
- ii) If the Buyer uses Clause i) then the Charges must be reduced by an agreed amount by using the Variation Procedure.
- iii) The Buyer's right to enter into a direct agreement for the supply of the relevant items is subject to both:
  - (1) the relevant item being made available to the Supplier if required to provide the Deliverables; and**
  - (2) any reduction in the Charges excludes any unavoidable costs that must be paid by the Supplier for the substituted item, including any licence fees or early termination charges.**

### e) **Ongoing responsibility of the Supplier**

- i) The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

## 9. **Rights and protection**

- a) The Supplier warrants and represents that:
  - i) it has full capacity and authority to enter into and to perform the Contract; ii) the Contract is executed by its authorised representative;

iii) it is a legally valid and existing organisation incorporated in the place it was formed;  
iv) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its

Affiliates that might affect its ability to perform the Contract;

v) all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under the Contract and for the Buyer to receive the Deliverables; vi) all written statements and representations that it has made as part of the procurement process remain true and accurate except to the extent that these have been superseded or varied by this Contract;

vii) it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; viii) it is not impacted by an Insolvency Event or a Financial Distress Event; and

ix) neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Start Date or been subject to an investigation relating to a Prohibited Act.

b) The warranties and representations in Clauses 2.g) and 9.a) are repeated each time the Supplier provides Deliverables under the Contract.

c) The Supplier indemnifies the Buyer against each of the following:

i) wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the

Contract; and ii) non-payment by the Supplier of any tax or

National Insurance.

d) All claims indemnified under this Contract must use Clause 30.

e) The Buyer can terminate the Contract for breach of any warranty or indemnity where they are entitled to do so.

f) If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.

g) All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

## 10. **Intellectual Property Rights (IPRs)**

a) Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a nonexclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to both: i) receive and use the Deliverables; and ii) make use of the deliverables provided by a Replacement Supplier.

- b) Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations during the Contract Period.
- c) Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- d) Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9.a)v) or otherwise agreed in writing.
- e) If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- f) If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
  - i) obtain for the Buyer the rights in Clause 10.a) and 10.b) without infringing any third party IPR; and
  - ii) replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.

## 11. **Rectifying issues**

- a) If there is a Notifiable Default, the Supplier must notify the Buyer within 3 Working Days and the Buyer may request that the Supplier provide a Rectification Plan within 10 Working Days alongside any additional documentation that the Buyer requires.
- b) When the Buyer receives a requested Rectification Plan it can either:
  - i) reject the Rectification Plan or revised Rectification Plan, giving reasons; or ii) accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.
- c) Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer:
  - i) will give reasonable grounds for its decision; and ii) may request that the Supplier provides a revised Rectification Plan within 5 Working Days.

## 12. **Escalating issues**

- a) If the Supplier fails to:
  - i) submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 11.a) or 11.c); and
  - ii) adhere to the timescales set out in an accepted Rectification Plan to resolve the Notifiable Default.

or if the Buyer otherwise rejects a Rectification Plan, the Buyer can require the Supplier to attend an Escalation Meeting on not less than 5 Working Days' notice. The Buyer will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.

- b) The Escalation Meeting(s) will continue until the Buyer is satisfied that the Notifiable Default has been resolved, however, where an Escalation Meeting(s) has continued for more than 5 Working Days, either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.
- c) If the Supplier is in Default of any of its obligations under this Clause 12, the Buyer shall be entitled to terminate this Agreement under Clause 14.d)i).

### 13. **Step-in rights**

- a) If a Step-In Trigger Event occurs, the Buyer may give notice to the Supplier that it will be taking action in accordance with this Clause 13 and setting out:
  - i) whether it will be taking action itself or with the assistance of a third party; ii) what Required Action the Buyer will take during the Step-In Process;
  - iii) when the Required Action will begin and how long it will continue for iv) whether the Buyer will require access to the Sites; and
  - v) what impact the Buyer anticipates that the Required Action will have on the Supplier's obligations to provide the Deliverables.
- b) For as long as the Required Action is taking place:
  - i) the Supplier will not have to provide the Deliverables that are the subject of the Required Action; ii) no Deductions will be applicable in respect of Charges relating to the Deliverables that are the subject of the Required Action; and
  - iii) the Buyer will pay the Charges to the Supplier after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.
- c) The Buyer will give notice to the Supplier before it ceases to exercise its rights under the Step-In Process and within 20 Working Days of this notice the Supplier will develop a draft Step-Out Plan for the Buyer to approve.
- d) If the Buyer does not approve the draft Step-Out Plan, the Buyer will give reasons and the Supplier will revise the draft Step-Out Plan and re-submit it for approval.

### 14. **Ending the contract**

- a) The Contract takes effect on the Start Date and ends on the End Date or earlier if terminated under this Clause 14 or if required by Law.

b) The Buyer can extend the Contract for the Extension Period by giving the Supplier written notice before the Contract expires as described in the Award Form.

c) **Ending the contract without a reason**

1.2.2 The Buyer has the right to terminate the Contract at any time without reason or (unless the Award Form states something different) liability by giving the Supplier not less than 90 days' notice (unless a different notice period is set out in the Award Form) and if it's terminated Clauses e)i)(2) to 14.e)i)(8) applies.

d) **When the Buyer can end the Contract**

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

- (1) **there's a Supplier Insolvency Event or if the Supplier fails to notify the Buyer of a Financial Distress Event;**
- (2) **the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance there's a Default that is not corrected in line with an accepted Rectification Plan;**
- (3) **the Buyer rejects a Rectification Plan or the Supplier does not provide it within 10 days of the request;**
- (4) **there's any material Default of the Contract;**
- (5) **a Default that occurs and then continues to occur on one or more occasions within 6 Months following the Buyer serving a warning notice on the Supplier that it may terminate for persistent breach of the Contract;**
- (6) **there's any material Default of any Joint Controller Agreement relating to the Contract;**
- (7) **there's a Default of Clauses 2.g), 10, 12, 18, 19, 31, 36 or Schedule 19 (Cyber Essentials) (where applicable) relating to the Contract;**
- (8) **the performance of the Supplier causes a Critical Service Level Failure to occur;**
- (9) **there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);**
- (10) **there's a Change of Control of the Supplier which isn't preapproved by the Buyer in writing;**
- (11) **there's a Variation to the Contract which cannot be agreed using Clause 28 (Changing the contract) or resolved using Clause 39 (Resolving disputes);**
- (12) **the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded;**
- (13) **the Court of Justice of the European Union uses Article 258 of the**

**Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations;**

- (14) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them; or**
- (15) the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables.**

- ii) The Buyer also has the right to terminate the Contract in accordance with Clauses 9.e), 24.c) and 28.c)ii).
- iii) If any of the events in 73 (1) (a) to (c) of the Regulations happen, the Buyer has the right to immediately terminate the Contract and Clauses e)i)(2) to 14.e)i)(8) applies.

**e) What happens if the contract ends**

- i) Where the Buyer terminates the Contract under Clauses d)i), 9.e) and 28.c)ii) all of the following apply:

- (1) The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.**
- (2) The Buyer's payment obligations under the terminated Contract stop immediately.**
- (3) Accumulated rights of the Parties are not affected.**
- (4) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.**
- (5) The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.**
- (6) The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).**
- (7) The Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.**
- (8) The following Clauses survive the termination of the Contract: 3.b)x), 6, 7.b), 10, 15, 18, 19, 20, 21, 22, 38, 40 and any Clauses and Schedules which are expressly or by implication intended to continue.**

- ii) If either Party terminates the Contract under Clause 24.c):

- (1) each party must cover its own Losses; and (2) Clauses i)(2) to 14.e)i)(8) applies.**

**f) When the Supplier can end the contract**

- i) The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the

Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract Value within 30 days of the date of the Reminder Notice.

- ii) The Supplier also has the right to terminate the Contract in accordance with Clauses 24.c) and 27.d).
- iii) If the Supplier terminates the Contract under Clause 14.f)i) or 27.d):
  - (1) the Buyer must promptly pay all outstanding Charges incurred to the Supplier;**
  - (2) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence – the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated; and**
  - (3) Clauses 14.e)i)(4) to 14.e)i)(8) apply.**
- g) **Partially ending and suspending the contract**
  - i) Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.
  - ii) The Buyer can only partially terminate or suspend the Contract if the remaining parts of the Contract can still be used to effectively deliver the intended purpose.
  - iii) The Parties must agree any necessary Variation required by this Clause 14.g) using the Variation Procedure, but the Supplier may not either:
    - (1) reject the Variation; or**
    - (2) increase the Charges, except where the right to partial termination is under Clause 14.c).**
  - iv) The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause 14.g).

## 15. **How much you can be held responsible for**

- a) Each Party's total aggregate liability in each Contract Year under the Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified in the Award Form.
- b) No Party is liable to the other for:
  - i) any indirect Losses; and
  - ii) Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- c) In spite of Clause 15.a), neither Party limits or excludes any of the following:
  - i) its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;

- ii) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and
- iii) any liability that cannot be excluded or limited by Law.
- d) In spite of Clause 15.a), the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.e), 9.c), 10.e), 16.c) or 18.h)v) or Schedule 7 (Staff Transfer) of the Contract.
- e) Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- f) When calculating the Supplier's liability under Clause 15.a) the following items will not be taken into consideration: i) Deductions; and ii) any items specified in Clause 15.d).
- g) If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

## 16. **Obeying the law**

- a) The Supplier shall comply with the provisions of Schedule 26 (Corporate Social Responsibility).
- b) The Supplier shall comply with the provisions of:
  - i) the Official Secrets Acts 1911 to 1989; and ii)section 182 of the Finance Act 1989.
- c) The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law.
- d) The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 16.a) and Clauses 31 to 36.

## 17. **Insurance**

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

## 18. **Data protection**

- a) The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Schedule 20 (Processing Data).
- b) The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- c) The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.

- d) The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.
- e) If at any time the Supplier suspects or has reason to believe that the Government Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Buyer and immediately suggest remedial action.
- f) If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
  - i) tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and ii) restore the Government Data itself or using a third party.
- g) The Supplier must pay each Party's reasonable costs of complying with Clause 18.f) unless the Buyer is at fault.
- h) The Supplier:
  - i) must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request; ii) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading; iii) must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
  - iv) securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it; and
  - v) indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause 18 and any Data Protection Legislation.

## 19. **What you must keep confidential**

- a) Each Party must:
  - i) keep all Confidential Information it receives confidential and secure;
  - ii) not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under the Contract; and
  - iii) immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.
- b) In spite of Clause 19.a), a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- i) where disclosure is required by applicable Law, a regulatory body or a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
  - ii) if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
  - iii) if the information was given to it by a third party without obligation of confidentiality;
  - iv) if the information was in the public domain at the time of the disclosure;
  - v) if the information was independently developed without access to the Disclosing Party's Confidential Information; vi) on a confidential basis, to its auditors;
  - vii) on a confidential basis, to its professional advisers on a need-to-know basis; and viii) to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- c) The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Buyer at its request.
- d) The Buyer may disclose Confidential Information in any of the following cases:
- i) on a confidential basis to the employees, agents, consultants and contractors of the Buyer; ii) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
  - iii) if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions; iv) where requested by Parliament; and
  - v) under Clauses 8.d)i) and 20.
- e) For the purposes of Clauses 19.b) to 19.d) references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 19.
- f) Transparency Information and any Information which is exempt from disclosure by Clause 20 is not Confidential Information.
- g) The Supplier must not make any press announcement or publicise the Contracts or any part of them in any way, without the prior written consent of the Buyer and must use all reasonable endeavours to ensure that Supplier Staff do not either.

## 20. **When you can share information**

- a) The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.
- b) In accordance with a reasonable timetable and in any event within 5 Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
  - i) publish the Transparency Information;
  - ii) comply with any Freedom of Information Act (FOIA) request; and iii) comply with any Environmental Information Regulations (EIR) request.
- c) To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a FOIA request and may talk to the Supplier to help it decide whether to publish information under Clause a). However, the extent, content and format of the disclosure is the Buyer's decision, which does not need to be reasonable.

## 21. **Invalid parts of the contract**

- a) If any part of the Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from the Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.
- b) If any removal under Clause a) is so fundamental that it prevents the purpose of the Contract from being achieved or it materially changes the balance of risk and rewards between the Parties, either Party may give notice that it wishes to negotiate in good faith to rectify these issues and to amend the Contract accordingly.
- c) If the Parties cannot agree on what amendments are required within 5 Working Days, the matter will be dealt with via commercial negotiation as set out in Clause 39.b) and, if there is no resolution within 30 Working Days of the matter being referred, the Contract will terminate automatically and immediately with costs lying where they fall.

## 22. **No other terms apply**

The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous negotiations, arrangements, statements, understandings, course of dealings or agreements made between the Parties in relation to its subject matter whether written or oral. No other provisions apply and neither Party has entered into this Contract in reliance on any warranty, statement, promise or representation other than the ones set out in this Contract.

## 23. **Other people's rights in the Contract**

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

## 24. **Circumstances beyond your control**

- a) Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both: i) provides a Force Majeure Notice to the other Party; and ii) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- b) Any failure or delay by the Supplier to perform its obligations under this Contract that is due to a failure or delay by an agent, Subcontractor or supplier will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.
- c) Either party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

## 25. **Relationships created by the contract**

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

## 26. **Giving up contract rights**

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

## 27. **Transferring responsibilities**

- a) The Supplier cannot assign, novate, sub-contract or in any other way dispose of the Contract or any part of it without the Buyer's written consent.
- b) The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- c) When the Buyer uses its rights under Clause 27.b) the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- d) The Supplier can terminate the Contract novated under Clause 27.b) to a private sector body that is experiencing an Insolvency Event.
- e) The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

- f) If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including: i) their name; ii) the scope of their appointment; iii) the duration of their appointment; and iv) a copy of the Sub-Contract.

## 28. **Changing the contract**

- a) Either Party can request a Variation to the Contract which is only effective if set out in the Variation Form and agreed in writing and signed by both Parties.
- b) The Supplier must provide an Impact Assessment either:
  - i) with the Variation Form, where the Supplier requests the Variation; and ii) within the time limits included in a Variation Form requested by the Buyer.
- c) If the Variation to the Contract cannot be agreed or resolved by the Parties, the Buyer can either:
  - i) agree that the Contract continues without the Variation;
  - ii) terminate the Contract, unless the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them; and
  - iii) refer the Dispute to be resolved using Clause 39 (Resolving Disputes).
- d) The Buyer is not required to accept a Variation request made by the Supplier.
- e) The Supplier may only reject a Variation requested by the Buyer if the Supplier:
  - i) reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person or that it would result in the Deliverables being provided in a way that infringes any Law; or
  - ii) demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.
- f) If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Charges.
- g) If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, the Charges or the Contract and provide evidence:
  - i) that the Supplier has kept costs as low as possible, including in Subcontractor costs; and

- ii) of how it has affected the Supplier's costs.
- h) Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 28.a) to 28.d).

## 29. **How to communicate about the contract**

- a) All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9am on the first Working Day after sending sent unless an error message is received.
- b) Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Award Form.
- c) This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## 30. **Dealing with claims**

- a) If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Working Days.
- b) At the Indemnifier's cost the Beneficiary must both:
  - i) allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and ii) give the Indemnifier reasonable assistance with the claim if requested.
- c) The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.
- d) The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.
- e) The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- f) Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.
- g) If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:
  - i) the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; and
  - ii) the amount the Indemnifier paid the Beneficiary for the Claim.

### **31. Preventing fraud, bribery and corruption**

- a) The Supplier must not during the Contract Period:
  - i) commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2); and ii) do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.
- b) The Supplier must during the Contract Period:
  - i) create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same; ii) keep full records to show it has complied with its obligations under this Clause 31 and give copies to the Buyer on request; and
  - iii) if required by the Buyer, within 20 Working Days of the Start Date of the Contract, and then annually, certify in writing to the Buyer, that they have complied with this Clause 31, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.
- c) The Supplier must immediately notify the Buyer if it becomes aware of any breach of Clauses 31.a) or 31.b) or has any reason to think that it, or any of the Supplier Staff, have either:
  - i) been investigated or prosecuted for an alleged Prohibited Act;
  - ii) been debarred, suspended, proposed for suspension or debarment, or are otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency; iii) received a request or demand for any undue financial or other advantage of any kind related to the Contract; and
  - iv) suspected that any person or Party directly or indirectly related to the Contract has committed or attempted to commit a Prohibited Act.
- d) If the Supplier notifies the Buyer as required by Clause 31.c), the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- e) If the Supplier is in Default under Clauses 31.a) or 31.b), the Buyer may:
  - i) require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the Default; and
  - ii) immediately terminate this agreement.
- f) In any notice the Supplier gives under Clause 31.d) it must specify the:
  - i) Prohibited Act;

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

## **32. Equality, diversity and human rights**

- a) The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:
  - i) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
  - ii) any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- b) The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

## **33. Health and safety**

- a) The Supplier must perform its obligations meeting the requirements of:
  - i) all applicable Law regarding health and safety; and
  - ii) the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.
- b) The Supplier must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of the Contract.

## **34. Environment**

- a) When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.
- b) The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

## **35. Tax**

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

- b) Where the Charges payable under the Contract are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within 5 Working Days including:
  - i) the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
  - ii) other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.
- c) Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Contract, the Supplier must both:
  - i) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and ii) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- d) If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
  - i) the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause c)i), or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
  - ii) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer; iii) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause c)i) or confirms that the Worker is not complying with those requirements; and
  - iv) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

## 36. **Conflict of interest**

- a) The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential Conflict of Interest.
- b) The Supplier must promptly notify and provide details to the Buyer if a Conflict of Interest happens or is expected to happen.

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

### **37. Reporting a breach of the contract**

- a) As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of: i) Law; ii) Clause 16.a); and iii) Clauses 31 to 36.
- b) The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in Clause 37.a) to the Buyer or a Prescribed Person.

### **38. Further Assurances**

Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.

### **39. Resolving disputes**

- a) If there is a Dispute, the Buyer Authorised Representative and the Supplier Authorised Representative will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute.
- b) If the Dispute is not resolved at that meeting either Party can send a notice to the other explaining why it thinks the Dispute has arisen and within 28 days the Parties will seek to resolve the Dispute by commercial negotiation, led by senior representatives who have authority to settle it.
- c) If the Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 39.d) to 39.f).
- d) Unless the Buyer refers the Dispute to arbitration using Clause 39.e), the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
  - i) determine the Dispute; ii) grant interim remedies; and iii) grant any other provisional or protective relief.
- e) The Supplier agrees that the Buyer has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

- f) The Buyer has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 39.d), unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 39.e).
- g) The Supplier cannot suspend the performance of the Contract during any Dispute.

#### 40. **Which law applies**

This Contract and any issues or Disputes arising out of, or connected to it, are governed by English law.

## **Schedule 1 (Definitions)**

### **1. DEFINITIONS**

- 1.1 In the Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In the Contract, unless the context otherwise requires:
  - 1.3.1 the singular includes the plural and vice versa;
  - 1.3.2 reference to a gender includes the other gender and the neuter;
  - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
  - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;

- 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
- 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
- 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
- 1.3.8 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
- 1.3.9 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided; and
- 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
- 1.3.11 the headings in the Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract;
- 1.3.12 where the Buyer is a Crown Body it shall be treated as contracting with the Crown as a whole; and
- 1.3.13 references to this Contract are to it as amended from time to time.

1.4 In the Contract, unless the context otherwise requires, the following words shall have the following meanings:

<b>"Achieve"</b>	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " <b>Achieved</b> ", " <b>Achieving</b> " and " <b>Achievement</b> " shall be construed accordingly;
<b>"Affected Party"</b>	the party seeking to claim relief in respect of a Force Majeure Event;
<b>"Affiliates"</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;

<b>"Allowable Assumptions"</b>	means the assumptions (if any) set out in Annex 2 of Schedule 3 (Charges);
<b>"Annex"</b>	extra information which supports a Schedule;
<b>"Approval"</b>	the prior written consent of the Buyer and <b>"Approve"</b> and <b>"Approved"</b> shall be construed accordingly;
<b>"Audit"</b>	<p>the Buyer's right to:</p> <ul style="list-style-type: none"> <li>(a) verify the integrity and content of any Financial Report;</li> <li>(b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with the Contract);</li> <li>(c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;</li> <li>(d) verify the Open Book Data;</li> <li>(e) verify the Supplier's and each Subcontractor's compliance with the applicable Law;</li> <li>(f) identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Schedule 26 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;</li> <li>(g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;</li> <li>(h) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;</li> <li>(i) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract;</li> <li>(j) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;</li> </ul>

	(k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;
<b>"Auditor"</b>	(a) the Buyer's internal and external auditors; (b) the Buyer'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 Buyer to carry out audit or similar review functions; and (f) successors or assigns of any of the above;
<b>"Award Form"</b>	the document outlining the Incorporated Terms and crucial information required for the Contract, to be executed by the Supplier and the Buyer;
<b>"Buyer"</b>	the public sector purchaser identified as such in the Order Form;
<b>"Buyer Assets"</b>	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;
<b>"Buyer Authorised Representative"</b>	the representative appointed by the Buyer from time to time in relation to the Contract initially identified in the Award Form;
<b>"Buyer Cause"</b>	has the meaning given to it in the Award Form;
<b>"Buyer Premises"</b>	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
<b>"Buyer Third Party"</b>	means any third party supplier providing deliverables to the Buyer;

<b>"Buyer's Confidential Information"</b>	<p>(a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR);</p> <p>(b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has</p>
	<p>come) to the Buyer's attention or into the Buyer's possession in connection with the Contract; and</p> <p>information derived from any of the above;</p>
<b>"Central Government Body"</b>	<p>a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <p>(a) Government Department;</p> <p>(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</p> <p>(c) Non-Ministerial Department; or</p> <p>(d) Executive Agency;</p>
<b>"Change in Law"</b>	<p>any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;</p>
<b>"Change of Control"</b>	<p>a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;</p>
<b>"Charges"</b>	<p>the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under the Contract less any Deductions;</p>
<b>"Claim"</b>	<p>any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;</p>
<b>"Commercially Sensitive Information"</b>	<p>the Confidential Information listed in the Award Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;</p>

"Comparable Supply"	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
"Compliance Officer"	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
"Confidential Information"	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether
	or not it is marked as " <b>confidential</b> ") or which ought reasonably to be considered to be confidential;
"Conflict of Interest"	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer;
"Contract"	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;
"Contract Period"	the term of the Contract from the earlier of the: (a) Start Date; or (b) the Effective Date (c) until the End Date;
"Contract Value"	the higher of the actual or expected total Charges paid or payable under the Contract where all obligations are met by the Supplier;
"Contract Year"	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
"Control"	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and " <b>Controlled</b> " shall be construed accordingly;
"Controller"	has the meaning given to it in the GDPR;
"Core Terms"	the Buyer's terms and conditions which apply to and comprise one part of the Contract set out in the document called "Core Terms";

<b>"Costs"</b>	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <p>(a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including:</p> <ul style="list-style-type: none"><li>(i) base salary paid to the Supplier Staff;</li><li>(ii) employer's National Insurance contributions;</li><li>(iii) pension contributions;</li><li>(iv) car allowances;</li><li>(v) any other contractual employment benefits;</li><li>(vi) staff training;</li><li>(vii) work place accommodation;</li><li>(viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below);</li></ul> <p>and</p>
----------------	---

	<p>(ix) reasonable recruitment costs, as agreed with the Buyer;</p> <p>(b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;</p> <p>(c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and</p> <p>(d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables;</p> <p>but excluding:</p> <p>(e) Overhead;</p> <p>(f) financing or similar costs;</p> <p>(g) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise;</p> <p>(h) taxation;</p> <p>(i) fines and penalties;</p> <p>(j) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and</p> <p>(k) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</p>
<b>"Credit Rating Threshold"</b>	has the meaning given to it in the Award Form;
<b>"Critical Service Level Failure"</b>	has the meaning given to it in the Award Form;
<b>"Crown Body"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"CRTPA"</b>	the Contract Rights of Third Parties Act 1999;

<b>"Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>"Data Protection Legislation"</b>	(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; (iii) all applicable Law about the Processing of personal data and privacy;
<b>"Data Protection Officer"</b>	has the meaning given to it in the GDPR;
<b>"Data Subject"</b>	has the meaning given to it in the GDPR
<b>"Data Subject Access Request"</b>	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;
<b>"Deductions"</b>	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under the Contract;
<b>"Default"</b>	any breach of the obligations of the Supplier (including abandonment of the Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of the Contract and in respect of which the Supplier is liable to the Buyer;
<b>"Delay Payments"</b>	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
<b>"Deliverables"</b>	Goods and/or Services that may be ordered under the Contract including the Documentation;

<p><b>"Delivery"</b></p>	<p>delivery of the relevant Deliverable or Milestone in accordance with the terms of the Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. <b>"Deliver"</b> and <b>"Delivered"</b> shall be construed accordingly;</p>
<p><b>"Disaster"</b></p>	<p>the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be</p>
	<p>unavailable) for the period specified in the Award Form (for the purposes of this definition the <b>"Disaster Period"</b>);</p>
<p><b>"Disclosing Party"</b></p>	<p>the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 19 (What you must keep confidential);</p>
<p><b>"Dispute"</b></p>	<p>any claim, dispute or difference (whether contractual or noncontractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;</p>
<p><b>"Dispute Resolution Procedure"</b></p>	<p>the dispute resolution procedure set out in Clause 39 (Resolving disputes);</p>
<p><b>"Documentation"</b></p>	<p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under the Contract as:</p> <ul style="list-style-type: none"> <li>(a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</li> <li>(b) is required by the Supplier in order to provide the Deliverables; and/or</li> <li>(c) has been or shall be generated for the purpose of providing the Deliverables;</li> </ul>

<b>"DOTAS"</b>	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;
<b>"Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Buyer prior to the Start Date;
<b>"Effective Date"</b>	the date on which the final Party has signed the Contract;
<b>"EIR"</b>	the Environmental Information Regulations 2004;

<b>"Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;
<b>"End Date"</b>	the earlier of: (a) the Expiry Date as extended by the Buyer under Clause 14.2; or (b) if the Contract is terminated before the date specified in (a) above, the date of termination of the Contract;
<b>"Environmental Policy"</b>	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
<b>"Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Escalation Meeting"</b>	means a meeting between the Supplier Authorised Representative and the Buyer Authorised Representative to address issues that have arisen during the Rectification Plan Process;
<b>"Estimated Year 1 Charges"</b>	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;

<b>"Estimated Yearly Charges"</b>	<p>means for the purposes of calculating each Party's annual liability under Clause 15.1 :</p> <ul style="list-style-type: none"> <li>(a) in the first Contract Year, the Estimated Year 1 Charges; or</li> <li>(b) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or</li> <li>(c) after the end of the Contract, the Charges paid or payable in the last Contract Year during the Contract Period;</li> </ul>
<b>"Existing IPR"</b>	<p>any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);</p>
<b>"Expiry Date"</b>	<p>the date of the end of the Contract as stated in the Award Form;</p>
<b>"Financial Distress Event"</b>	<ul style="list-style-type: none"> <li>(a) the credit rating of the Supplier, any Guarantor or any Key Subcontractor drops below Credit Rating Threshold of the relevant Rating Agency;</li> </ul>

	<ul style="list-style-type: none"> <li>(b) the Supplier, any Guarantor or any Key Subcontractor issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects;</li> <li>(c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Supplier, any Guarantor or any Key Subcontractor;</li> <li>(d) the Supplier, any Guarantor or any Key Subcontractor commits a material breach of covenant to its lenders;</li> <li>(e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute; or</li> <li>(f) any of the following in respect of the Supplier, any Guarantor or any Key Subcontractor: (i) commencement of any litigation with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m; ii) non-payment of any financial indebtedness; iii) any financial indebtedness becoming due as a result of an event of default; iv) the cancellation or suspension of any financial indebtedness or v) an external auditor expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that entity, in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Deliverables in accordance with the Contract;</li> </ul>
<p><b>"Financial Report"</b></p>	<p>a report provided by the Supplier to the Buyer that:</p> <ul style="list-style-type: none"> <li>(a) provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;</li> <li>(b) provides detail a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);</li> <li>(c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Start Date for the purposes of this Contract; and</li> <li>(d) is certified by the Supplier's Chief Financial Officer or Director of Finance;</li> </ul>
<p><b>"Financial Transparency Objectives"</b></p>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in</li> </ul>

	<p>providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier;</p> <ul style="list-style-type: none"> <li>(b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;</li> <li>(c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges;</li> <li>(d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;</li> <li>(e) the Parties challenging each other with ideas for efficiency and improvements; and</li> <li>(f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;</li> </ul>
<p><b>"FOIA"</b></p>	<p>the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;</p>
<p><b>"Force Majeure Event"</b></p>	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"> <li>(a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract;</li> <li>(b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;</li> <li>(c) acts of a Crown Body, local government or regulatory bodies;</li> <li>(d) fire, flood or any disaster; or</li> <li>(e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ul style="list-style-type: none"> <li>(i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;</li> <li>(ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and</li> <li>(iii) any failure of delay caused by a lack of funds,</li> </ul> </li> </ul>

	and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;
<b>"Force Majeure Notice"</b>	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;
<b>"GDPR"</b>	the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>"General Anti-Abuse Rule"</b>	(a) the legislation in Part 5 of the Finance Act 2013 and; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;
<b>"General Change in Law"</b>	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;
<b>"Goods"</b>	goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
<b>"Good Industry Practice"</b>	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>"Government"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"Government Data"</b>	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which:  (a) are supplied to the Supplier by or on behalf of the Buyer; or (b) the Supplier is required to generate, process, store or transmit pursuant to the Contract;

<b>"Government Procurement Card"</b>	the Government's preferred method of purchasing and payment for low value goods or services <a href="https://www.gov.uk/government/publications/governmentprocurement-card--2">https://www.gov.uk/government/publications/governmentprocurement-card--2</a> ;
<b>"Guarantor"</b>	the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;
<b>"Halifax Abuse Principle"</b>	the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>"HMRC"</b>	Her Majesty's Revenue and Customs;
<b>"ICT Policy"</b>	the Buyer's policy in respect of information and communications technology, referred to in the Award Form, which is in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
<b>"Impact Assessment"</b>	<p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <ul style="list-style-type: none"> <li>(a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract;</li> <li>(b) details of the cost of implementing the proposed Variation;</li> <li>(c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</li> <li>(d) a timetable for the implementation, together with any proposals for the testing of the Variation; and</li> <li>(e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;</li> </ul>
<b>"Implementation Plan"</b>	the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
<b>"Incorporated Terms"</b>	the contractual terms applicable to the Contract specified in the Award Form;

<b>"Indemnifier"</b>	a Party from whom an indemnity is sought under this Contract;
<b>"Independent Control"</b>	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and <b>"Independent Controller"</b> shall be construed accordingly;
<b>"Indexation"</b>	the adjustment of an amount or sum in accordance with the Award Form;

<b>"Information"</b>	has the meaning given under section 84 of the Freedom of Information Act 2000;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Initial Period"</b>	the initial term of the Contract specified in the Award Form;
<b>"Insolvency Event"</b>	<ul style="list-style-type: none"> <li>(a) in respect of a person:</li> <li>(b) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or</li> <li>(c) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or</li> <li>(d) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or</li> <li>(e) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</li> <li>(f) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or</li> <li>(g) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</li> <li>(h) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or</li> <li>(i) where the person is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or</li> <li>(j) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;</li> </ul>

<b>"Installation Works"</b>	all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with the Contract;
-----------------------------	--

m)

<p>Copyright 2020  <b>"Intellectual Property Rights" or "IPR"</b></p>	<p>(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>(c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
<p><b>"Invoicing Address"</b></p>	<p>the address to which the Supplier shall Invoice the Buyer as specified in the Award Form;</p>
<p><b>"IPR Claim"</b></p>	<p>any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under the Contract;</p>
<p><b>"IR35"</b></p>	<p>the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at:  <a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a>;</p>
<p><b>"Joint Controller Agreement"</b></p>	<p>the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (Processing Data);</p>
<p><b>"Joint Controllers"</b></p>	<p>where two or more Controllers jointly determine the purposes and means of Processing;</p>
<p><b>"Key Personnel"</b></p>	<p>the individuals (if any) identified as such in the Award Form;</p>
<p><b>"Key Sub-Contract"</b></p>	<p>each Sub-Contract with a Key Subcontractor;</p>
<p><b>"Key Subcontractor"</b></p>	<p>any Subcontractor:</p> <p>(a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or</p> <p>(b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</p>

	(c) with a Sub-Contract with the Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Contract, and the Supplier shall list all such Key Subcontractors in section 29 of the Award Form;
"Know-How"	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the Start Date;
"Law"	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;
"LED"	Law Enforcement Directive (Directive (EU) 2016/680)
"Losses"	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and " <b>Loss</b> " shall be interpreted accordingly;
"Marketing Contact"	shall be the person identified in the Award Form;
"Milestone"	an event or task described in the Implementation Plan;
"Milestone Date"	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Month"	a calendar month and " <b>Monthly</b> " shall be interpreted accordingly;
"National Insurance"	contributions required by the National Insurance Contributions Regulations 2012 (SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;

<b>"New IPR"</b>	<p>(a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Contract and updates and amendments of these items including database schema; and/or</p> <p>(b) IPR in or arising as a result of the performance of the Supplier's obligations under the Contract and all updates and amendments to the same;</p>
	but shall not include the Supplier's Existing IPR;
<b>"Notifiable Default"</b>	<p>means:</p> <p>(a) the Supplier commits a material Default; and/or</p> <p>(b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;</p>
<b>"Occasion of Tax Non – Compliance"</b>	<p>where:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <ul style="list-style-type: none"> <li>(i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</li> <li>(ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</li> </ul> <p>(b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;</p>

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

<b>"Parliament"</b>	takes its natural meaning as interpreted by Law;
<b>"Party"</b>	the Buyer or the Supplier and <b>"Parties"</b> shall mean both of them where the context permits;
<b>"Personal Data"</b>	has the meaning given to it in the GDPR;
<b>"Personal Data Breach"</b>	has the meaning given to it in the GDPR;
<b>"Prescribed Person"</b>	a legal adviser, an MP or an appropriate body which a whistleblower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;
<b>"Processing"</b>	has the meaning given to it in the GDPR;
<b>"Processor"</b>	has the meaning given to it in the GDPR;
<b>"Processor Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under the Contract;

<b>Progress Meeting"</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>"Progress Report"</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
<b>"Progress Report Frequency"</b>	the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Award Form;
<b>"Prohibited Acts"</b>	<p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>(i) induce that person to perform improperly a relevant function or activity; or</li> <li>(ii) reward that person for improper performance of a relevant function or activity;</li> </ul> <p>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract; or (c) committing any offence:</p> <ul style="list-style-type: none"> <li>(i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> <li>(ii) under legislation or common law concerning fraudulent acts; or</li> <li>(iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or</li> </ul> <p>(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;</p>

<b>Protective Measures"</b>	<p>technical and organisational measures which must take account of:</p> <ul style="list-style-type: none"><li>(a) the nature of the data to be protected</li><li>(b) harm that might result from Data Loss Event;</li><li>(c) state of technological development (d) the cost of implementing any measures</li></ul> <p>including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;</p>
-----------------------------	--

<b>"Rating Agency"</b>	has the meaning given to it in the Award Form;
<b>"Recall"</b>	a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;
<b>"Recipient Party"</b>	the Party which receives or obtains directly or indirectly Confidential Information;
<b>"Rectification Plan"</b>	<p>the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan) which shall include:</p> <ul style="list-style-type: none"> <li>(a) full details of the Notifiable Default that has occurred, including a root cause analysis;</li> <li>(b) the actual or anticipated effect of the Notifiable Default; and</li> <li>(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);</li> </ul>
<b>"Rectification Plan Process"</b>	the process set out in Clause 11;
<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
<b>"Reimbursable Expenses"</b>	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none"> <li>(a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and</li> <li>(b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</li> </ul>
<b>"Relevant Requirements"</b>	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;



<b>"Relevant Tax Authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
<b>"Reminder Notice"</b>	a notice sent in accordance with Clause 14.6.1 given by the Supplier to the Buyer providing notification that payment has not been received on time;
<b>"Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables , whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Subcontractor"</b>	a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);
<b>"Replacement Supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>"Request For Information"</b>	a request for information or an apparent request relating to the Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>"Required Action"</b>	means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
<b>"Required Insurances"</b>	the insurances required by Schedule 22 (Insurance Requirements);
<b>"Satisfaction Certificate"</b>	the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;
<b>"Schedules"</b>	any attachment to the Contract which contains important information specific to each aspect of buying and selling;
<b>"Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable);

<b>“Security Policy”</b>	the Buyer's security policy, referred to in the Award Form, in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
--------------------------	---

<b>"Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>Service Levels"</b>	any service levels applicable to the provision of the Deliverables under the Contract (which, where Schedule 10 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>"Service Period"</b>	has the meaning given to it in the Award Form;
<b>"Service Transfer"</b>	any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
<b>"Service Transfer Date"</b>	the date of a Service Transfer;
<b>"Services"</b>	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
<b>"Sites"</b>	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none"> <li>(a) the Deliverables are (or are to be) provided; or</li> <li>(b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;</li> <li>(c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided)</li> </ul>
<b>"SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
<b>"Special Terms"</b>	any additional terms and conditions set out in the Award Form incorporated into the Contract;
<b>"Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
<b>"Specification"</b>	the specification set out in Schedule 2 (Specification), as may, in relation to the Contract, be supplemented by the Award Form;

<b>"Standards"</b>	<p>any:</p> <ul style="list-style-type: none"> <li>(a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;</li> <li>(b) standards detailed in the specification in Schedule 2 (Specification);</li> <li>(c) standards detailed by the Buyer in the Award Form or agreed between the Parties from time to time;</li> <li>(d) relevant Government codes of practice and guidance applicable from time to time;</li> </ul>
<b>"Start Date"</b>	the date specified on the Award Form;
<b>"Step-In Process"</b>	the process set out in Clause 13;

<b>"Step-In Trigger Event"</b>	<p>means:</p> <ul style="list-style-type: none"><li>(a) the Supplier's level of performance constituting a Critical Service Level Failure;</li><li>(b) the Supplier committing a material Default which is irremediable;</li><li>(c) where a right of termination is expressly reserved in this Contract;</li><li>(d) an Insolvency Event or Financial Distress Event occurring in respect of the Supplier or any Guarantor required under the Award Form;</li><li>(e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them;</li><li>(f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement;</li><li>(g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary;</li><li>(h) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Deliverables; and/or</li></ul>
--------------------------------	--

	(i) a need by the Buyer to take action to discharge a statutory duty;
<b>Step-Out Plan"</b>	means the Supplier's plan that sets out how the Supplier will resume the provision of the Deliverables and perform all its obligations under the Contract following the completion of the Step-In Process;
<b>"Storage Media"</b>	the part of any device that is capable of storing and retrieving data;
<b>Sub-Contract"</b>	any contract or agreement (or proposed contract or agreement), other than the Contract, pursuant to which a third party: <ul style="list-style-type: none"> <li>(a) provides the Deliverables (or any part of them);</li> <li>(b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</li> <li>(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</li> </ul>
<b>Subcontractor"</b>	any person other than the Supplier, who is a party to a SubContract and the servants or agents of that person;
<b>Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
<b>Supplier"</b>	the person, firm or company identified in the Award Form;
<b>Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Contract but excluding the Buyer Assets;
<b>"Supplier Authorised Representative"</b>	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;
<b>Supplier Equipment"</b>	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
<b>"Supplier Non-Performance"</b>	where the Supplier has failed to: <ul style="list-style-type: none"> <li>(a) Achieve a Milestone by its Milestone Date;</li> <li>(b) provide the Goods and/or Services in accordance with the Service Levels ; and/or</li> <li>(c) comply with an obligation under the Contract;</li> </ul>

<b>Supplier Profit"</b>	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of the Contract for the relevant period;
<b>Supplier Profit Margin"</b>	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
<b>Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under the Contract;
<b>Supplier's Confidential Information"</b>	<p>(a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, KnowHow, and/or personnel of the Supplier;</p> <p>(b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with the Contract; Information derived from any of (a) and (b) above;</p>
<b>Supplier's Contract Manager"</b>	the person identified in the Award Form appointed by the Supplier to oversee the operation of the Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>Supply Chain Information Report Template"</b>	the document at Annex 1 of Schedule 18 (Supply Chain Visibility);
<b>Supporting Documentation"</b>	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Contract detailed in the information are properly payable;

<b>Tender Response"</b>	the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);
<b>Termination Notice"</b>	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate the Contract on a specified date and setting out the grounds for termination;
<b>Test Issue"</b>	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in the Contract;
<b>Test Plan"</b>	a plan: (a) for the Testing of the Deliverables; and (b) setting out other agreed criteria related to the achievement of Milestones;
<b>"Tests and Testing"</b>	any tests required to be carried out pursuant to the Contract as set out in the Test Plan or elsewhere in the Contract and <b>"Tested"</b> shall be construed accordingly;
<b>Third Party IPR"</b>	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
<b>Transferring Supplier Employees"</b>	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;
<b>"Transparency Information"</b>	the Transparency Reports and the content of the Contract, including any changes to this Contract agreed from time to time, except for – (a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and (b) Commercially Sensitive Information;

<b>"Transparency Reports"</b>	the information relating to the Deliverables and performance pursuant to the Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);
<b>"Variation"</b>	means a variation to the Contract;
<b>"Variation Form"</b>	the form set out in Schedule 21 (Variation Form);
<b>"Variation Procedure"</b>	the procedure set out in Clause 28 (Changing the contract);
<b>"VAT"</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;

Crown Copyright 2020 <b>“VCSE”</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
<b>“Verification Period”</b>	has the meaning given to it in the table in Annex 2 of Schedule 3 (Charges);
<b>“Work Day”</b>	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
<b>“Work Hours”</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
<b>“Worker”</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policynote-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policynote-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables; and
<b>“Working Day”</b>	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.

## Schedule 2 (Specification)

This Schedule sets out what the Buyer wants.

For all Deliverables, the Supplier must help the Buyer comply with any specific applicable Standards of the Buyer. Specific outcome-based deliverables will be identified on a Statement of Work basis.

Our social value priorities

The specific activities related to these priorities are to be agreed post-signature.

These are our priorities in this procurement:

- Tackling economic inequality, including creating new businesses, jobs and skills, as well as increasing supply chain resilience
- Fighting climate change and reducing waste
- Driving equal opportunity, including reducing the disability employment gap and tackling workforce inequality Improving health and wellbeing and community integration

The Buyer's requirements are as follows: **Skills and experience**

### Skills and experience

- Provide additional and/or value added activities when acting in the role of a partner supplier to an organisation

### Skills and experience

- Translate business problems and user needs into technical designs
- Proficient at writing code (Scala, Python, Ruby) to solve problems, automating wherever it adds value and incorporating security best practices at all times
- Hands on experience of various AWS services like Cloudformation, S3, ECS, EC2, RDS, Lambda, SQS, SNS, Stacks and IAM
- Proponents of test-driven development (TDD) practices, writing top quality unit tests and code

- Devising and implementing unit/component, integration, system and acceptance tests to meet functional and nonfunctional requirements
- Deep understanding of distributed Source Control, preferably git/GitHub
- Deep understanding of application deployment strategies and Continuous Integration
- Deep understanding of inter-application communication protocols
- Deep understanding of navigating and troubleshooting Linux servers
- Experience of developing, using Terraform, Kubernetes, ELK, Sensu, Clickhouse, MongoDB

### Nice-to-have skills

#### experience

Evidence significant, similar contract with a public sector body **and**

The supplier will adhere to an agreed hybrid working pattern with our combined internal and contractor teams. The frequency of inperson meetings is flexible and subject to the client's requirements.

### Working

#### arrangements

Occasional travel may be required to other HMRC Delivery Centres. Expenses will be paid as per agreed contract rates.

We expect the successful supplier to provide upskilling to permanent staff to increase internal capability.

### Skills and experience

#### Security clearance

Baseline Personnel Security Standard (BPSS) clearance will be needed for all supplier contractors.

Further details can be found in this document:



Requirement  
docs.docx

## Schedule 3 (Charges)

### 1. HOW CHARGES ARE CALCULATED

#### 1.1 The Charges:

- 1.1.1 shall be calculated in accordance with the terms of this Schedule;
- 1.1.2 cannot be increased except as specifically permitted by this Schedule and in particular shall only be subject to Indexation where specifically stated in the Award Form; and

1.2 Any variation to the Charges payable under a Contract must be agreed between the Supplier and the Buyer and implemented using the procedure set out in this Schedule.

### 2. THE PRICING MECHANISMS

2.1 The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Charges in the Contract.

### 3. ARE COSTS AND EXPENSES INCLUDED IN THE CHARGES

3.1 the Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:

- 3.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or
- 3.1.2 costs incurred prior to the commencement of the Contract.

### 4. WHEN THE SUPPLIER CAN ASK TO CHANGE THE CHARGES

4.1 The Charges will be fixed for the first year following the Start Date (the date of expiry of such period is a "Review Date"). After this Charges can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a "Review Date").

4.2 The Supplier shall give the Buyer at least three (3) Months' notice in writing prior to a Review Date where it wants to request an increase. If the Supplier does not give notice in time then it will only be able to request an increase prior to the next Review Date.

4.3 Any notice requesting an increase shall include:

- 4.3.1 a list of the Charges to be reviewed;
- 4.3.2 for each of the Charges under review, written evidence of the justification for the requested increase including:
  - a) a breakdown of the profit and cost components that comprise the relevant part of the Charges;
  - b) details of the movement in the different identified cost components of the relevant Charge;

- c) reasons for the movement in the different identified cost components of the relevant Charge;
  - d) evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
  - e) evidence that the Supplier's profit component of the relevant Charge is no greater than that applying to Charges using the same pricing mechanism as at the Start Date.
- 4.4 The Buyer shall consider each request for a price increase. The Buyer may grant Approval to an increase at its sole discretion.
- 4.5 [Any Approval granted by the Buyer pursuant to Paragraph 4.4 shall be on the condition that the change to the Charges will not result in the Supplier Profit Margin exceeding the Maximum Permitted Profit Margin.]
- 4.6 Where the Buyer approves an increase then it will be implemented from the first (1st) Working Day following the relevant Review Date or such later date as the Buyer may determine at its sole discretion and Annex 1 shall be updated accordingly.

## **5. OTHER EVENTS THAT ALLOW THE SUPPLIER TO CHANGE THE CHARGES**

- 5.1 The Charges can also be varied (and Annex 1 will be updated accordingly) due to:
- 5.1.1 a Specific Change in Law in accordance with Clauses 28.6 to 28.8;
  - 5.1.2 a review in accordance with insurance requirements in Clause 17;
  - 5.1.3 a request from the Supplier, which it can make at any time, to decrease the Charges;
  - 5.1.4 following verification of the Allowable Assumptions in accordance with Annex 2 of Schedule 3 (Charges); and
  - 5.1.5 indexation, where Annex 1 states that a particular Charge or any component is "subject to Indexation" in which event Paragraph 0 below shall apply.

### **WHEN YOU WILL BE REIMBURSED FOR TRAVEL AND SUBSISTENCE**

- 5.2 Expenses shall only be recoverable where:
- 5.2.1 the Time and Materials pricing mechanism is used; and
  - 5.2.2 the Award Form states that recovery is permitted; and
  - 5.2.3 they are Reimbursable Expenses and are supported by Supporting Documentation.
- 5.3 The Buyer shall provide a copy of their current expenses policy to the Supplier upon request.

## **Annex 1: Rates and Prices**



Information redacted under section 43 (2) of FOI Act 2000.

## **Schedule 5 (Commercially Sensitive Information)**

### **2. WHAT IS THE COMMERCIALLY SENSITIVE INFORMATION?**

- 2.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 2.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the Award Form.

## Schedule 6 (Transparency Reports)

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in the Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

# Schedule 13 (Contract Management)

## 1. DEFINITIONS

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

<b>"Operational Board"</b>	the board established in accordance with Paragraph 4.1 of this Schedule; the manager appointed in accordance with Paragraph 2.1 of
<b>"Project Manager"</b>	this Schedule;

## 2. PROJECT MANAGEMENT

- 2.1 The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
- 2.3 Without prejudice to Paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

## 3. ROLE OF THE SUPPLIER PROJECT MANAGER

- 3.1 The Supplier Project Manager shall be:
  - 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
  - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Project Manager's responsibilities and obligations;
  - 3.1.3 able to cancel any delegation and recommence the position himself; and
  - 3.1.4 replaced only after the Buyer has received notification of the proposed change.
- 3.2 The Buyer may provide revised instructions to the Supplier's Project Manager in regards to the Contract and it will be the Supplier Project Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 3.3 Receipt of communication from the Supplier Project Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

## **4. ROLE OF THE OPERATIONAL BOARD**

- 4.1 The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in Annex A to the Schedule.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall 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 shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

## **5. CONTRACT RISK MANAGEMENT**

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
  - 5.2.1 the identification and management of risks;
  - 5.2.2 the identification and management of issues; and
  - 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to the Contract which the Buyer and the Supplier have identified.

## **Annex: Operational Boards**

The Parties agree to operate the following boards at the locations and at the frequencies set out below:

A Monthly Supplier Operational Board

# Schedule 14 (Business Continuity and Disaster Recovery)

## 1. DEFINITIONS

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

"BCDR Plan"	has the meaning given to it in Paragraph 2.1 of this Schedule;
"Business Continuity Plan"	has the meaning given to it in Paragraph 2.2.2 of this Schedule;
"Disaster Recovery Plan"	has the meaning given to it in Paragraph 2.2.3 of this Schedule;
"Related Supplier"	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
"Review Report"	has the meaning given to it in Paragraph 6.3 of this Schedule; and
"Supplier's Proposals"	has the meaning given to it in Paragraph 6.3 of this Schedule;

## 2. BCDR PLAN

2.1 At least ninety (90) Working Days prior to the Start Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a "**BCDR Plan**"), which shall detail the processes and arrangements that the Supplier shall follow to:

- 2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
- 2.1.2 the recovery of the Deliverables in the event of a Disaster

2.2 The BCDR Plan shall be divided into three sections:

- 2.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;
- 2.2.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**"); and
- 2.2.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**").

2.3 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

## 3. GENERAL PRINCIPLES OF THE BCDR PLAN (SECTION 1)

3.1 Section 1 of the BCDR Plan shall:

- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
- 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
- 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
- 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
- 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
- 3.1.6 contain a risk analysis, including:
  - a) failure or disruption scenarios and assessments of likely frequency of occurrence;
  - b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
  - c) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
  - d) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
- 3.1.9 identify the procedures for reverting to "normal service";
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and
- 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.

3.2 The BCDR Plan shall be designed so as to ensure that:

- 3.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
- 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
- 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and

(b)

3.2.4 it details a process for the management of disaster recovery testing.

3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.

3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

#### **4. BUSINESS CONTINUITY (SECTION 2)**

4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:

4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and

4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.

4.2 The Business Continuity Plan shall:

4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;

4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;

4.2.3 specify any applicable quality standards and/or Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and

4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

#### **5. DISASTER RECOVERY (SECTION 3)**

5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.

5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:

5.2.1 loss of access to the Buyer Premises;

5.2.2 loss of utilities to the Buyer Premises;

5.2.3 loss of the Supplier's helpdesk or CAFM system;

5.2.4 loss of a Subcontractor;

5.2.5 emergency notification and escalation process;

5.2.6 contact lists;

5.2.7 staff training and awareness;

- 5.2.8 BCDR Plan testing;
- 5.2.9 post implementation review process;
- 5.2.10 any applicable Service Levels with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
- 5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
- 5.2.13 testing and management arrangements.

## 6. REVIEW AND CHANGING THE BCDR PLAN

6.1 The Supplier shall review the BCDR Plan:

- 6.1.1 on a regular basis and as a minimum once every six (6) Months;
- 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
- 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.

6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.

6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.

6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

(b)

6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

## **7. TESTING THE BCDR PLAN**

7.1 The Supplier shall test the BCDR Plan:

- 7.1.1 regularly and in any event not less than once in every Contract Year;
- 7.1.2 in the event of any major reconfiguration of the Deliverables
- 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).

7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.

7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.

7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.

7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:

- 7.5.1 the outcome of the test;
- 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
- 7.5.3 the Supplier's proposals for remedying any such failures.

7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

## **8. INVOKING THE BCDR PLAN**

In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.

## **9. CIRCUMSTANCES BEYOND YOUR CONTROL**

The Supplier shall not be entitled to relief under Clause 24 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

# Schedule 16 (Security)

## Part A: Short Form Security Requirements

### 3. DEFINITIONS

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

**"Breach of Security"**

the occurrence of:

- a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or
  
- b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,

in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with Paragraph 4.1;

**"Security Management Plan"**

the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time.

**4. COMPLYING WITH SECURITY REQUIREMENTS AND UPDATES TO THEM**

- 4.1 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 4.2 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 4.3 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.
- 4.4 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

**5. SECURITY STANDARDS**

- 5.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 5.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
  - 5.2.1 is in accordance with the Law and this Contract;
  - 5.2.2 as a minimum demonstrates Good Industry Practice;
  - 5.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
  - 5.2.4 where specified by the Buyer in accordance with Paragraph 4.1 complies with the Security Policy and the ICT Policy.
- 5.3 The references to standards, guidance and policies contained or set out in Paragraph 5.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 5.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

**6. SECURITY MANAGEMENT PLAN**

## 6.1 Introduction

- 6.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

## 6.2 Content of the Security Management Plan

6.2.1 The Security Management Plan shall:

- (a) comply with the principles of security set out in Paragraph 5 and any other provisions of this Contract relevant to security;
- (b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- (c) detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- (d) be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- (e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract; (f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with the Security Policy as set out in Paragraph 4.1; and
- (g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

## 6.3 Development of the Security Management Plan

- 6.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 6.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.

(b)

- 6.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 6.3.1, or any subsequent revision to it in accordance with Paragraph 6.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
- 6.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 6.3.2. However a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 6.2 shall be deemed to be reasonable.
- 6.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 6.3.2 or of any change to the Security Management Plan in accordance with Paragraph 6.4 shall not relieve the Supplier of its obligations under this Schedule.

#### **6.4 Amendment of the Security Management Plan**

- 6.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
- (a) emerging changes in Good Industry Practice;
  - (b) any change or proposed change to the Deliverables and/or associated processes;
  - (c) where necessary in accordance with Paragraph 4.2, any change to the Security Policy;
  - (d) any new perceived or changed security threats; and (e) any reasonable change in requirements requested by the Buyer.
- 6.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include:
- (a) suggested improvements to the effectiveness of the Security Management Plan;
  - (b) updates to the risk assessments; and
  - (c) suggested improvements in measuring the effectiveness of controls.
- 6.4.3 Subject to Paragraph 6.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 6.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.

- 6.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

## 7. SECURITY BREACH

- 7.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 7.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 7.1, the Supplier shall:
- 7.2.1 immediately use all reasonable endeavours (which shall include any action or changes reasonably required by the Buyer) necessary to:
- (a) minimise the extent of actual or potential harm caused by any Breach of Security; (b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security; (c) prevent an equivalent breach in the future exploiting the same cause failure; and
  - (d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.
- 7.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with Paragraph 4.1 ) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

## Schedule 21 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 28 of the Core Terms (Changing the Contract)

<b>Contract Details</b>	
This variation is between:	[Buyer] ("the Buyer")  And [insert name of Supplier] ("the Supplier")
Contract name:	[insert name of contract to be changed] ("the Contract")
Contract reference number:	[insert contract reference number]
<b>Details of Proposed Variation</b>	
Variation initiated by:	[delete as applicable: Buyer/Supplier]
Variation number:	[insert variation number]
Date variation is raised:	[insert date]
Proposed variation	
Reason for the variation:	[insert reason]
An Impact Assessment shall be provided within:	[insert number] days
<b>Impact of Variation</b>	
Likely impact of the proposed variation:	[Supplier to insert assessment of impact]
<b>Outcome of Variation</b>	
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li>• [Buyer to insert] original Clauses or Paragraphs to be varied and the changed clause]</li> </ul>
Financial variation:	Original Contract Value: £ [insert amount]
	Additional cost due to variation: £ [insert amount]
	New Contract value: £ [insert amount]

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by the Buyer
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

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

Signature

Date

Name (in Capitals)

Address

---

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

Signature

Date

Name (in Capitals)

Address

## **Schedule 22 (Insurance Requirements)**

### **2. The insurance you need to have**

- 2.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than the Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
- 2.2 The Insurances shall be:
- 2.2.1 maintained in accordance with Good Industry Practice;
  - 2.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
  - 2.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
  - 2.2.4 maintained for at least six (6) years after the End Date.
- 2.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

### **3. How to manage the insurance**

Without limiting the other provisions of this Contract, the Supplier shall:

- 3.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
- 3.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
- 3.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

### **4. What happens if you aren't insured**

- 4.1 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.
- 4.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Buyer may elect (but shall not be obliged) following written notice to the Supplier

to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

## **5. Evidence of insurance you must provide**

The Supplier shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Buyer, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

## **6. Making sure you are insured to the required amount**

The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Supplier shall notify the Buyer and provide details of its proposed solution for maintaining the minimum limit of indemnity.

## **7. Cancelled Insurance**

7.1 The Supplier shall notify the Buyer in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.

7.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Buyer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

## **8. Insurance claims**

8.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or the Contract for which it may be entitled to claim under any of the Insurances.

In the event that the Buyer receives a claim relating to or arising out of the Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including providing information and documentation in a timely manner.

8.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 6 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.

8.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.

8.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Buyer any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

## ANNEX: REQUIRED INSURANCES

### 9. The Supplier shall hold the following insurance cover from the Start Date in accordance with this Schedule:

- 9.1 A minimum insurance period of 6 years following the expiration or ending of the call off contract
- 9.2 Professional indemnity insurance is held by the Supplier and by any agent, SubContractor or consultant involved in the supply of the Services and that such professional indemnity insurance has a minimum limit of indemnity of one million pounds sterling (£1,000,000) for each individual claim or such higher limit as the Customer may reasonably require (and as required by Law) from time to time;

Employers liability insurance with a minimum limit of £5,000,000 or any higher minimum limit required by law.

## Schedule 25 (Rectification Plan)

Request for [Revised] Rectification Plan			
Details of the Default:	[Guidance: Explain the Default, with clear schedule and clause references as appropriate]		
Deadline for receiving the [Revised] Rectification Plan:	[add date (minimum 10 days from request)]		
Signed by Buyer :		Date:	
Supplier [Revised] Rectification Plan			
Cause of the Default	[add cause]		
Anticipated impact assessment:	[add impact]		
Actual effect of Default:	[add effect]		
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>	
	1.	[date]	

	2.	[date]
	3.	[date]
	4.	[date]
	[...]	[date]
Timescale for complete Rectification of Default	[X] Working Days	
Steps taken to prevent recurrence of Default	<b>Steps</b>	<b>Timescale</b>
	1.	[date]
	2.	[date]
	3.	[date]
	4.	[date]
	[...]	[date]
Signed by the Supplier:		Date: <input type="text"/>
<b>Review of Rectification Plan Buyer</b>		
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]	
Reasons for rejection (if applicable)	[add reasons]	
Signed by Buyer		Date: <input type="text"/>

## Schedule 26 (Corporate Social Responsibility)

- 1. What we expect from our Suppliers** 1.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779660/20190220-Supplier\\_Code\\_of\\_Conduct.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf)

- 1.2 The Buyer expects its suppliers and subcontractors to meet the standards set out in that Code. In addition, the Buyer expects its suppliers and subcontractors to comply with the standards set out in this Schedule.

- 2. Equality and Accessibility** 2.1 In addition to legal obligations, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under the Contract in a way that seeks to:

- 2.1.1 eliminate discrimination, harassment or victimisation of any kind; and
- 2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

### **3. Modern Slavery, Child Labour and Inhumane Treatment**

"**Modern Slavery Helpline**" means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

#### 3.1 The Supplier:

- 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
- 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;
- 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world;
- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offenses anywhere around the world;
- 3.1.6 shall have and maintain throughout the term of the Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;

- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;
- 3.1.8 shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors; and
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to the Buyer and Modern Slavery Helpline.

#### **4. Income Security**

##### 4.1 The Supplier shall:

- 4.1.1 ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
- 4.1.2 ensure that all Supplier Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter;
- 4.1.3 provide all workers with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;
- 4.1.4 not make deductions from wages:
  - a) as a disciplinary measure
  - b) except where permitted by law; or
  - c) without expressed permission of the worker concerned;
- 4.1.5 record all disciplinary measures taken against Supplier Staff; and
- 4.1.6 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

#### **5. Working Hours**

##### 5.1 The Supplier shall:

- 5.1.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;
- 5.1.2 that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;

(b)

5.1.3 ensure that use of overtime used responsibly, taking into account:

- a) the extent;
- b) frequency; and
- c) hours worked;

by individuals and by the Supplier Staff as a whole;

5.2 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.

5.3 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:

5.3.1 this is allowed by national law;

5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;

5.3.3 appropriate safeguards are taken to protect the workers' health and safety; and

5.3.4 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

5.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

## **6. Sustainability**

The supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buyingstandards-gbs>

## Schedule 28 (ICT Services)

### 1. Definitions

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

- "Buyer Software"** any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Deliverables;
- "Buyer System"** the Buyer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Buyer or the Supplier in connection with this Contract which is owned by or licensed to the Buyer by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Deliverables;
- "Commercial off the shelf Software" or "COTS Software"** non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms;
- "Defect"** any of the following:
- 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 requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract; 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 requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract;

**"Emergency Maintenance"**

ad hoc and unplanned maintenance provided by the Supplier where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault;

**"ICT Environment"**

the Buyer System and the Supplier System;

**"Licensed Software"**

all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Buyer for the purposes of or pursuant to this Contract, including any COTS Software;

**"Maintenance Schedule"**

has the meaning given to it in Paragraph 8 of this Schedule;

**"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;

<b>"New Release"</b>	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;
<b>"Open Source"</b>	computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge;
<b>"Open Source Publication Material"</b>	has the meaning given to it in Paragraph 9.6.2e);
<b>"Operating Environment"</b>	means the Buyer System and any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none"> <li>a) the Deliverables are (or are to be) provided; or</li> <li>b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; or</li> <li>c) where any part of the Supplier System is situated;</li> </ul>
<b>"Permitted Maintenance"</b>	has the meaning given to it in Paragraph 8.2 of this Schedule;
<b>"Quality Plans"</b>	has the meaning given to it in Paragraph 6.1 of this Schedule;
<b>"Software"</b>	Specially Written Software COTS Software and non-COTS Supplier and third party Software;
<b>"Software Supporting Materials"</b>	has the meaning given to it in Paragraph 9.1.1b) of this Schedule;
<b>"Source Code"</b>	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,

**"Specially Written Software"**

technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;

any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-Contractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR;

**"Supplier System"**

the information and communications technology system used by the Supplier in supplying the Deliverables, including the COTS Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Buyer System);

**2. When this Schedule should be used**

This Schedule is designed to provide additional provisions necessary to facilitate the provision of ICT Services which are part of the Deliverables.

**3. Buyer due diligence requirements**

3.1 The Supplier shall satisfy itself of all relevant details, including details relating to the following;

- 3.1.1 suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Start Date) future Operating Environment;
- 3.1.2 operating processes and procedures and the working methods of the Buyer;
- 3.1.3 ownership, functionality, capacity, condition and suitability for use in the provision of the Deliverables of the Buyer Assets; and
- 3.1.4 existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the Supplier will require the benefit of for the provision of the Deliverables.

3.2 The Supplier confirms that it has advised the Buyer in writing of:

- 3.2.1 each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;
- 3.2.2 the actions needed to remedy each such unsuitable aspect; and
- 3.2.3 a timetable for and the costs of those actions.

#### **4. Licensed software warranty**

The Supplier represents and warrants that:

- 4.1 it has and shall continue to have all necessary rights in and to the Licensed Software made available by the Supplier (and/or any Sub-Contractor) to the Buyer which are necessary for the performance of the Supplier's obligations under this Contract including the receipt of the Deliverables by the Buyer;
- 4.2 all components of the Specially Written Software shall:
  - 4.2.1 be free from material design and programming errors;
  - 4.2.2 perform in all material respects in accordance with the relevant specifications contained in Schedule 10 (Service Levels) and Documentation; and
  - 4.2.3 not infringe any IPR.

#### **5. Provision of ICT Services**

The Supplier shall:

- 5.1 ensure that the release of any new COTS Software in which the Supplier owns the IPR, or upgrade to any Software in which the Supplier owns the IPR complies with the interface requirements of the Buyer and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Buyer three (3) Months before the release of any new COTS Software or Upgrade;
- 5.2 ensure that 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;
- 5.3 ensure that the Supplier System will be free of all encumbrances;
- 5.4 ensure that the Deliverables are fully compatible with any Buyer Software, Buyer System, or otherwise used by the Supplier in connection with this Contract; and
- 5.5 minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Deliverables.

#### **6. Standards and Quality Requirements**

- 6.1 The Supplier shall develop, in the timescales specified in the Award Form, quality plans that ensure that all aspects of the Deliverables 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 seek Approval from the Buyer (not be unreasonably withheld or delayed) of the Quality Plans before implementing them. Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Deliverables are provided to the standard required by this Contract.
- 6.3 Following the approval of the Quality Plans, the Supplier shall provide all Deliverables in accordance with the Quality Plans.

6.4 The Supplier shall ensure that the Supplier Personnel shall at all times during the Contract Period:

- 6.4.1 be appropriately experienced, qualified and trained to supply the Deliverables in accordance with this Contract;
- 6.4.2 apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Deliverables; and
- 6.4.3 obey all lawful instructions and reasonable directions of the Buyer (including, if so required by the Buyer, the ICT Policy) and provide the Deliverables to the reasonable satisfaction of the Buyer.

## **7. ICT Audit**

The Supplier shall allow any auditor access to the Supplier premises to:

- 7.1 inspect the ICT Environment and the wider service delivery environment (or any part of them);
- 7.2 review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing; and
- 7.3 review the Supplier's quality management systems including all relevant Quality Plans.

## **8. Maintenance of the ICT Environment**

- 8.1 If specified by the Buyer in the Award Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance Schedule**") and make it available to the Buyer for Approval in accordance with the timetable and instructions specified by the Buyer.
- 8.2 Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.
- 8.3 The Supplier shall give as much notice as is reasonably practicable to the Buyer prior to carrying out any Emergency Maintenance.
- 8.4 The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/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 ICT Environment and the provision of the Deliverables.

## **9. Intellectual Property Rights in ICT**

### **9.1 Assignments granted by the Supplier: Specially Written Software**

- 9.1.1 The Supplier assigns (by present assignment of future rights to take effect immediately on it coming into existence) to the Buyer with full guarantee (or shall procure assignment to the Buyer), title to and all rights and interest in the Specially Written Software together with and including:
  - a) the Documentation, Source Code and the Object Code of the Specially Written Software; and

- b) all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR (together the "**Software Supporting Materials**").

9.1.2 The Supplier shall:

- a) inform the Buyer of all Specially Written Software or New IPRs that are a modification, customisation, configuration or enhancement to any COTS Software;
- b) deliver to the Buyer the Specially Written Software and any computer program elements of the New IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven days of completion or, if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone and shall provide updates of them promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Buyer and the Buyer shall become the owner of such media upon receipt; and
- c) without prejudice to Paragraph 9.1.2b), provide full details to the Buyer of any of the Supplier's Existing IPRs or Third Party IPRs which are embedded or which are an integral part of the Specially Written Software or New IPR and the Supplier hereby grants to the Buyer and shall procure that any relevant third party licensor shall grant to the Buyer a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit such Supplier's Existing IPRs and Third Party IPRs to the extent that it is necessary to enable the Buyer to obtain the full benefits of ownership of the Specially Written Software and New IPRs.

9.1.3 The Supplier shall promptly execute all such assignments as are required to ensure that any rights in the Specially Written Software and New IPRs are properly transferred to the Buyer.

**9.2 Licences for non-COTS IPR from the Supplier and third parties to the Buyer**

9.2.1 Unless the Buyer gives its Approval the Supplier must not use any:

- a) of its own Existing IPR that is not COTS Software; or
- b) third party software that is not COTS Software.

9.2.2 Where the Buyer Approves the use of the Supplier's Existing IPR that is not COTS Software the Supplier shall grant to the Buyer a perpetual, royalty-free and non-exclusive licence to use adapt, and sub-license the same for any purpose relating to the Deliverables (or substantially equivalent deliverables) or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Central Government Body, any other Central Government Body's) business or function including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Contract Period and after expiry of the

(b)

Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

- 9.2.3 Where the Buyer Approves the use of third party Software that is not COTS Software the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Buyer on terms at least equivalent to those set out in Paragraph 9.2.2. If the Supplier cannot obtain such a licence for the Buyer it shall:
- a) notify the Buyer in writing giving details of what licence terms can be obtained and whether there are alternative software providers which the Supplier could seek to use; and
  - b) only use such third party IPR as referred to at Paragraph 9.2.3a) if the Buyer Approves the terms of the licence from the relevant third party.
- 9.2.4 Where the Supplier is unable to provide a licence to the Supplier's Existing IPR in accordance with Paragraph 9.2.2 above, it must meet the requirement by making use of COTS Software or Specially Written Software.
- 9.2.5 The Supplier may terminate a licence granted under Paragraph 9.2.2 by giving at least thirty (30) days' notice in writing if there is an Buyer Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.

### **9.3 Licences for COTS Software by the Supplier and third parties to the Buyer**

- 9.3.1 The Supplier shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the Buyer on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
- 9.3.2 Where the Supplier owns the COTS Software it shall make available the COTS Software to a Replacement Supplier at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
- 9.3.3 Where a third party is the owner of COTS Software licensed in accordance with this Paragraph 9.3 the Supplier shall support the Replacement Supplier to make arrangements with the owner or authorised licensee to renew the license at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
- 9.3.4 The Supplier shall notify the Buyer within seven (7) days of becoming aware of any COTS Software which in the next thirty-six (36) months:
- a) will no longer be maintained or supported by the developer; or
  - b) will no longer be made commercially available.

### **9.4 Buyer's right to assign/novate licences**

- 9.4.1 The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Paragraph 9.2 (to: a) a Central Government Body; or

- b) to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.

9.4.2 If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licences granted in Paragraph 9.2.

### 9.5 Licence granted by the Buyer

The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Buyer Software and the Specially Written Software solely to the extent necessary for providing the Deliverables in accordance with this Contract, including the right to grant sub-licences to Sub-Contractors provided that any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 (What you must keep confidential).

### 9.6 Open Source Publication

9.6.1 Unless the Buyer otherwise agrees in advance in writing (and subject to Paragraph 9.6.3) all Specially Written Software and computer program elements of New IPR shall be created in a format, or able to be converted (in which case the Supplier shall also provide the converted format to the Buyer) into a format, which is:

- a) suitable for publication by the Buyer as Open Source; and
- b) based on Open Standards (where applicable), and the Buyer may, at its sole discretion, publish the same as Open Source.

9.6.2 The Supplier hereby warrants that the Specially Written Software and the New IPR:

- a) are suitable for release as Open Source and that the Supplier has used reasonable endeavours when developing the same to ensure that publication by the Buyer will not enable a third party to use them in any way which could reasonably be foreseen to compromise the operation, running or security of the Specially Written Software, New IPRs or the Buyer System;
- b) have been developed using reasonable endeavours to ensure that their publication by the Buyer shall not cause any harm or damage to any party using them;
- c) do not contain any material which would bring the Buyer into disrepute;
- d) can be published as Open Source without breaching the rights of any third party;
- e) will be supplied in a format suitable for publication as Open Source ("**the Open Source Publication Material**") no later than the date notified by the Buyer to the Supplier; and
- f) do not contain any Malicious Software.

(b)

9.6.3 Where the Buyer has Approved a request by the Supplier for any part of the Specially Written Software or New IPRs to be excluded from the requirement to be in an Open Source format due to the intention to embed or integrate Supplier Existing IPRs and/or Third Party IPRs (and where the Parties agree that such IPRs are not intended to be published as Open Source), the Supplier shall:

- a) as soon as reasonably practicable, provide written details of the nature of the IPRs and items or Deliverables based on IPRs which are to be excluded from Open Source publication; and
- b) include in the written details and information about the impact that inclusion of such IPRs or Deliverables based on such IPRs, will have on any other Specially Written Software and/or New IPRs and the Buyer's ability to publish such other items or Deliverables as Open Source.

## 9.7 Malicious Software

9.7.1 The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted antivirus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.

9.7.2 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 Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.

9.7.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Paragraph 9.7.2 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 or the Government Data (whilst the Government 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 Buyer when provided to the Supplier; and
- b) by the Buyer, if the Malicious Software originates from the Buyer Software or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

## Schedule 30 (Exit Management)

### 1. DEFINITIONS

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

<b>"Exclusive Assets"</b>	Supplier Assets used exclusively by the Supplier in the provision of the Deliverables;
<b>"Exit Information"</b>	has the meaning given to it in Paragraph 3.1 of this Schedule;
<b>"Exit Manager"</b>	the person appointed by each Party to manage their respective obligations under this Schedule;
<b>"Net Book Value"</b>	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
<b>"Non-Exclusive Assets"</b>	those Supplier Assets used by the Supplier in connection with the Deliverables but which are also used by the Supplier for other purposes;
<b>"Replacement Goods"</b>	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Services"</b>	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Termination Assistance"</b>	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
<b>"Termination Assistance Notice"</b>	has the meaning given to it in Paragraph 5.1 of this Schedule;
<b>"Termination Assistance Period"</b>	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;
<b>"Transferable Assets"</b>	Exclusive Assets which are capable of legal transfer to the Buyer;

<b>"Transferable Contracts"</b>	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
<b>"Transferring Assets"</b>	has the meaning given to it in Paragraph 8.2.1 of this Schedule;
<b>"Transferring Contracts"</b>	has the meaning given to it in Paragraph 8.2.3 of this Schedule.
<b>"Virtual Library"</b>	the data repository hosted by the Supplier containing the accurate information about the Contract and the Deliverables in accordance with paragraph 2.2 of this Schedule.

## **2. SUPPLIER MUST ALWAYS BE PREPARED FOR CONTRACT EXIT**

- 2.1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
- 2.2 During the Contract Period, the Supplier shall within 30 days from the Start Date create and maintain a Virtual Library containing:
- 2.2.1 a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables;
  - 2.2.2 a configuration database detailing the technical infrastructure, IPRs, Continuity Plans and operating procedures through which the Supplier provides the Deliverables; and
  - 2.2.3 Supplier Personnel and Staffing Information in connection with the Deliverables.
- and the Supplier shall ensure the Virtual Library is structured and maintained in accordance with open standards and the security requirements set out in this Contract and is readily accessible by the Buyer at all times.
- .
- 2.3 The Supplier shall:
- 2.3.1 ensure that all Exclusive Assets listed in the Virtual Library are clearly physically identified as such; and
  - 2.3.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

2.4 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

### **3. ASSISTING RE-COMPETITION FOR DELIVERABLES**

- 3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").
- 3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
- 3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).
- 3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

### **4. EXIT PLAN**

- 4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer an Exit Plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer.
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3 The Exit Plan shall set out, as a minimum:
- 4.3.1 how the Exit Information is obtained;
  - 4.3.2 a mechanism for dealing with partial termination on the assumption that the Supplier will continue to provide the remaining Deliverables under this Contract;
  - 4.3.3 the management structure to be employed during the Termination Assistance Period;
  - 4.3.4 a detailed description of both the transfer and cessation processes, including a timetable;
  - 4.3.5 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
  - 4.3.6 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;

(b)

- 4.3.7 the scope of Termination Assistance that may be required for the benefit of the Buyer (including which services set out in Annex 1 are applicable);
- 4.3.8 how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance and what, if any, charges would be payable;
- 4.3.9 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
- 4.3.10 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
- 4.3.11 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
- 4.3.12 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
- 4.3.13 proposals for the disposal of any redundant Deliverables and materials;
- 4.3.14 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
- 4.3.15 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.

4.4 The Supplier shall:

- 4.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
    - a) every six (6) months throughout the Contract Period; and
    - b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
    - c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
    - d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and
  - 4.4.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.
- 4.5 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
- 4.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

## 5. TERMINATION ASSISTANCE

- 5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
- 5.1.1 the nature of the Termination Assistance required; and
  - 5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the date that the Supplier ceases to provide the Deliverables.
- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the Termination Assistance Notice period provided that such extension shall not extend for more than six (6) Months beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier of such this extension no later than twenty (20) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.3 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

## 6. TERMINATION ASSISTANCE PERIOD

- 6.1 Throughout the Termination Assistance Period the Supplier shall:
- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
  - 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
  - 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
  - 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
  - 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date contents of the Virtual Library to the Buyer;
  - 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs

incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.

6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

## **7. OBLIGATIONS WHEN THE CONTRACT IS TERMINATED**

7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.

7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:

7.2.1 cease to use the Government Data;

7.2.2 vacate any Buyer Premises;

7.2.3 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;

7.2.4 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:

- a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
- b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

7.3 On partial termination, termination, expiry or at the end of the Termination Assistance Period, each Party must return (or destroy or delete as requested) all Confidential Information of the other Party and will certify that it does not retain any such Confidential Information except to the extent that this is necessary for providing or receiving either the Deliverables or Termination Assistance or for statutory compliance purposes.

7.4 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

## **8. ASSETS, SUB-CONTRACTS AND SOFTWARE**

8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:

8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or

- 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.
- 8.2 Within twenty (20) Working Days of receipt of the up-to-date contents of the Virtual Library provided by the Supplier, the Buyer shall notify the Supplier setting out:
- 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
- 8.2.2 which, if any, of:
- a) the Exclusive Assets that are not Transferable Assets; and
- b) the Non-Exclusive Assets,
- the Buyer and/or the Replacement Supplier requires the continued use of; and
- 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"), in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.
- 8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
- 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 8.7 The Buyer shall:
- 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
- 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that

(b)

Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

- 8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
- 8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 23 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

## **9. NO CHARGES**

- 9.1 Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

## **10. DIVIDING THE BILLS**

- 10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:
  - 10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;
  - 10.1.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
  - 10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

## **ANNEX 1: SCOPE OF TERMINATION ASSISTANCE**

- 1.1 The Buyer may specify that any of the following services will be provided by the Supplier as part of its Termination Assistance:
  - 1.1.1 notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
  - 1.1.2 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 Buyer and/or the Replacement Supplier after the end of the Termination Assistance Period;
  - 1.1.3 providing details of work volumes and staffing requirements over the

12 Months immediately prior to the commencement of Termination Assistance;

- 1.1.4 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Deliverables and re-writing and implementing these during and for a period of 12 Months after the Termination Assistance Period;
- 1.1.5 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Deliverables and rewriting and implementing these such that they are appropriate for the continuation of provision of the Deliverables after the Termination Assistance Period;
- 1.1.6 agreeing with the Buyer an effective communication strategy and joint communications plan which sets out the implications for Supplier Staff, Buyer staff, customers and key stakeholders;
- 1.1.7 agreeing with the Buyer a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
- 1.1.8 providing an information pack listing and describing the Deliverables for use by the Buyer in the procurement of the Replacement Deliverables;
- 1.1.9 answering all reasonable questions from the Buyer and/or the Replacement Supplier regarding the Deliverables;
- 1.1.10 agreeing with the Buyer and/or the Replacement Supplier a plan for the migration of the Government Data to the Buyer and/or the Replacement Supplier;
- 1.1.11 providing access to the Buyer 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 provision of the Deliverables to the Buyer and/or the Replacement Supplier:
  - a) **to information and documentation relating to the Deliverables that is in the possession or control of the Supplier or its Subcontractors (and the Supplier agrees and will procure that its Subcontractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and**
  - b) **following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Staff who have been involved in the provision or management of the provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors, including those employees filling the relevant Key Personnel positions and Key Personnel with specific knowledge in respect of the Exit Plan;**
- 1.1.12 knowledge transfer services, including:

(b)

- a) **making available to the Buyer 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 Buyer (acting reasonably) at the time of termination or expiry;**
- b) **transferring all training material and providing appropriate training to those Buyer and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Deliverables;**
- c) **providing as early as possible for transfer to the Buyer and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Deliverables which may, as appropriate, include information, records and documents;**
- d) **providing the Supplier and/or the Replacement Supplier with access to sufficient numbers of the members of the Supplier Staff or Subcontractors' personnel of suitable experience and skill and as have been involved in the design, development, provision or management of provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors; and**
- e) **allowing the Buyer and/or the Replacement Supplier to work alongside and observe the performance of the Services by the Supplier at its facilities used to fulfil the Services (subject to compliance by the Buyer and the Replacement Supplier with any applicable security and/or health and safety restrictions).**

1.2 The Supplier will:

- 1.2.1 provide a documented plan relating to the training matters referred to in Paragraph 1.1.12 for agreement by the Buyer at the time of termination or expiry of this Agreement; and
- 1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1.1.7, providing skills and expertise of a suitable standard.

1.3 To facilitate the transfer of knowledge from the Supplier to the Buyer and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services to the operations staff of the Buyer and/or the Replacement Supplier.

1.4 The information which the Supplier will provide to the Buyer and/or the Replacement Supplier pursuant to Paragraph 1.1.12 shall include:

- 1.4.1 copies of up-to-date procedures and operations manuals;
- 1.4.2 product information;
- 1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Buyer and/or the Replacement Supplier; and

1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Buyer pursuant to this Schedule, and such information shall be updated by the Supplier at the end of the Termination Assistance Period.

1.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and suppliers) of the Replacement Supplier and/or the Buyer access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:

1.5.1 any such agent or personnel (including employees, consultants and suppliers) having such access to any Sites shall:

- a) **sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and**
- b) **during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Buyer deems reasonable; and**

1.5.2 the Buyer and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

# Schedule 31 (Buyer Specific Terms) HMRC Specific Terms

## 2. Definitions

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

<b>"Connected Company"</b>	means, in relation to a company, entity or other person, the Affiliates of that company, entity or other person or any other person associated with such company, entity or other person;
<b>"Documentary Deliverable"</b>	means any Deliverable that is in the form of a written document;
<b>"Prohibited Transactions"</b>	has the meaning given in Paragraph 4.1;
<b>"Sanitised Personal Data"</b>	means data derived from Personal Data Processed by the Supplier in connection with this Contract which has had any designatory data identifiers removed so that an individual cannot be identified;
<b>"Tax"</b>	means <ul style="list-style-type: none"><li>(a) all forms of tax whether direct or indirect;</li><li>(b) national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction;</li><li>(c) all statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imports, contributions, levies or liabilities (other than in return for goods or services supplied or performed or to be performed) and withholdings; and</li><li>(d) any penalty, fine, surcharge, interest, charges or costs relating to any of the above,</li></ul> in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction;
<b>"Tax Revenue"</b>	means any Tax, levy or duty due to be collected by the Buyer and/or any reimbursement of Tax, levy or duty, correctly paid to the Buyer, as a result of a Default by the Supplier;

## 3. Compliance with Tax Laws

3.1 The Supplier represents and warrants that:

- 3.1.1 in the three years prior to the Effective Date, it has been in full compliance with all applicable securities and Tax Laws and regulations in the United Kingdom and in the jurisdiction in which it is established; and
  - 3.1.2 it has notified the Buyer in writing of any Occasions of Tax Non Compliance and any litigation, enquiry or investigation in which it or its Subcontractors are involved that is in connection with, or which may lead to, any Occasion of Tax Non Compliance.
- 3.2 The Supplier shall at all times comply with all Laws relating to Tax and with the equivalent legal provisions of the country in which the Supplier is established.
- 3.3 The Supplier shall provide to the Buyer the name and, as applicable, the Value Added Tax registration number, PAYE collection number and either the Corporation Tax or selfassessment reference of any agent, supplier or Subcontractor prior to the commencement of any work under this Contract by that agent, supplier or Subcontractor. Where requested by the Buyer, the Supplier will not employ or will cease to employ any agent, supplier or Subcontractor.
- 3.4 Where an amount of Tax, including any assessed amount, is due from the Supplier an equivalent amount may be deducted by Buyer from the amount of any sum due to the Supplier under this Contract.
- 3.5 The Supplier must indemnify the Buyer against costs or penalty levied or assessed on the Buyer resulting at any time in respect of the Supplier's failure to account for or to pay any Tax relating to payments made to the Supplier under this Contract. Any amounts due under this Paragraph 3.5 must be paid to the Buyer not less than 5 Working Days before the date upon which the Tax or other liability is payable by the Buyer.
- 3.6 The Supplier shall promptly provide all information which demonstrates how the Supplier complies with its Tax obligations.
- 3.7 The Buyer can terminate this Contract immediately by giving notice to the Supplier if the Supplier fails to comply (or if the Buyer otherwise becomes aware that the Supplier has failed to comply) with any of the terms of this Paragraph 3.
- 3.8 The Buyer may internally share any information which it receives under this Paragraph 3, for the purpose of the collection and management of revenue for which the Buyer is responsible.

## 4. Use of Off-shore Tax Structures

- 4.1 The Supplier must not, and will ensure that its Connected Companies, Key Subcontractors (and their respective Connected Companies) will not, have or put in place (unless agreed with the Buyer) any arrangements involving the use of offshore companies other offshore entities the main purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom Tax of any description which would otherwise be payable by it or them on or in connection with the payments made by or on behalf of the Buyer under or pursuant to this Contract or, in the case of any Key Subcontractor and its Connected Companies, United Kingdom Tax which would be payable by it or them on or in connection with payments made by or on behalf of the Supplier under to the

relevant subcontract ("**Prohibited Transactions**"). Prohibited Transactions do not include transactions made between the Supplier and its Connected Companies or a Key Subcontractor and its Connected Companies on terms which are at arms-length and are entered into in the ordinary course of the transacting parties' business.

- 4.2 The Supplier must notify the Buyer in writing (with reasonable supporting detail) of any proposal for the Supplier or any of its Connected Companies, or for a Key Subcontractor (or any of its Connected Companies), to enter into any Prohibited Transaction. The Supplier must notify the Buyer within a reasonable time to allow the Buyer to consider the proposed Prohibited Transaction before it is due to be put in place.
- 4.3 In the event of a Prohibited Transaction being entered into in breach of Paragraph 4.1 above, or if circumstances arise which may result in such a breach, the Supplier and/or the Key Subcontractor (as applicable) shall discuss the situation with the Buyer and, in order to ensure future compliance with Paragraphs 4.1 and 4.2, the Parties (and the Supplier shall procure that the Key Subcontractor, where applicable) shall agree (at no cost to the Buyer) timely and appropriate changes to any such arrangements by the undertakings concerned.
- 4.4 The Buyer can terminate this Contract immediately by giving notice to the Supplier if the Supplier fails to comply (or if the Buyer otherwise becomes aware that the Supplier has failed to comply) with any of the terms of this Paragraph 4.

## 5. Compliance with Tax and Finance Legislation

- 5.1 The Supplier will comply with, and ensure that all Subcontractors and Supplier Staff will comply with:
  - 5.1.1 the obligations set out in Section 182 of the Finance Act 1989 and Section 18 of the Commissioners for Revenue and Customs Act 2005 to maintain the confidentiality of Government Data. The Supplier acknowledges a breach of these obligations may lead to a prosecution under Section 182 of the Finance Act 1989 and/or Section 19 of the Commissioners for Revenue and Customs Act 2005; and
  - 5.1.2 Section 123 of the Social Security Administration Act 1992, which may apply to the fulfilment of some or all of the Deliverables. The Supplier acknowledges that a breach of its obligations under Section 123 of the Social Security Administration Act 1992 may lead to a prosecution under that Act.
- 5.2 The Supplier must regularly (not less than once every 6 months) remind all Supplier Staff in writing of the obligations of Supplier Staff set out in Paragraph 5.1 above. The Supplier must monitor the Supplier Staff's compliance with these obligations.
- 5.3 The Supplier must ensure that all Supplier Staff who will have access to Government Data sign a declaration, in a form acceptable to the Buyer, acknowledging that they understand and have been informed about the application and effect of Section 18 and 19 of the Commissioners for Revenue and Customs Act 2005. The Supplier will provide a copy of each such signed declaration to the Buyer upon request.

## 6. Supply Chain Protection

6.1 Unless otherwise agreed by the Buyer must ensure that each subcontract with a Key Subcontractor includes obligations on the Key Subcontractor which are no less onerous than those imposed on the Supplier under this Contract in respect of:

6.1.1 the tax compliance requirements set out at Paragraph 3; and

6.1.2 the use of off-shore tax structures set out at Paragraph 4.

6.2 In addition to its rights under the Core Terms and Schedule 27 (Key Subcontractor), at the Buyer's request the Supplier must terminate any subcontract where the relevant subcontractor has failed to comply with the terms of its Subcontract equivalent to those set out in Paragraphs 4 and 5.

## 7. Responsibility for Losses

7.1 In spite of Clause 15.1 of the Core Terms, the Supplier does not limit or exclude its liability for the indemnity given under Paragraph 3.5.

7.2 In spite of Clause 15.2 of the Core Terms, the Supplier acknowledges that the Buyer may, amongst other things recover from the Supplier the following Losses to the extent that they arise as a result of a Default by the Supplier:

7.2.1 the total amount of Tax Revenue which would have been collected and/or the total amount of any benefit or tax credit overpayment which would not have been made by or on behalf of the Buyer had the Default not occurred; and

7.2.2 any operational and/or administrative costs and expenses incurred by the Buyer in connection with dealing with a loss of Tax Revenue and/or any overpayment of any benefit or tax credit made as a result of a Default.

## 8. Invoicing

9.2.1 In addition to the invoicing requirements set out in the Core Terms, the Supplier must ensure that it receives a purchase order number from the Buyer prior to providing any Deliverables. The Supplier acknowledges that if it does provide Deliverables prior to obtaining a purchase order number then the Supplier does so at its own risk and the Buyer is not required to pay any Charges without a valid purchase order number having been provided.

## 9. Non-solicitation

9.2.2 The Supplier must not, and must ensure that no Subcontractor will, during the Contract Period and for 12 months following the termination or expiry of this Contract either directly or indirectly solicit (or seek to attempt to solicit) from the employment of the Buyer or from the employment of any Service Recipient and/or Revenue and Customs Digital Technology Services (RCDTS) any person employed by the Buyer, Service Recipient and/or RCDTS in the receipt and/or administration of the Deliverables.

## 10. Protection of Buyer Personal Data

10.1 In addition to the data protection responsibilities set out in the Core Terms and Schedule 20 (Processing Data):

10.1.1 insofar as the Processes Sanitised Personal Data, the Supplier must not reverse engineer or unencrypt such Sanitised Personal Data or use any data matching techniques to reconstitute the Personal Data from which the Sanitised Personal Data is derived; and

10.1.2 the Supplier must not without the prior written consent of the Buyer convert any Personal Data for "big data" analysis or purposes or match or compare any Personal Data with or against any other Personal Data (whether the Supplier's or any third party's). Where the Buyer consents to the Supplier's use of Personal Data for the steps described in this Paragraph 10.1.2, the Supplier must only do so strictly to the degree necessary to fulfil its obligations under this Contract.

## 11. Standards

11.1 In addition to the Standards set out in the Core Terms and elsewhere within this Contract, the Supplier must comply with:

11.1.1 and feed into the Buyer's incident and problem management processes and procedures;

11.1.2 the security requirements in Schedule 16 (Security) which will, as a minimum, be ISO27001 and the government-sponsored cyber essentials[.]; and]

## 12. Security

12.1 In addition to the security requirements set out in the Core Terms and elsewhere within this Contract, the Supplier must comply with:

12.1.1 Whenever providing onsite services at buyer's location, Supplier's consultants shall comply with the security policy identified as such within the buyer specific call off terms ("Security Policy").

12.1.2 The Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.

## 13. Insurance Requirements

13.1 In addition to the insurance requirements set out in Schedule 22 (Insurance Requirements), where any of the insurances are stated to have a minimum limit "in the aggregate":

13.1.1 if a claim which does not relate to this Contract is 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 being paid by the insurers which could reduce the level of cover available below that minimum, the Supplier must immediately provide to the Buyer:

13.1.2 details of that policy; and

13.1.3 its proposed solution for maintaining the minimum limit of indemnity specified; and

13.1.4 if the level of insurance cover available falls below that minimum because a claim which does not relate to this Contract are paid by insurers, the Supplier must:

- a) **ensure that the insurance cover is reinstated to maintain the minimum limit of indemnity specified for claims relating to this Contract; or**
- b) **if the Supplier is unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately provide the Buyer with details of the relevant policy and its proposed solution for maintaining the minimum limit of indemnity specified.**

## 14. Testing

14.1 In addition to the testing requirements set out in Schedule 8 (Implementation Plan and Testing), the Supplier must:

14.1.1 set out all Documentary Deliverables in the Test Plan or Implementation Plan (as applicable);

14.1.2 comply with the HMRC Test Principles as described in the HMRC Organisational Test Strategy set out in Annex 1 (or as updated by the Buyer and notified to the Supplier from time to time) when developing the Test Strategy (as defined in Schedule 8 (Implementation Plan and Testing)); and

14.1.3 cooperate with the Buyer's third party test provider which carries out end-to-end test management and system integration on behalf of the Buyer in accordance with Annex 2.

14.2 The Supplier must provide the Documentary Deliverable for review by the Buyer in accordance with the timescales set out in the Test Plan or Implementation Plan (as applicable).

14.3 The Buyer will then notify the Supplier within 10 Working Days of receiving the relevant Documentary Deliverable whether it has been approved or rejected. If the Buyer rejects the Documentary Deliverable, it will give the Supplier its reasons for doing so and the Supplier must then revise the Documentary Deliverable accordingly and resubmit to the Buyer within 10 Working Days of the Buyer's rejection.

14.4 The Supplier must notify the Buyer immediately if it is unable to submit a Documentary Deliverable by the date specified in the Test Plan or Implementation Plan (as applicable). If the Buyer is not able to approve a Documentary Deliverable by that specified date, the Buyer can, without limiting its other rights, request that the Supplier provide a Rectification Plan.

(b)

# ANNEX 1 - HMRC TEST PRINCIPLES

HMRC's Test Principles from HMRC Organisational Test Strategy Document Version 2.1 Dated 1 January 2018

Ref	Test Principle (TP)
TP1	<b>Agile By Default</b> - HMRC will use Agile techniques as the preferred delivery approach and take on board GSDM concepts of building quality in, everyone is responsible for quality, fast feedback, tests are an asset of the product, faster delivery into production, clear and consistent view of testing and optimise value. Further details can be found at Section 6.
TP2	<b>Greatly reduce our reliance on end to end testing</b> - HMRC's ambition is for components/services to become independently testable and deployable over time, where possible. To support that ambition each component/service must understand its interactions with dependent systems and run thorough discrete integration tests (system integration in the small) on these interactions. System integration in the large tests (sometimes called end to end testing) should only be used to validate end to end connectivity and/or data flows, where integration in the small tests cannot cover. This should result in components/services having better contracts with their dependencies, enabling us to move ever closer to independent testing and deployment of releases.
TP3	<b>Risk Based Testing</b> - focus testing on the highest risk areas according to a documented testing risk assessment. Predictive testing and Failure Mode & Effects Analysis (FMEA) will support the Risk Based Testing approach through historical project data relating to defect trends. The risk based testing approach must be a joint sign-off between the HMRC change owner and the CDIO IT service owner.
TP4	<b>Test Early</b> - testing representatives need early sight of IT change to ensure they are properly assessed for testing requirements in terms of scope, timescales and budget, as well as for ensuring clear and unambiguous acceptance criteria.
TP5	<b>Allow sufficient time for testing</b> - give due consideration to the risks associated with a test, ensuring sufficient iterations/cycles are planned and that there is time for defect detection, defect resolution and retest.

## 1.2

TP6	<b>Defect Prevention</b> - HMRC expect the test process to evolve and improve through post implementation analysis, root cause analysis and test process improvement. By doing this, improved defect prevention can be achieved.
-----	--

Ref	Test Principle (TP)
TP7	<b>Test Automation</b> - automate as much as possible to allow early testing of both functional and non-functional requirements. Automated testing will be at the forefront of our drive to make substantial cost savings by implementing an automation first policy.
TP8	<b>Test Stage containment</b> - fix defects within iteration/ test stage where they are detected wherever possible rather than defer the risk until a later iteration/test stage.
TP9	<b>Definition of Done, Test Entry Reviews &amp; Test Exit Reviews</b> – For Agile “Definition of Done” has been assessed and agreed for all Epics, Features and User Stories in scope and has been accepted by the Product Owner. For other deliveries all tests under the control of a formal test plan must be subjected to a test entry review to ensure the entry criteria have been met i.e. testing starts when the entry criteria have been met so if the scheduled start date is missed, management action is needed to maintain the test schedule or slippage will occur; all tests must be subjected to a test exit review to ensure that the exit criteria have been met and the test can be formally declared as complete. The Team delivering the outcome should provide evidence of Definition of Done/Exit Criteria at Review.
TP10	<b>Suspension &amp; resumption of testing</b> - under circumstances set out in a test plan, testing may be suspended and then later resumed; such actions will be recorded and may result in project risks and/or issues being raised, depending on the nature of the interruption to testing.
TP11	<b>Test Completion</b> - every test will have an associated test completion condition to formally close the test activity. Test Completion Reports should be produced as required.

TP12	<b>Re-testing and Regression testing</b> - when defects are fixed they will be subjected to re-test to confirm that the fix is effective; consideration must also be given to the need to administer regression tests, based on the balance of risk for the underlying changes made for the fix and any other changes made in the release.
TP13	<b>Consider the timing of non-functional testing</b> - should not always be left until the end as there could be cases where critical components should be tested early to de-risk the overall solution. Virtualisation can be an effective way of quickly standing up a test environment to carry out non-functional testing early in the lifecycle.
TP14	<b>Re-use of test artefacts</b> - to maintain value in testing the management of test assets for re-use is key.
<b>Ref</b>	<b>Test Principle (TP)</b>
TP15	<b>User Centred Testing</b> - HMRC puts the user at the forefront of all products it delivers. User testing must be integrated into the Test Lifecycle to ensure that the system satisfies the needs of the customer as specified in the Business and functional requirements (for Agile User Stories and Epics) and provides confidence in its use. There is no separate user acceptance test stage in the HMRC test lifecycle, we need to test functions and Business processes and Business products that our customers and colleagues will use in their daily work throughout the IT lifecycle to ensure we are focused on delivery that quality in use.
TP16	<b>Defect Management Process</b> - incidents that occur during any testing process need to be managed properly. It is expected that robust Defect Management Procedures will be applied during test execution.
TP17	<b>Test Environments/Virtualisation</b> - HMRC expect appropriate test environments to be available in a timely fashion to allow testing to be completed. HMRC has a strategic drive towards Virtualised Environments but recognises other environments may be used in the interim.
TP18	<b>Use of test management tools</b> - all categories of test tools will be considered for use by each project/service team.

## 1.2

TP19	<b>Testing must be measurable</b> – this ensures the value of testing can be established in terms of time, cost and quality.
TP20	<b>Adoption of standards</b> - wherever possible use existing corporate, national and international standards, as well as tracking emerging standards to ensure on-going use of industry best practice. Any deviation from standards must be justified and documented.

## ANNEX 2 – TEST SERVICE REQUIREMENTS

### 1.1 The Supplier must:

- 1.1.1 provide sufficient, appropriate and empowered resource to review and approve the Buyer's end to end test strategy ("**E2E Test Strategy**") and/or end to end test plan ("**E2E Test Plan**");
- 1.1.2 confirm its agreement to the Buyer's E2E Test Strategy and/or E2E Test Plan within the timelines set by the E2E Test Provider;
- 1.1.3 provide to the E2E Test Provider the Test Strategy and Test Plan (based on the E2E Test Strategy and/or Plan) detailing the testing they will deliver and how it will be executed;
- 1.1.4 provide sufficient, appropriate and empowered resource to input to test workshops and discussions;
- 1.1.5 provide appropriate live service resource to input to decisions in relation to operational acceptance testing (OAT) and system integration testing (SIT) requirements;
- 1.1.6 provide test progress and test completion metrics to the E2E Test Provider's test manager on a weekly basis;
- 1.1.7 supply details of any defects in Testing to the E2E Test Provider and provide sufficient, appropriate and empowered resource to input to both the Buyer's and the E2E Test Provider's problem review forums, at the same complying with the defect management process as defined in the E2E Test Strategy and/or Plan;
- 1.1.8 complete their delivery activities on time and in accordance with the E2E Test Strategy and/or Plan including meeting the exit criteria for system testing;
- 1.1.9 carry out any operational testing which has been sub-contracted to the Supplier by the Buyer;
- 1.1.10 carry out performance and volume testing;
- 1.1.11 carry out component testing, component integration testing and system testing;
- 1.1.12 provide and maintain the test environments in a timely manner as defined in the E2E Test Strategy and/or Plan;

- 1.1.13 provide test data to be used in SIT; and
- 1.1.14 provide sufficient, appropriate and empowered resource to provide technical support for the resolution of defects during SIT

# Schedule 32 (Background Checks)

## 1. WHEN YOU SHOULD USE THIS SCHEDULE

- 1.1 This Schedule should be used where Supplier Staff must be vetted before working on Contract.

## 2. DEFINITIONS

2.1 In this Schedule, the following word shall have the following meaning and it shall supplement Schedule 1 (Definitions):

2.2 “**Relevant Conviction**” means any conviction listed in Annex 1 to this Schedule.

## 3. RELEVANT CONVICTIONS

3.1 The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.

3.2 Notwithstanding Paragraph 3.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must):

3.2.1 carry out a check with the records held by the Department for Education (DfE);

3.2.2 conduct thorough questioning regarding any Relevant Convictions; and

3.2.3 ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

3.3 and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.

## **Schedule 36 (Intellectual Property Rights)**

***Option 1: Buyer owns all New IPR with limited Supplier rights to all New IPR in order to deliver the Contract. This was the option available under the previous version of the Mid-tier Contract. Intellectual Property Rights***

- 1.1. Each Party keeps ownership of its own Existing IPR. Neither Party has the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as expressly granted elsewhere under the Contract or otherwise agreed in writing.
- 1.2. Except as expressly granted elsewhere under the Contract, neither Party acquires any right, title or interest in or to the IPR owned by the other Party or any third party.

### **1.3. Licences granted by the Supplier: Supplier Existing IPR**

1.3.1. Where the Buyer orders Deliverables which contain or rely upon Supplier Existing IPR, the Supplier hereby grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph 1.3.2.

1.3.2. The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, worldwide licence to use, change and sub-license any Supplier Existing IPR which is reasonably required by the Buyer to enable it:

1.3.2.1. or any End User to use and receive the Deliverables; or

1.3.2.2. to use, sub-licence or commercially exploit (including by publication under Open Licence) the New IPR and New IPR Items,

for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.

### **1.4. Licences granted by the Buyer and New IPR**

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

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

1.4.3. Unless otherwise agreed in writing, the Supplier and the Buyer will record any New IPR in the table at Annex 1 to this Schedule 36 and keep this updated throughout the Contract Period.

## **1.5. Open Licence Publication**

1.5.1. Subject to Paragraph 1.5.4, the Supplier agrees that the Buyer may at its sole discretion publish under Open Licence all or part of the New IPR Items.

1.5.2. Subject to Paragraph 1.5.4, the Supplier hereby warrants that the New IPR Items are suitable for release under Open Licence.

1.5.3. The Supplier will supply any or all New IPR Items in a format suitable for publication under Open Licence (“the Open Licence Publication Material”) within 30 days of written request from the Buyer (“Buyer Open Licence Request”).

1.5.4. The Supplier may within 15 days of a Buyer Open Licence Request under Paragraph 1.5.3 request in writing that the Buyer excludes all or part of:

1.5.4.1. the New IPR; or

1.5.4.2. Supplier Existing IPR or Third Party IPR that would otherwise be included in the Open Licence Publication Material supplied to the Buyer pursuant to Paragraph 1.5.3

from Open Licence publication.

1.5.5. Any decision to Approve any such request from the Supplier pursuant to Paragraph 1.5.4 shall be at the Buyer’s sole discretion, not to be unreasonably withheld, delayed or conditioned.

1.5.6. Subject to Clause 15 of the Core Terms, the Buyer will not be liable in the event that any Supplier Existing IPR or Third Party IPR is included in the Open Licence Publication Material published by the Buyer.

## **1.6. Third Party IPR**

1.6.1. The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless Approval is granted by the Buyer and it has procured that the owner or an authorised licensor of the relevant Third Party IPR has granted a Third Party IPR Licence on the terms set out in Paragraph 1.6.3. If the Supplier cannot obtain for the Buyer a licence on the terms set out in Paragraph 1.6.3 in respect of any Third Party IPR the Supplier shall:

1.6.1.1. notify the Buyer in writing; and

- 1.6.1.2. use the relevant Third Party IPR only if the Buyer has provided authorisation in writing, with reference to the acts authorised and the specific IPR involved.
- 1.6.2. In spite of any other provisions of the Contract and for the avoidance of doubt, award of this Contract by the Buyer and the ordering of any Deliverable under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 Section 12 of the Registered Designs Act 1949 or Sections 240 – 243 of the Copyright, Designs and Patents Act 1988.
- 1.6.3. The Third Party IPR Licence granted to the Buyer shall be a nonexclusive, perpetual, royalty-free, irrevocable, transferable, worldwide licence to use, change and sub-licence any Third Party IPR which is reasonably required by the Buyer to enable it or any End User to receive and use the Deliverables and make use of the deliverables provided by a Replacement Supplier.

## **1.7. Termination of licences**

- 1.7.1. The Supplier Existing IPR Licence granted pursuant to Paragraph 1.3 and the Third Party IPR Licence granted pursuant to Paragraph 1.6 shall survive the Expiry Date and termination of this Contract.
- 1.7.2. The Supplier shall, if requested by the Buyer in accordance with Schedule 30 (Exit Management) and to the extent reasonably necessary to ensure continuity of service during exit and transition to any Replacement Supplier, grant (or procure the grant) to the Replacement Supplier a licence to use any Supplier Existing IPR or Third Party IPR on terms equivalent to the Supplier Existing IPR Licence or Third Party IPR Licence (as applicable) subject to the Replacement Supplier entering into reasonable confidentiality undertakings with the Supplier.
- 1.7.3. Any licence granted to the Supplier pursuant to Paragraph 1.4 (Licence granted by the Buyer) shall terminate automatically on the Expiry Date and the Supplier shall:
  - 1.7.3.1. immediately cease all use of the Buyer Existing IPR (including the Buyer Data within which the Buyer Existing IPR may subsist);
  - 1.7.3.2. at the discretion of the Buyer, return or destroy documents and other tangible materials that contain any of the Buyer Existing IPR and the Buyer Data, provided that if the Buyer has not made an election within six months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Buyer Existing IPR and the Buyer Data (as the case may be); and

1.7.3.3. ensure, so far as reasonably practicable, that any Buyer Existing IPR and Buyer Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier containing such Buyer Existing IPR or Buyer Data.