

Overarching SSCS Contract

The Secretary of State for Environment, Food and Rural Affairs
Fera Science Limited

Dated

28 March 2025

Contents

PARTIES	1
BACKGROUND	1
PRELIMINARIES	1
1 Definitions and interpretation	1
SECTION 1 OVERARCHING ARRANGEMENTS.....	2
2 Term of Overarching SSCS Contract.....	2
3 Scope of this Overarching SSCS Contract	3
4 Direct Award Procedure	3
5 Responsibility for awards	4
SECTION 2 PROVISION OF THE SERVICES.....	4
6 Services	4
SECTION 3 PAYMENT, FINANCIAL REPORTS, RECORDS, AUDIT RIGHTS AND VALUE FOR MONEY	6
7 Payment, records, reports and open book accounting	6
8 Recovery of sums due	6
9 Reports, records and Open Book Data	6
10 Audits	6
11 Obligation to notify	7
12 Benchmarking	7
SECTION 4 CONTRACT GOVERNANCE	7
13 Governance.....	7
14 Overarching SSCS Contract changes	8
15 Change in Law	8
SECTION 5 STAFF AND SUPPLY CHAIN.....	9
16 Staff.....	9
17 Supply chain rights.....	10
SECTION 6 DATA AND CONFIDENTIALITY	14
18 Data.....	14
19 Confidentiality.....	14
20 Freedom of Information.....	17
21 Publicity and branding.....	17
SECTION 7 COMPANY AND AUTHORITY PROTECTIONS	18
22 Parties' obligations	18
23 Warranties	18
24 Business Continuity and Disaster Recovery and Contingency Response	19
25 Force majeure	19
SECTION 8 INDEMNITIES, LIABILITY AND INSURANCE	20

26	IPR indemnity	20
27	Conduct of indemnity claims	22
28	Limitations on liability	23
29	Rectification Plan Process	24
30	Remedial Adviser	26
31	Step In Rights.....	28
32	Relief Events and FM Relief Events	32
SECTION 9 TERMINATION		34
33	Termination by the Authority	34
34	Termination by the Company	34
35	Consequences of expiry or termination	34
36	Retendering and handover	35
37	Exit management	36
38	Exit procedures	36
39	Knowledge retention	37
SECTION 10 MISCELLANEOUS AND GOVERNING LAW		37
40	Compliance	37
41	Assignment and novation.....	37
42	Waiver and cumulative remedies.....	37
43	Relationship of the Parties	38
44	Prevention of fraud and bribery.....	38
45	Severance	39
46	Further assurances	40
47	Entire agreement.....	40
48	Third party rights	40
49	Mitigation.....	40
50	Notices	41
51	Disputes	41
52	Governing law and jurisdiction	43

SCHEDULES

SCHEDULE 1 DEFINITIONS

SCHEDULE 2 SSCS DIRECT AWARD CONTRACT PROCEDURE

SCHEDULE 3 SSCS PRINCIPLES AND CONTINUOUS IMPROVEMENT

SCHEDULE 4 NOT USED

SCHEDULE 5 GOVERNANCE AND REPORTING

Appendix 1 Reports

Appendix 2 Financial Reports

Appendix 3 Summary of Meetings

Appendix 4 Service Delivery Report

SCHEDULE 6 CHANGE CONTROL PROCEDURE

Appendix 1 Change Control Note

Appendix 2 Work Order Template

Appendix 3 Work Order Financial Model

SCHEDULE 7 BUSINESS CONTINUITY AND DISASTER RECOVERY

SCHEDULE 8 CONTINGENCY RESPONSE

Appendix 1 Contingency Response Plan

SCHEDULE 9 EXIT MANAGEMENT

Appendix 1 Outline exit plan

SCHEDULE 10 PRICING

Appendix 1 Annual Charge

Appendix 2 Day Rates

Appendix 3 Abatement Charges

Appendix 4 Estimated Volumes and Assumptions

SCHEDULE 11 FINANCIAL DISTRESS

Appendix 1 Rating Agencies and their Standard Rating System

Appendix 2 Credit Ratings and Credit Rating Thresholds

Appendix 3 Calculation Methodology for Financial Indicators

Appendix 4 Board Confirmation

SCHEDULE 12 COMMERCIALLY SENSITIVE INFORMATION

SCHEDULE 13 SERVICE CREDITS AND KPIS

SCHEDULE 14 SECURITY MANAGEMENT

Appendix 1 Outline Security Plan

Appendix 2 Security Policy: HMG Security Policy Framework

SCHEDULE 15 REGISTERS

SCHEDULE 16 SUSTAINABILITY

Appendix 1 Sustainability Reports

Appendix 2 Additional Commitments – Equality Diversity and Inclusion

Appendix 3 Additional Commitments – Modern Slavery

SCHEDULE 17 FINANCIAL REPORTS AND AUDIT RIGHTS

Appendix 1 Pro-forma Certificate of Costs

SCHEDULE 18 INSURANCE REQUIREMENTS

Appendix 1 Required Insurances

SCHEDULE 19 BENCHMARKING

Appendix 1 Approved Benchmarkers

Appendix 2 Confidentiality Agreement

This Overarching SSCS Contract is made on

28

March 2025

Parties

- (1) **The Secretary of State for Environment, Food and Rural Affairs**, of Seacole House, 2 Marsham St, London SW1P 4DF (**Authority**)
- (2) **Fera Science Limited** a company incorporated in England and Wales (registered with number 09413107) and whose registered office is at York BioTech Campus, Sand Hutton, York, YO41 1LZ (**Company**)

each a **Party** and together the **Parties**.

Background

This Overarching SSCS Contract establishes:

- A the basis on which the Company may enter into Direct Award Contracts with Public Sector Bodies (including the Customers of the Initial Direct Award Contracts) for Available Services; and
- B the terms and conditions for the award of such contracts and the provision and management of the Services and Available Services.

Preliminaries

1 Definitions and interpretation

- 1.1 The interpretation and construction of this Overarching SSCS Contract shall be subject to the following provisions:
 - (a) capitalised expressions shall have the meanings set out in Schedule 1 (*Definitions*);
 - (b) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
 - (c) words importing the masculine include the feminine and the neuter;
 - (d) reference to a clause is a reference to the whole of that clause unless stated otherwise;
 - (e) references to any statutory provision, enactment, order, regulation or other similar instrument shall be construed as a reference to the statutory provision, enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or reenacted from time to time and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made under it;
 - (f) reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

- (g) the words **include**, **includes** and **including** are to be construed as if they were immediately followed by the words **without limitation**;
 - (h) references in this Overarching SSCS Contract to the **Company** shall, where appropriate, also include references to each of the Company's Subsidiary Undertakings; and
 - (i) any reference to a public organisation, body or representative shall be deemed to include reference to any successor(s) to such public organisation, body or representative or any organisation, body, entity, or representative which (whether in whole or part) has or (as appropriate) have taken over any of the functions, services or responsibilities of such public organisation, body or representative, either entirely or in part (including any other part of HM Government, any NDPB or private body).
- 1.2 The Parties agree that the Authority, on its own behalf and as agent for each of the Customers, shall:
- (a) have conduct of all claims and disputes against the Company pursuant to this Overarching SSCS Contract (with Customers having the right to conduct enforcement actions pursuant to their individual Direct Award Contract);
 - (b) agree any Changes to this Overarching SSCS Contract on behalf of all Customers without their specific consent;
 - (c) have the right to enforce the terms, conditions, undertakings, representations, warranties and other provisions of this Overarching SSCS Contract; and
 - (d) recover loss suffered by any of the Customers.
- 1.3 The headings in this Overarching SSCS Contract are for ease of reference only and shall not affect the interpretation or construction of this Overarching SSCS Contract.
- 1.4 Unless specifically specified otherwise, any requirement in this Overarching SSCS Contract for a Party to give notice, its approval or consent or similar shall only be valid where such notice, approval, consent or similar is given in writing.
- 1.5 Where the day on or by which any thing is to be done is not a Working Day, that thing shall be done on or by the preceding Working Day.
- 1.6 The Authority's co-operation in the development and/or approval of any documentation under this Overarching SSCS Contract shall not relieve the Company of its obligation to comply with this Overarching SSCS Contract or to comply with any Direct Award Contract entered into under this Overarching SSCS Contract.
- 1.7 Any amounts or sums due under this Overarching SSCS Contract are exclusive of VAT unless stated otherwise, which shall be added at the prevailing rate and paid by the relevant Party following delivery of a valid VAT invoice.

SECTION 1 OVERARCHING ARRANGEMENTS

2 Term of Overarching SSCS Contract

- 2.1 Subject to the Conditions at clause 2.2 being fulfilled, this Overarching SSCS Contract will come into force on the Effective Date and unless terminated at an earlier date by operation of

Law or in accordance with clause 33, expires on the date the last Direct Award Contract, or Agreed Work Order under a Direct Award Contract, expires or is terminated (the **Term**).

- 2.2 Save for clauses 1 (Definitions and interpretation), 18 (Confidentiality), 20 (Freedom of Information), 21 (Publicity and branding), 23.2 (Warranties), 28 (Limitations on liability), 42 (Waiver and cumulative remedies), 43 (Relationship of the Parties), 45 (Severance), 47 (Entire agreement), 48 (Third party rights), 50 (Notices), 51 (Disputes) and 52 (Governing law and jurisdiction), this Overarching SSCS Contract is conditional upon the completion of the Conditions Precedent. The Authority may in its sole discretion at any time agree to waive compliance with the Condition Precedent by giving the Company notice in writing.
- 2.3 The Company shall satisfy, or procure the satisfaction of, the Conditions Precedent as soon as possible. In the event that any Condition Precedent is not satisfied within twenty (20) Working Days after the date of this Overarching SSCS Contract then, unless the Condition Precedent is waived by the Authority in accordance with clause 2.2:
- (a) this Overarching SSCS Contract shall automatically cease and shall not come into effect; and
 - (b) neither Party shall have any obligation to pay any compensation to the other Party as a result of such cessation.
- 2.4 The Company shall consult with the Authority in relation to the steps it takes to satisfy the Conditions Precedent and shall keep the Authority fully informed of its progress in satisfying the conditions and of any circumstances which are likely to result in the conditions not being satisfied by the date set out in clause 2.3.
- 2.5 The Condition Precedent is:
- (a) the completion by the Company of the MSAT and the publication of the report generated by the MSAT.

3 Scope of this Overarching SSCS Contract

- 3.1 The Authority appoints the Company as a provider of the Available Services and the Company accepts such appointment.
- 3.2 The Authority approves the Initial Direct Award Contracts being entered into as at the Effective Date.
- 3.3 The Company acknowledges and agrees that:
- (a) its relationship with the Authority is not exclusive; and
 - (b) neither the Authority nor any Customer shall be obliged to contract with the Company for the provision of any of the Available Services.
- 3.4 The Authority acknowledges its responsibilities to help and support growth and to provide such policy and general marketing guidance to Customers in respect of the Available Services as the Authority reasonably considers necessary.

4 Direct Award Procedure

The Company may only enter into Direct Award Contracts during the Term and only in accordance with the procedure set out in Schedule 2 (*SSCS Direct Award Procedure*).

5 Responsibility for awards

The Company acknowledges that the Customers are independently responsible for the award of any Direct Award Contracts under this Overarching SSCS Contract and that the Authority shall have no liability whatsoever to the Company in respect of the conduct of any Customer (other than the Authority itself) in relation to this Overarching SSCS Contract.

SECTION 2 PROVISION OF THE SERVICES

6 Services

6.1 The Company shall perform its obligations under this Overarching SSCS Contract and shall provide the Services and the Available Services:

- (a) using all due skill, care and diligence, to the best of its ability and with the utmost good faith and without prejudice to the generality of the foregoing, in accordance with the requirements of:
 - (i) all Specifications set out in Direct Award Contracts;
 - (ii) this Overarching SSCS Contract, including the SSCS Principles;
 - (iii) Good Industry Practice; and
 - (iv) the relevant KPIs and CPIs (with the KPIs and CPIs prevailing in the case of any conflict with a requirement set out in the Specifications); and
- (b) in compliance with all applicable Laws.

6.2 The Company shall;

- (a) ensure that all Staff supplying the Services and Available Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper performance of the Services and Available Services;
- (b) ensure that the Staff are properly managed and supervised;
- (c) do all things necessary to provide the Services and Available Services, including providing all Staff, equipment and materials necessary for the provision of the Services and Available Services;
- (d) have a proactive approach to developing Services and Available Services enhancements, improvements and efficiencies;
- (e) familiarise itself with, comply with and provide the Services and Available Services and any materials or work in accordance with any mandatory standards set by Regulatory Bodies, with any Quality Standards applicable to the Services and Available Services and the Supplier Code of Conduct. The Authority expects to meet, and expects its suppliers and Sub Contractors to meet, the standards set out in that Code;
- (f) at its own expense, prepare information or reports for and/or make itself and the appropriate senior management available to attend meetings with the Authority and/or Customers with the purpose of reviewing the Company's performance of its

obligations hereunder at all times as required by the Authority and/or Customers and in accordance with Schedule 5 (*Governance and Reporting*);

- (g) seek to improve the value for money of the Services and Available Services at all times;
 - (h) cooperate fully with the skills to continuously review, improve and refine the Services and Available Services;
 - (i) consult with the Authority and/or Customers as often as may reasonably be necessary for the efficient provision of the Services and Available Services and shall generally advise and assist the Authority and/or Customers as necessary on all matters arising from the operation of this Overarching SSCS Contract and Direct Award Contracts (pursuant to Schedule 5 (*Governance and reporting*)) and provide management information and other information as reasonably required by the Authority and/or Customers from time to time;
 - (j) have and maintain effective and appropriate systems for the identification, mitigation and management of all risks associated with the delivery of the Services and Available Services;
 - (k) ensure and recognise its responsibility for the health, safety and welfare of Staff and the public in relation to the management of all risks in the delivery of the Services and Available Services; and
 - (l) promptly notify the Authority on becoming aware of any proceedings or regulatory investigations that are commenced and materially impact or may materially impact the Company's ability to provide the Services.
- 6.3 The Company shall not knowingly perform any act or omission which will or might reasonably be expected to damage, injure or prejudice the Authority or its interests or otherwise adversely affect the reputation of the Authority unless such act or omission has been specified under this Overarching SSCS Contract or any Direct Award Contract or has otherwise been authorised by the Authority or any Customer.
- 6.4 The Company shall comply with the terms of clause 24.
- 6.5 The Company shall have in place and supply to the Authority a copy of its Service Continuity Plan for effective continuation of its obligations under this Overarching SSCS Contract during the Term.
- 6.6 The Company shall have in place and supply to the Authority a copy of its Contingency Response Plan for effective continuation of the Services during the Term of any such Services in the event of incident or emergency affecting Customers (for example in the case of an or outbreak of plant, animal or human disease or public health or safety incident or crisis), and to confirm and demonstrate that such arrangements are appropriate and proportionate. The Contingency Response Plan shall be updated by the Company on an annual basis and supplied to the Authority and agreed as part of the Annual Plan.
- 6.7 The Authority reserves the right to require temporary changes to the Services or to governance thereof where circumstances require (for example, in the case of an outbreak of plant, animal or human disease, a public health or safety incident or crisis, disaster, systems failure or other business failure or interruption), in each case in accordance with the provisions of Schedule 8 (*Contingency Response*) and/or the Schedule 7 (*Business Continuity and Disaster Recovery*) (as relevant).
- 6.8 The Authority may inspect and examine the manner in which the Company provides the Services during normal business hours on reasonable notice. The Company shall provide free

of charge all such facilities as the Authority may reasonably require for such inspection and examination, save where the Company is prohibited from doing so by confidentiality obligations to other Customers or third parties. In this clause 6.8, Services include planning or preliminary work in connection with the supply of the Services.

- 6.9 The Company shall comply with the provisions of Schedule 14 (*Security Management*) and perform the Services in accordance with Schedule 14 (*Security Management*).

SECTION 3

PAYMENT, FINANCIAL REPORTS, RECORDS, AUDIT RIGHTS AND VALUE FOR MONEY

7 Payment, records, reports and open book accounting

- 7.1 The Company shall provide Available Services to Customers under Direct Award Contracts on the basis of the Charges set out in Schedule 10 (*Pricing*) (save as otherwise provided for in the relevant Direct Award Contracts).
- 7.2 Except as otherwise provided, each Party shall bear its own costs and expenses incurred in respect of compliance with their obligations under this Overarching SSCS Contract.

8 Recovery of sums due

Subject to the Authority notifying the Company in advance, the Authority may retain or set off any amount owed to it by the Company to the Crown or any part of the Defra Family against any amount due to the Company under this Overarching SSCS Contract or under any other agreement between the Company and the Authority.

9 Reports, records and Open Book Data

- 9.1 The Company shall comply (and shall procure that any Key Sub Contractors comply) with the provisions of this Overarching SSCS Contract, Part 2 of Schedule 17 (*Financial Reports and Audit Rights*) and any Direct Award Contracts in relation to the keeping of records, the making of reports and provision of financial reports to the Authority and shall promptly provide any such reports and information as may be reasonably required by the Authority.
- 9.2 The Company shall (and shall procure that any Key Sub Contractors shall) maintain Open Book Data in respect of this Overarching SSCS Contract and each Direct Award Contract throughout the Term and provide access to the Open Book Data in accordance with Paragraph 2 of Part 1 of Schedule 17 (*Financial Reports and Audit Rights*).

10 Audits

The Parties shall comply with the provisions of Part 3 of Schedule 17 (*Financial Reports and Audit Rights*).

11 Obligation to notify

- 11.1 Without prejudice to the Authority's other rights or remedies or to the Company's other reporting obligations set out in this Overarching SSCS Contract, the Company shall notify the Authority:
- (a) in writing of all breaches including those associated with warranties and representations, litigation suits and/or proceedings, IPR claims, where there is a likelihood of a delay and for non-compliance with tax obligations; and
 - (b) in writing, as soon as reasonably practicable after it comes to the Company's attention, of any breach or any event or circumstance which may or which is reasonably likely to result in a Major Service Failure.
- 11.2 The Company shall notify the Authority and (as applicable) the relevant Customers of any Service Level Failure.

12 Benchmarking

- 12.1 The Authority may, by written notice to the Company, require a Benchmark Review of any or all of the Services provided to one or more Customers, or any aspect thereof, to establish whether or not such Service is, or the Services are as whole, good value and/or good quality.
- 12.2 The Authority may require one (1) Benchmark Review in each of the following periods:
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- 12.3 The Authority may not require a Benchmark Review other than as set out in clause 12.2.
- 12.4 The Parties will use all reasonable endeavours to avoid the conduct of Benchmark Reviews having an adverse impact upon performance of Services and other activities and operations of the Company.
- 12.5 The Authority must set out the Services or the part of the Services (including the Customer or Customers that receive them) that are Benchmarked Services for the purpose of a Benchmark Review in the notice given under clause 12.

SECTION 4 CONTRACT GOVERNANCE

13 Governance

The Parties shall manage this Overarching SSCS Contract (and relevant aspects of each Direct Award Contract) using the governance structure detailed in Schedule 5 (*Governance and Reporting*).

14 Overarching SSCS Contract changes

All proposed changes to this Overarching SSCS Contract shall be processed by the Parties in accordance with Schedule 6 (*Change Control Procedure*).

15 Change in Law

- 15.1 The Company shall neither be relieved of its obligations to supply the Services in accordance with the terms of this Overarching SSCS Contract or a Direct Award Contract nor be entitled to an increase in the Contract Price or any Charges as the result of:
- (a) a General Change in Law; or
 - (b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is known (or should have been known had the Company acted in accordance with Good Industry Practice) as at the Effective Date.
- 15.2 If a Specific Change in Law occurs or will occur during the Term (other than those that should have been known to the Company as at the Effective Date), the Company shall notify the Authority and the Customers under relevant Direct Award Contracts of the likely effects of that change, including whether any change is required to the Services, the Contract Price, any Charges, a Direct Award Contract or this Overarching SSCS Contract and whether any relief from compliance with the Company's obligations is required.
- 15.3 As soon as practicable after any notification in accordance with clause 15.2, the Parties shall discuss and agree the matters referred to in that clause and any ways in which the Company can mitigate the effect of the Specific Change of Law, including:
- (a) providing evidence that the Company has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub Contractors and Key Sub Contractor;
 - (b) demonstrating that a foreseeable Specific Change in Law had been taken into account by the Company before it occurred;
 - (c) giving evidence as to how the Specific Change in Law has affected the cost of providing the Services; and
 - (d) demonstrating that any expenditure that has been avoided has been taken into account in amending the Contract Price and/or Charges.
- 15.4 Any amendment to the Contract Price or Charges or the Services agreed by the Parties pursuant to clause 15.3 shall be agreed in accordance with Schedule 6 (*Change Control Procedure*).
- 15.5 The Company shall not be relieved of its obligations under this Overarching SSCS Contract (or any Direct Award Contract) or entitled to an increase in the Contract Price or Charges as the result of any change in Good Industry Practice.

SECTION 5

STAFF AND SUPPLY CHAIN

16 Staff

16.1 The Company shall:

- (a) ensure that all Staff:
 - (i) are appropriately qualified, trained and experienced to perform its obligations under this Overarching SSCS Contract and to provide the Services and Available Services with reasonable skill, care and diligence; and
 - (ii) are vetted in accordance with Good Industry Practice, the Staff Vetting Procedure and any relevant Quality Standards;
- (b) retain overall control of the Staff at all times so that the Staff shall not be deemed to be employees, agents or contractors of the Authority or any Customer; and
- (c) be liable at all times for all acts and omissions of Staff, so that any act or omission of Staff which results in a Default under this Overarching SSCS Contract or any Direct Award Contract shall be a Default by the Company.

16.2 If the Authority reasonably believes that any of the Staff are unsuitable to undertake work in respect of this Overarching SSCS Contract, it may direct the Company to end the involvement of the relevant Staff in any work connected to this Overarching SSCS Contract and/or assign an appropriate member of Staff to supervise such work or take over the role of the member of Staff so deemed as unsuitable.

16.3 The Company must not:

- (a) engage Staff in the provision of the Available Services; or
 - (b) allow Staff to access to any data or information of the Authority, or handle any data or information of the Authority,
- unless
- (c) that individual has passed the Staff Vetting Procedure; or
 - (d) the Authority has given prior written permission for a named individual to perform a specific role.

16.4 The Staff Vetting Procedure is:

- (a) the checks required for the HMG Baseline Personnel Security Standard (BPSS) to verify:
 - (i) the individual's identity;
 - (ii) where that individual will work in the United Kingdom, the individual's nationality and immigration status so as to demonstrate that they have a right to work in the United Kingdom;
 - (iii) the individual's previous employment history; and
 - (iv) that the individual has no Relevant Convictions;

- (b) national security vetting clearance to the level specified by the Authority for such individuals or such roles as the Authority may specify; or
 - (c) such other checks for the Staff as the Authority may specify.
- 16.5 The Company confirms that, other than Staff that transferred from FERA, all Staff employed or engaged by the Company have either:
 - (a) completed the Staff Vetting Procedure; or
 - (b) have undergone checks no less strict than Staff Vetting Procedure and this was accepted by the Authority.
- 16.6 The Company shall, where possible, ensure that Staff have contractual notice periods sufficient to facilitate an orderly handover of responsibilities before their departure and enforce such notice periods. The responsibilities of the departing member of Staff will be allocated and assigned to existing members of Staff (where capacity and skill sets allow) and/or to replacement members of Staff, who shall be appropriately qualified, experienced, trained and competent.
- 16.7 The Company, the Authority and the Customer(s) shall comply with Schedule 5 (*Exit Management*) in relation to Employee Liabilities.

Employment Indemnity

- 16.8 Insofar as may be applicable under the terms of this Overarching SSCS Contract only, the Company shall indemnify the Authority against all Employee Liabilities that may arise as a result of any claims brought against the Authority by any person where such claim arises from any act or omission of the Company or any Staff occurring during the Term.

17 Supply chain rights

Sub Contracting

- 17.1 The Company shall exercise due skill and care in the selection and appointment of any Sub Contractors to ensure that it is able to:
 - (a) manage any Sub Contractors in accordance with Good Industry Practice;
 - (b) comply with its obligations under this Overarching SSCS Contract and any Direct Award Contract; and
 - (c) assign, novate or otherwise transfer to the Authority or any Replacement Contractor any of its rights and/or obligations under each Sub Contract that relates exclusively to this Overarching SSCS Contract.
- 17.2 Except where the Authority has given its prior written consent, the Company shall ensure that each new Sub Contract shall not include provisions that prevent or hinder the Company from complying with its obligations under this Overarching SSCS Contract and any Direct Award Contract.
- 17.3 Company shall compile and maintain the Sub Contractor Register in accordance with Schedule 15 (*Registers*).
- 17.4 The Authority may, on receipt of the Sub Contractor Register, determine that:
 - (a) any Sub Contract on the Sub Contractor Register is a Key Sub Contractor; and

(b) as a consequence the Sub Contractor is a Key Sub Contractor.

- 17.5 In the determination made under clause 17.4, the Authority may modify how the provisions of this Overarching SSCS Contract apply in respect of the Key Sub Contract or Key Sub Contractor, by, for example, stating that certain obligations in this Overarching SSCS Contract do not apply in respect of the Key Sub Contract, apply only from a later date or apply on a reasonable endeavours basis.

Key Sub Contractors

- 17.6 The Authority consents to the appointment of the Key Sub Contractors listed in Schedule 20 (*Notified Key Sub Contractors*).

- 17.7 The Company shall, prior to entering into a Key Sub Contract shall notify the Authority in writing of:

- (a) the proposed Key Sub Contractor's name, registered office and company registration number;
- (b) the scope of any Services to be provided by the proposed Key Sub Contractor; and
- (c) where the proposed Key Sub Contractor is an Affiliate of the Company, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed Key Sub Contract has been agreed on "arm's-length" terms.

- 17.8 If requested by the Authority within ten (10) Working Days of receipt of the Company's notice issued pursuant to clause 0, the Company shall also provide:

- (a) a copy of the proposed Key Sub Contract; and
- (b) any further information reasonably requested by the Authority.

- 17.9 If the Authority has not notified the Company that it objects to the proposed Key Sub Contractor's appointment by the later of ten (10) Working Days of receipt of:

- (a) the Company's notice issued pursuant to clause 0; and
- (b) any further information requested by the Authority pursuant to clause 17.8,

the Company may proceed with the proposed appointment and, where the Key Sub Contract is entered into exclusively for the purpose of delivery of the Services, the Company shall inform the Authority of the same.

- 17.10 The Company shall not enter into a Key Sub Contract or terminate or materially amend a Key Sub Contract without the Authority's prior written consent, such consent not to be unreasonably withheld or delayed.

- 17.11 The Authority may require the Company to terminate a Key Sub Contract where:

- (a) the acts of omissions of the relevant Key Sub Contractor have caused or materially contributed to a degradation or disruption of the Services; and/or
- (b) there has been consistent poor performance by the Key Sub Contractor or the Company (where the root cause is the Key Sub Contractor),

in each case whether or not those acts or omissions or that poor performance are a breach of the Key Sub Contract.

17.12 Except where the Authority has given its prior written consent, the Company shall ensure that each Key Sub Contract shall include:

- (a) a provision enabling the Company to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub Contract to the Authority or any Replacement Contractor without restriction (including any need to obtain any consent or approval) or payment by the Authority;
- (b) a provision requiring the Key Sub Contractor to promptly notify the Company and the Authority in writing of any of the following of which it is, or ought to be, aware:
 - (i) the occurrence of a Financial Distress Event in relation to the Key Sub Contractor; or
 - (ii) any fact, circumstance or matter of which it is aware which could cause the occurrence of a Financial Distress Event in relation to the Key Sub Contractor,

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

- (c) co-operate with the Company and the Authority in order to give full effect to the provisions of Schedule 11 (*Financial Distress*), including meeting with the Company and the Authority to discuss and review the effect of the Financial Distress Event on the continued performance and delivery of the Services, and contributing to and complying with the Financial Distress Remediation Plan, and providing the information specified at paragraph 3.3(b)(ii) of Schedule 11 (*Financial Distress*);
- (d) obligations no less onerous on the Key Sub Contractor than those imposed on the Supplier under this Overarching SSCS Contract in respect of:
 - (i) data protection requirements set out in clauses 18 (*Data*) and Schedule 14 (*Security Requirements*);
 - (ii) FOIA requirements set out in clause 20 (*Freedom of Information*);
 - (iii) the obligation not to damage the reputation of the Authority or otherwise bring the Authority into disrepute set out in clause 21.1 (*Publicity and Branding*);
 - (iv) the keeping of records in respect of the services being provided under the Key Sub Contract, including the maintenance of Open Book Data; and
 - (v) the conduct of Audits set out in Part C of Schedule 17 (*Financial Reports and Audit Rights*);
- (e) obligations no less onerous on the Key Sub Contractor than those imposed on the Company under this Overarching SSCS Contract in relation to those elements of the Service to be sub contracted; and
- (f) a provision restricting the ability of the Key Sub Contractor to further sub contract elements of the service provided to the Company without the Authority's prior written consent, save that such further sub contracting pursuant to Direct Award Contracts shall be at the relevant Customer's discretion.

Retention of legal obligations

17.13 Notwithstanding the Company's right to sub contract, the Company shall remain responsible for all acts and omissions of its Sub Contractors and the acts and omissions of those

employed or engaged by the Sub Contractors as if they were its own. In respect of any element of the Services delivered by Staff and/or which are Sub Contracted by the Company, an obligation on the Company to do or to refrain from doing any act or thing under this Overarching SSCS Contract, shall include an obligation on the Supplier to procure that the Staff and the Sub Contractor also do or refrain from doing such act or thing in their delivery of those elements of the Services.

Supply chain protection

- 17.14 The Company must ensure that any Sub Contracts it enters into for the purpose of performing or contributing to the performance of the whole or any part of the Overarching SSCS Contract or any Direct Award Contract contain provisions that:
- (a) give the Company a right to terminate the Sub Contract if the Sub Contractor fails to comply in the performance of the Sub Contract with legal obligations in the fields of environmental, social or labour Law;
 - (b) require the Company or other party receiving Goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
 - (c) if the Company or other party fails to consider and verify an invoice in accordance with clause 17.14(b), such invoice shall be regarded as valid and undisputed for the purpose of clause 17.14(d) after a reasonable time has passed;
 - (d) require the Company or other party to pay any undisputed sums which are due from it to the Sub Contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;
 - (e) give the Authority a right to publish the Company's compliance with its obligation to pay undisputed invoices within the specified payment period; and
 - (f) require the Sub Contractor to include a clause to the same effect as this clause 17.14 in any contracts it enters into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Overarching SSCS Contract.
- 17.15 The Company warrants that any Sub Contracts for the purpose of performing or contributing to the performance of the whole or any part of the Overarching SSCS Contract or any Direct Award Contract entered into before the Effective Date contain the provisions set out in clause 17.14
- 17.16 The Company shall pay any undisputed sums which are due from it to a Sub Contractor within thirty (30) days of verifying that the invoice is valid and undisputed.
- 17.17 Without prejudice to clause 17.15, the Company shall pay any sums which are due from it to any Sub Contractor or Unconnected Sub Contractor pursuant to any invoice (or other notice of an amount for payment) on the earlier of:
- (a) the date set out for payment in the relevant Sub Contract or Unconnected Sub Contract; or
 - (b) the date that falls sixty (60) days after the day on which the Company receives an invoice (or otherwise has notice of an amount for payment).

Advertising Sub Contract opportunities

- 17.18 Where the company wishes to award a Sub Contract, it must:
- (a) consider whether the goods, works or services it requires could reasonably be supplied under more than one contract; and
 - (b) if that is the case, subject to clause 17.21, award that requirement using more than one contract, or more than one lot of a single contract.
- 17.19 In awarding a Sub Contract, the Company must:
- (a) subject to clause 17.21, advertise on Contracts Finder all Sub Contract opportunities arising from or in connection with the provision of the Available Services above a minimum threshold of twenty five thousand pounds sterling (£25,000) that arise during the Term;
 - (b) within ninety (90) days of awarding a Sub Contract to a Sub Contractor, update the notice on Contracts Finder with details of the successful Sub Contractor;
 - (c) monitor the number, type and value of the Sub Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Term;
 - (d) provide reports on the information at clause 17.19(c) to the Authority in the format and frequency as reasonably specified by the Authority; and
 - (e) promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.
- 17.20 Each advert referred to in clause 17.18 shall provide a full and detailed description of the Sub Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Company.
- 17.21 Notwithstanding clauses 17.18 and 17.19, the Authority may, by giving its prior written approval, agree that a Sub Contract opportunity is not required to be advertised on Contracts Finder.

SECTION 6

DATA AND CONFIDENTIALITY

18 Data

- 18.1 The Company must comply with the provisions of Schedule 14 (*Security Management*).

19 Confidentiality

- 19.1 For the purposes of this clause 19, and as between the Company and the Authority only, the term **Disclosing Party** shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and **Recipient** shall mean the Party which receives or obtains directly or indirectly Confidential Information.

- 19.2 Except to the extent set out in this clause 19, or where disclosure is expressly permitted elsewhere in this Overarching SSCS Contract, the Recipient shall:
- (a) treat the Disclosing Party's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials);
 - (b) not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Overarching SSCS Contract or without obtaining the owner's prior written consent;
 - (c) not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Overarching SSCS Contract; and
 - (d) immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.
- 19.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:
- (a) the Recipient is required to disclose the Confidential Information by Law, provided that clause 19 shall apply to disclosures required under the FOIA or the Environmental Information Regulations;
 - (b) the need for such disclosure arises out of or in connection with:
 - (i) any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Overarching SSCS Contract;
 - (ii) the purpose of the examination and certification of the Authority's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to section 6(1) of the *National Audit Act 1983* of the economy, efficiency and effectiveness with which the Authority is making use of any Services provided under this Overarching SSCS Contract;
 - (iii) the conduct of a Public Sector Body review and/or a major projects review and/or any such similar assurance review carried out by or on behalf of His Majesty's Government in respect of this Overarching SSCS Contract; or
 - (iv) the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the *Bribery Act 2010* and the disclosure is being made to the Serious Fraud Office.
- 19.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or Regulatory Body requiring such disclosure and the Confidential Information to which such disclosure would apply.
- 19.5 Subject to clause 19.2 and 19.3, the Company may only disclose the Confidential Information of the Authority on a confidential basis to:
- (a) Staff who are directly involved in the provision of the Services under this Overarching SSCS Contract and need to know the Confidential Information to enable performance of the Company's obligations under this Overarching SSCS Contract, and

- (b) its professional advisers for the purposes of obtaining advice in relation to this Overarching SSCS Contract.

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

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

- (a) to any Customers;
- (b) to any Public Sector Body on the basis that the information may only be further disclosed to Public Sector Bodies;
- (c) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- (d) to the extent that the Authority (acting reasonably) deems disclosure necessary in the course of carrying out its public functions;
- (e) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by the Authority, any Public Sector Body or Customers (including any benchmarking organisation), for any purpose relating to or connected with this Overarching SSCS Contract and/or any Direct Award Contract;
- (f) on a confidential basis for the purpose of the exercise of any of its rights under this Overarching SSCS Contract; or
- (g) to a proposed transferee, assignee or novatee of, or successor in title to the Authority.

Transparency

- 19.7 The Parties acknowledge that, except for any Information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Overarching SSCS Contract is not Confidential Information. The Authority shall determine whether any of the content of this Overarching SSCS Contract is exempt from disclosure in accordance with the provisions of the FOIA. The Authority may consult with the Company to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 19.8 Notwithstanding any other provision of this Overarching SSCS Contract, the Company hereby gives its consent for the Authority to publish to the general public this Overarching SSCS Contract in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Overarching SSCS Contract agreed from time to time.
- 19.9 The Company shall assist and co-operate with the Authority to enable the Authority to publish this Overarching SSCS Contract.

20 Freedom of Information

- 20.1 The Company acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations. The Company shall:
- (a) provide all necessary assistance and cooperation as reasonably required by the Authority, at no additional cost to the Authority, to enable the Authority to comply with its obligations under the FOIA and the Environmental Information Regulations;
 - (b) transfer to the Authority all Requests for Information relating to this Overarching SSCS Contract that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
 - (c) provide the Authority with a copy of all Information belonging to the Authority requested in the Request for Information which is in its possession, or control in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and
 - (d) not respond directly to a Request for Information unless authorised in writing to do so by the Authority.
- 20.2 The Company acknowledges that the Authority may be required under the FOIA and the Environmental Information Regulations to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Company. The Authority shall take reasonable steps to notify the Company of a Request for Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Overarching SSCS Contract) the Authority shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations. If the Company has any information which it considers to be Commercially Sensitive Information for the purposes of FOIA then it may note this by completing the Commercially Sensitive Information Schedule.

21 Publicity and branding

- 21.1 The Company shall not and shall procure that the Staff shall not wilfully and in breach of any obligation under this Overarching SSCS Contract, do anything which may damage the reputation of the Authority in any way or bring the Authority into disrepute.
- 21.2 Save as set out in clause 21.4, the Company shall not and shall procure that the Staff shall not:
- (a) use the Authority's name or brand in any promotion or marketing, including on its own website, or announcement of orders, without the prior written consent of the Authority, which shall not be unreasonably withheld or delayed; or
 - (b) make any press announcements or publicise this Overarching SSCS Contract or its contents in any way without the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed.
- 21.3 Save as set out in clause 21.4, the Authority shall not and shall procure that the employees of the Authority shall not make any press announcements about this Overarching SSCS Contract or its contents (but may make such press announcements about the Services

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

- 21.4 The Parties shall issue a joint press announcement regarding this Overarching SSCS Contract on the date agreed between the Parties following the Effective Date.
- 21.5 Each Party acknowledges to the other that nothing in this Overarching SSCS Contract either expressly or by implication constitutes an endorsement of any products or services of the other Party (including the Services or Available Services) and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

SECTION 7 COMPANY AND AUTHORITY PROTECTIONS

22 Parties' obligations

Company obligations

- 22.1 The Company shall:
- (a) obtain and maintain throughout the Term, all the consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary to enable the provision of any of the Services and Available Services;
 - (b) provide the Authority with such assistance as the Authority may reasonably require during the Term in connection with the management and administration of this Overarching SSCS Contract; and
 - (c) promptly notify the Authority and all Customers in the event that it undergoes or is proposed to undergo a Change of Control.
- 22.2 Where the Company notified the Authority under clause 22.1(c), the Authority may make its permission to the Change of Control, as required by paragraph (g)(ii) of the definition of Company Termination Event in Schedule 1 (*Definitions*) of this Overarching SSCS Contract, conditional upon:
- (a) the provision of a parent company guarantee substantially in the form provided for in HM Government's Model Services Contract from an entity of sufficient substance to guarantee the Company's performance and financial liabilities to the Authority and Customers; and
 - (b) the entering into of a Variation to ensure that the guarantor under the parent company guarantee is subject to appropriate monitoring under the provisions of Schedule 11 (*Financial Distress*) of this Overarching SSCS Contract.
- 22.3 Clause 22.2 does not limit or restrict in any way any other conditions the Authority may impose on its permission for a Change of Control.

23 Warranties

[REDACTED]

[REDACTED]

[illegible]

24 Business Continuity and Disaster Recovery and Contingency Response

24.1 The Parties shall comply with the provisions of Schedule 7 (*Business Continuity and Disaster Recovery*) and Schedule 8 (*Contingency Response*).

25 Force majeure

25.1 Subject to the remaining provisions of this clause 25, (and, in relation to the Company, subject to its compliance with its obligations in Schedule 7 (*Business Continuity and Disaster Recover*)) a Party which is unable to perform its obligations under this Overarching SSCS Contract due to a Force Majeure Event (**Affected Party**) may claim relief from liability for non-performance of its obligations under this Overarching SSCS Contract to the extent this is due to a Force Majeure Event.

25.2 The Affected Party cannot claim relief if the Force Majeure Event is attributable to its wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event (save to the extent that such wilful act, neglect or failure to take precaution was agreed by the Parties in consideration of an acceptable level of risk in relation to the Force Majeure Event)

- 25.3 The Company cannot claim relief from a Force Majeure Event to the extent that it is required to comply with the provisions of Schedule 7 (*Business Continuity and Disaster Recovery*) and Schedule 8 (*Contingency Response*) but has failed to do so (unless such failure is also due to a Force Majeure Event affecting the operation of one or both of these Schedules).
- 25.4 The Affected Party cannot claim relief as a result of a failure or delay by any other person in the performance of that other person's obligations under a contract with the Affected Party (unless that other person is itself prevented from or delayed in complying with its obligations as a result of a Force Majeure Event).
- 25.5 The Affected Party shall as soon as reasonably practicable give the other Party written notice of the Force Majeure Event. The notice shall include details of the Force Majeure Event together with evidence of its effect on the obligations of the Affected Party, and any action the Affected Party proposes to take to mitigate its effect.
- 25.6 As soon as practicable after the Affected Party's notification, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Overarching SSCS Contract. Where the Company is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 25.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Overarching SSCS Contract and any Direct Award Contract.
- 25.8 Relief from liability for the Affected Party under this clause 25 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Overarching SSCS Contract and shall not be dependent on the serving of notice under clause 25.7.

SECTION 8 INDEMNITIES, LIABILITY AND INSURANCE

26 IPR indemnity

- 26.1 The Company shall indemnify, keep indemnified and hold harmless the Authority against all losses arising directly from or out of, or incurred by the Authority and each Customer as a result of, any claim, assertion, demand, proceeding, suit or action, that:
- (a) the provision or receipt of any of the Services or Available Services;
 - (b) the performance of the Company's obligations under this Overarching SSCS Contract or any Direct Award Contract; or
 - (c) the use of any Intellectual Property Rights by the Authority or any Customer in accordance with the rights granted (or purportedly granted) under this Overarching SSCS Contract or a Direct Award Contract,
- infringes the Intellectual Property Rights of any person.
- 26.2 The Authority shall notify the Company in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Company to the Authority.

- 26.3 The Company shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (by the Company) arising from the performance of the Company's obligations under this Overarching SSCS Contract (**Third Party IP Claim**), provided that the Company shall at all times:
- (a) consult the Authority on all material issues which arise during the conduct of such litigation and negotiations;
 - (b) take due and proper account of the interests of the Authority; and
 - (c) not settle or compromise any claim without prior Approval (not to be unreasonably withheld or delayed).
- 26.4 The Authority shall at the request of the Company afford to the Company all reasonable assistance for the purpose of contesting any Third Party IP Claim and the Company shall indemnify the Authority for all reasonable costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so.
- 26.5 The Authority shall not make any admissions which may be prejudicial to the defence or settlement of any Third Party IP Claim.
- 26.6 If any Third Party IP Claim is made or in the reasonable opinion of the Company is likely to be made, the Company shall notify the Authority and, at its own expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed), shall use reasonable endeavours to:
- (a) modify any or all of its performance of its obligations under this Overarching SSCS Contract without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or
 - (b) procure a licence to use the Intellectual Property Right(s) and carry out the activities or supply the services which are the subject of the alleged infringement, on terms which are acceptable to the Authority,
- and in the event that the Company is unable to comply with the foregoing requirements within a reasonable period of time as agreed between the Parties, such period not being less than twenty (20) Working Days of receipt by the Authority of the Company's notification the Authority may terminate this Overarching SSCS Contract by notice in writing to take effect follow a further twenty (20) Working Days unless remedied within such notice period (in which case the notice shall lapse).
- 26.7 Clauses 26.1 to 26.6 (inclusive) shall not apply to the extent that the Third Party IP Claim is caused by:
- (a) inclusion of any materials provided by the Authority or any of the Customers which infringe the Intellectual Property Rights of a third party;
 - (b) the use by the Authority or any of the Customers of the relevant Intellectual Property Rights in a manner not reasonably to be inferred from the instructions of the Company, the provisions of this Overarching SSCS Contract and/or relevant Direct Award Contract; or
 - (c) modification of the relevant Intellectual Property Rights or Services after delivery by Company to the Authority or any of the Customers if such modification was not authorised by the Company.

27 Conduct of indemnity claims

- 27.1 If a Party which has or claims to have the benefit of an indemnity under this Overarching SSCS Contract (**Indemnified Party**) receives any notice, demand, letter or other document concerning any claim for which it appears that the Indemnified Party is, or may become entitled to, indemnification under this Overarching SSCS Contract (**Claim**), the Indemnified Party shall give notice to the party providing the relevant indemnity (**Indemnifier**) as soon as reasonably practicable and in any event within ten (10) Working Days of receipt of the same.
- 27.2 Subject to clauses 27.3 and 27.4 on the giving of a notice by the Indemnified Party pursuant to clause 27.1, where it appears that the Indemnified Party is or may be entitled to indemnification from the Indemnifier in respect of any part of the liability arising out of the Claim and for which it seeks to rely upon such indemnity, the Indemnifier shall be entitled to manage the conduct of the Claim at the Indemnifier's own expense and take conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations relating to the Claim. [REDACTED]
- [REDACTED] If the Indemnifier does elect to conduct the Claim, the Indemnified Party shall give the Indemnifier all reasonable co-operation, access and assistance for the purposes of such Claim and, subject to clause 27.4, the Indemnified Party shall not make any admission which could be prejudicial to the defence or settlement of the Claim without the prior written consent of the Indemnifier.
- 27.3 With respect to any Claim conducted by the Indemnifier pursuant to clause 27.2, the Indemnifier shall:
- (a) keep the Indemnified Party fully informed and consult with it about material elements of the conduct of the Claim;
 - (b) not bring the name or reputation of the Indemnified Party into disrepute;
 - (c) not pay or settle such Claim without the prior written consent of the Indemnified Party, such consent not to be unreasonably withheld or delayed; and
 - (d) shall use competent counsel and defend the Claim with all due diligence.
- 27.4 The Indemnified Party shall be entitled to have conduct of the Claim and shall be free to pay or settle any Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Overarching SSCS Contract if:
- (a) the Indemnifier fails to notify the Indemnified Party of its intention to take conduct of the relevant Claim within twenty (20) Working Days of the notice from the Indemnified Party under clause 27.1 or if the Indemnifier notifies the Indemnified Party that it does not intend to take conduct of the Claim; or
 - (b) the Indemnifier fails to comply in any material respect with the provisions of clause 27.3.
- 27.5 If the Indemnifier pays to the Indemnified Party an amount in respect of an indemnity and the Indemnified Party subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the Claim, the Indemnified Party shall forthwith repay to the Indemnifier whichever is the lesser of:
- (a) an amount equal to the sum recovered (or the value of the discount, credit, saving, relief, other benefit or amount otherwise obtained) less any out-of-pocket costs and expenses properly incurred by the Indemnified Party in recovering or obtaining the same; and

- (b) the amount paid to the Indemnified Party by the Indemnifier in respect of the Claim under the relevant indemnity,

provided that there shall be no obligation on the Indemnified Party to pursue such recovery and that the Indemnifier is repaid only to the extent that the amount of such recovery aggregated with any sum recovered from the Indemnifier exceeds any loss sustained by the Indemnified Party (including for this purpose any indirect losses sustained by the Indemnified Party which may be excluded by this Overarching SSCS Contract from being recovered from the Indemnifier).

- 27.6 Any person taking any of the steps contemplated by clauses 27.1 to 27.4 shall comply with the reasonable requirements of any insurer who may have an obligation to provide an indemnity in respect of any liability arising under this Overarching SSCS Contract.

28 Limitations on liability

- 28.1 Neither Party limits its liability for:

- (a) death or personal injury caused by its negligence, or that of its employees, agents or Sub Contractors (as applicable);
- (b) fraud or fraudulent misrepresentation by it or its employees; or
- (c) any liability which cannot be limited or excluded by Law.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 28.3 neither Party will be liable to the other Party under this Overarching SSCS Contract for:

- (a) any indirect, special or consequential loss or damage; or
 - (b) any loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 28.4 Subject to clause 28.2, and notwithstanding clause 28.3, the Company acknowledges that the losses which the Authority may recover from the Company, to the extent that they arise as a result of a Default by the Company under this Overarching SSCS Contract, include:
- (a) any direct additional reasonable operational and/or administrative costs and expenses properly incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
 - (b) any reasonable and properly incurred wasted expenditure;
 - (c) any fine, penalty or costs incurred by the Authority pursuant to Law;
 - (d) any compensation or interest paid to a third party by the Authority; and/or
 - (e) the additional cost of procuring a replacement framework contract for the provision of replacement Services should the Authority terminate this Overarching SSCS Contract pursuant to clause 33.
- 28.5 The Parties expressly agree that if any limitation or provision contained or expressly referred to in this clause 28 is held to be invalid under any Law, it will be deemed omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this clause 28.
- 28.6 The Company shall obtain and maintain during the Term and for a period of twelve (12) months thereafter those insurances listed at Appendix 1 (*Required Insurances*) of Schedule 18 (*Insurance Requirements*).

29 Rectification Plan Process

- 29.1 Where:
- (a) there is, or is reasonably likely to be, a delay in achieving a Milestone or other requirement of this Overarching SSCS Contract; or
 - (b) the Company commits a material Default under this Overarching SSCS Contract that is capable of remedy (and for these purposes a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default),

(each a **Notifiable Default**), the Company shall notify the Authority and the relevant Customers of the Notifiable Default as soon as practicable but in any event within two (2) Working Days of becoming aware of the Notifiable Default, detailing the actual or anticipated effect of the Notifiable Default.

Notification

- 29.2 If:
- (a) the Company notifies the Authority pursuant to clause 29.1 that a Notifiable Default has occurred; or

- (b) the Authority informs the Company that it considers that a Notifiable Default has occurred (setting out sufficient detail so that it is reasonably clear what the Company has to rectify),

the Company shall comply with the Rectification Plan Process.

- 29.3 If, within ten (10) Working Days of a Notifiable Default (or such further period as the Parties may agree acting reasonably), a further Notifiable Default occurs either under this Overarching SSCS Contract or any Direct Award Contract and the Company believes that the Notifiable Defaults are related, it shall notify the Authority accordingly and the Company shall only be obliged to produce one consolidated Rectification Plan in respect of those Notifiable Defaults and that draft Rectification Plan shall be delivered to the Authority and each relevant Customer (if applicable) within the ten (10) Working Days of the original notification pursuant to clause 29.2 or such other timescales as agreed with the Authority.

- 29.4 The **Rectification Plan Process** is as follows:

Submission of the draft Rectification Plan

- (a) The Company shall submit a draft Rectification Plan to the Authority for it to review as soon as possible and in any event within ten (10) Working Days (or such other period as may be agreed between the Parties) after the original notification pursuant to clause 29.2. The Company shall submit a draft Rectification Plan even if the Company disputes that it is responsible for the Notifiable Default.
- (b) The draft Rectification Plan shall set out:
 - (i) full details of the Notifiable Default that has occurred, including a root cause analysis;
 - (ii) the actual or anticipated effect of the Notifiable Default;
 - (iii) the steps which the Company 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); and
 - (iv) the apportionment between the Authority and the Company of any costs which may be incurred by the Authority in respect of the Rectification Plan Process and the Rectification Plan.
- (c) The Company shall promptly provide to the Authority any further documentation that the Authority reasonably requires to assess the Company's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with the Dispute Resolution Procedure.

Agreement of the Rectification Plan

- (d) The Authority may reject the draft Rectification Plan by notice to the Company if, acting reasonably, it considers that the draft Rectification Plan is inadequate in a material respect, because the draft Rectification Plan (without limitation):
 - (i) is insufficiently detailed to be capable of proper evaluation;
 - (ii) will take too long to complete;
 - (iii) will not prevent reoccurrence of the Notifiable Default;

- (iv) does not adequately deal with the apportionment of any costs which may be incurred by the Authority in respect of the Rectification Plan Process and the Rectification Plan; and/or
- (v) will rectify the Notifiable Default but in a manner which is unacceptable to the Authority.
- (e) The Authority shall notify the Company whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Authority rejects the draft Rectification Plan, the Authority shall give reasons for its decision and the Company shall take the reasons into account in the preparation of a revised Rectification Plan. The Company shall submit the revised draft of the Rectification Plan to the Authority for review within five (5) Working Days (or such other period as agreed between the Parties) of the Authority's notice rejecting the first draft.
- (f) If the Authority consents to the Rectification Plan, the Company shall immediately start work on the actions set out in the Rectification Plan.
- (g) The Authority (and/or any Customer in respect only of its own Direct Award Contract) shall be entitled to suspend or terminate the process of agreeing any Direct Award Procedure, any Change Control Procedure (unless such change control is necessary to comply with any Change in Law or is necessary to give effect to the Rectification Plan) or agreement of any Agreed Work Order during any period where any part of the foregoing Rectification Plan Process is ongoing.

30 Remedial Adviser

30.1 If:

- (a) the Company is in Default; or
- (b) the Authority reasonably believes that any Company Default is likely to occur,

(each an **Intervention Cause**), the Authority may give notice to the Company (**Intervention Notice**) giving reasonable details of the Intervention Cause and requiring a meeting between the Authority and the ISF to discuss the Intervention Cause.

30.2 Following such meeting, the Authority may, at its discretion, give notice to the Company to require the appointment by the Company of a Remedial Adviser, as further described in this clause 30. For the avoidance of doubt, if the Intervention Cause is also a Company Termination Event, the Authority has no obligation to exercise its rights under this clause 30.2 prior to or instead of any of the Customers exercising their right to terminate their respective Direct Award Contracts.

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

- (a) the Remedial Adviser shall be:
 - (i) a person selected by the Company and approved by the Authority; or
 - (ii) if none of the persons identified by the Company have been approved by the Authority (or no person has been selected by the Company) within ten (10) Working Days following the date on which the Intervention Notice is given, a person identified by the Authority (and being subject to written obligations of confidentiality);

- (b) the terms of engagement agreed with the Remedial Adviser must be approved by the Authority; and
 - (c) the Customers' right to terminate their Direct Award Contracts for the occurrence of that Intervention Cause shall be suspended for three (3) months from the date of the Intervention Notice (or such other period as may be agreed between the Parties) (**Intervention Period**).
- 30.4 The Remedial Adviser's overall objective shall be to mitigate the effects of, and (to the extent capable of being remedied) to remedy, the Intervention Cause and to avoid the occurrence of similar circumstances in the future. In furtherance of this objective (but without diminishing the Company's responsibilities under this Overarching SSCS Contract or any Direct Award Contract), the Parties agree that the Remedial Adviser may undertake any one or more of the following actions:
- (a) observe the conduct of and work alongside the Staff to the extent that the Remedial Adviser considers reasonable and proportionate having regard to the Intervention Cause;
 - (b) gather any information the Remedial Adviser considers relevant in the furtherance of its objective;
 - (c) write reports and provide information to the Authority in connection with the steps being taken by the Company to remedy the Intervention Cause;
 - (d) make recommendations to the Authority and/or the Company as to how the Intervention Cause might be mitigated or avoided in the future; and/or
 - (e) take any other steps that the Authority and/or the Remedial Adviser reasonably considers necessary or expedient in order to mitigate or rectify the Intervention Cause.
- 30.5 The Company shall:
- (a) work alongside, provide information to, co-operate in good faith with and adopt any reasonable methodology in providing the Services recommended by the Remedial Adviser;
 - (b) ensure that the Remedial Adviser has all the access it may require in order to carry out its objective, including access to all necessary Company Premises, Staff or assets;
 - (c) procure that the Sub Contractors provide the Remedial Advisor with all reasonable co-operation and access to the Sub Contractor's premises, systems and staff to enable the Remedial Advisor to carry out its objectives set out in clause 30.4;
 - (d) submit to such monitoring as the Authority and/or the Remedial Adviser considers reasonable and proportionate in respect of the Intervention Cause; and
 - (e) implement any reasonable recommendations made by the Remedial Adviser that have been approved by the Authority within the timescales given by the Remedial Adviser.
- 30.6 Save in those circumstances set out in clause 31, the Company shall be responsible for:
- (a) the costs of appointing, and the fees charged by, the Remedial Adviser; and

- (b) its own costs in connection with any action required by the Authority and/or the Remedial Adviser pursuant to this clause 30.

30.7 If:

- (a) the Company:
 - (i) materially fails to perform one or more of the steps required by the Authority in an Intervention Notice; and/or
 - (ii) is in material Default of any of its obligations under clause 30.5; and/or
- (b) the relevant Intervention Cause is not rectified by the end of the Intervention Period

(each a **Remedial Adviser Failure**) each of the Customers affected by the Intervention Cause shall be entitled to terminate their respective Direct Award Contracts.

30.8 The Authority (and/or any Customer in respect only of its own Direct Award Contract) shall be entitled to suspend or terminate any Direct Award Procedure, Change Control Procedure (unless such change control is necessary to comply with any Change in Law), agreement of any Agreed Work Order or the Customer can terminate its Direct Award Contract during any period where a Remedial Advisor has been appointed or is in the process of being appointed.

31 Step In Rights

Application of Step In Rights

31.1 Without prejudice to any other right or remedy of the Authority and/or the Customer, this clause 31 shall apply in the following circumstances:

- [REDACTED]
- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

Steps by the Company

- 31.2 Before the Authority and/or the Customer exercises its right of Step In under this clause 31 it shall give notice to the Company in order to permit the Company the opportunity to demonstrate to the Authority and/or the Customer's reasonable satisfaction, within twenty (20) Working Days, that the Company is still able to provide the Services in accordance with the terms of this Overarching SSCS Contract and all affected Direct Award Contracts and/or remedy the circumstances giving rise to the right to Step In without the requirement for the Authority and/or Customer to take action. The COM shall require the Company forthwith to take such steps as the COM reasonably considers necessary or expedient to mitigate or preclude such state of affairs and the Company shall use all reasonable endeavours to comply with the COM's requirements.

Steps by Customer

- 31.3 If the Company:
- (a) fails to confirm within ten (10) Working Days of a notice served pursuant to clause 31.2 that it is willing to comply with that notice; and/or
 - (b) fails to take the steps notified to it by the COM pursuant to clause 31.2,
- then the Authority and/or the Customer may take action under this clause either itself or with the assistance of third party contractors.
- 31.4 If the Authority and/or the Customer takes action pursuant to clause 31.3, the Authority and/or the Customer shall serve notice (**Step In Notice**) on the Company. The Step In Notice shall set out the following:
- (a) the action that the Authority and/or the Customer wishes to take and in particular the Services it wishes to control;
 - (b) the reason for and the objective of taking the action and whether the Authority and/or the Customer reasonably believes that the primary cause of the action is due to the Company's Default;
 - (c) the date it wishes to commence the action;
 - (d) the time period which it believes will be necessary for the action;
 - (e) whether the Authority and/or the Customer or its nominee will require access to the Company's Premises;

- (f) to the extent practicable, the effect on the Company and its obligations to provide the Services during the period the action is being taken.

31.5 Following service of a Step In Notice, the Authority and/or the Customer shall:

- (a) take the action set out in the Step In Notice and any consequential additional action as it reasonably believes is necessary to achieve (together, the **Required Action**);
- (b) keep records of the Required Action taken and provide information about the Required Action to the Company; and
- (c) co operate wherever reasonable with the Company in order to enable the Company to continue to provide any Services in relation to which the Customer is not assuming control.

Operation and performance consequences

31.6 If the Authority and/or the Customer exercises the rights of Step In:

- (a) the Authority and/or the Customer or its nominee shall perform those Services which have been suspended under clause 31.4;
- (b) the Authority and/or the Customer or its nominee shall, subject to clause 31.6(d) be entitled to use all or any part of the Company's facilities, premises, equipment, materials and/or the Staff, in each case, used at that time to provide the Services, to assist in the provision of such Services and the Company shall cooperate fully with the Authority and/or the Customer or its nominee to achieve this;
- (c) for the period that the Step In subsists the Company will not be required to provide that part of the Services affected by the Step In; and
- (d) the Authority and/or the Customer shall not be obliged to pay to the Company any Charges in relation to that part of the Services affected by the Step In but shall be required to pay to the Company on a time and materials basis (using the Direct Award Day Rates) for those resources of the Company utilised by the Authority and/or the Customer in accordance with clause 31.6(b) while taking such Step In action, where such Step In action is taken by the Customer under clause 31.1(c) or any of clauses 31.1(g) to 31.1(k) (insofar as the cause of the Customer serving the Step In Notice is not the result of a Company Default).

31.7 The Company shall bear its own additional costs in connection with any Step In by the Authority and/or the Customer under this clause 31, provided that:

- (a) the Authority and/or the Customer shall reimburse the Company's reasonable additional expenses incurred directly as a result of any Step In action taken by the Authority and/or the Customer under clauses 31.1(c) or any of clauses 31.1(g) to 31.1(k) (insofar as the cause of the Authority and/or the Customer serving the Step In Notice is not the result of a Company Default);
- (b) the Company shall reimburse the Authority and/or the Customer's reasonable additional expenses incurred directly as a result of any Step In action taken by the Authority and/or the Customer under any of clauses 31.1(g) to 31.1(k) (insofar as the cause of the Authority and/or the Customer serving the Step In Notice arises as the result of a Company's Default).

31.8 If the Required Action results in:

- (a) the degradation of any Services other than the suspended Services; or

- (b) the non achievement of a Milestone,

beyond that which would have been the case had the Authority and/or the Customer not taken the Required Action, then the Company shall be entitled to an adjustment of the Contract Price to an amount which represents the value of the Services that would have been delivered, but for the effect of the Required Action, provided that the Company can demonstrate to the reasonable satisfaction of the Authority and/or the Customer that the Required Action has led to the degradation or non achievement.

Cost consequences

- 31.9 Subject to clause 31.10 and except where the Authority and/or the Customer has exercised its rights under this clause 31 as a result of the occurrence of a Force Majeure Event or where the Required Action was taken in circumstances where the Step In rights did not arise as a result of a Default by the Company (in particular, in relation to clauses 31.1(g) to 31.1(k)), the Company shall reimburse the Authority and/or the Customer immediately on demand for all costs of the Step In reasonably incurred by the Authority and/or the Customer in taking the steps or engaging others to take the steps referred to above and the Customer shall be entitled to invoice the Company for any such amount. Such amounts shall be payable by the Company within two (2) Working Days of the date of the invoice, failing which the Authority and/or the Customer shall be entitled to deduct any such amount from any amount payable to the Company in accordance with this Overarching SSCS Contract or any Direct Award Contract.
- 31.10 Where it is determined or agreed within twelve (12) months of the payments made pursuant to clause 31.9 that:
- (a) the Company had not failed to perform its obligations under this Overarching SSCS Contract or any Direct Award Contract; or
 - (b) the Authority and/or the Customer was unreasonable in requiring the Company to take such steps or to take such steps as are set out in the foregoing clauses,
 - (c) then the Authority and/or the Customer will refund any amounts paid by the Company pursuant to clause 31.9 to the extent that these amounts were paid without due cause.

Step out or termination

- 31.11 If the circumstances which gave rise to the Step In no longer subsist, the Authority and/or the Customer shall promptly give notice to the Company that the Authority and/or the Customer or its nominee shall cease providing those Services the subject of the exercise of its Step In rights setting out the date that the Authority and/or the Customer or its nominee shall cease providing those Services (**Step Out Notice**), such date to be no less than ten (10) Working Days and no longer than thirty (30) Working Days after the issue of the notice pursuant to this clause 31.11.
- 31.12 The Company shall, following receipt of a Step Out Notice and not less than twenty (20) Working Days prior to the Step Out Date, develop for the Customer's approval a draft plan (Step Out Plan) relating to the resumption by the Company of the Services, including any action the Company proposes to take to ensure that the affected Services satisfy the requirements of this Direct Award Contract. The Company may submit a Step Out Notice and a Step Out Plan to the Customer at any time when the Company believes it is in a position to recommence provision of the Services in respect of which Step In is ongoing.
- 31.13 If the Customer does not approve the draft Step Out Plan, the Customer shall inform the Company of its reasons for not approving it. The Company shall then revise the draft Step Out Plan taking those reasons into account and shall re submit the revised plan to the

Customer for the Authority and/or the Customer's approval. The Authority and/or the Customer shall not unreasonably withhold or delay approval of the draft Step Out Plan.

- 31.14 If a Step In continues for a continuous period of more than ninety (90) days from the date of the Step In Notice, the Authority and/or the Customer shall be entitled to terminate this Overarching SSCS Contract or affected Direct Award Contract with effect from the date specified in the Termination Notice.
- 31.15 Any Disputes relating to the exercise of any Step in rights and/or in connection with this clause 31 shall be referred to the Dispute Resolution Procedure for resolution.

32 Relief Events and FM Relief Events

- 32.1 If the Company can demonstrate that a Default by the Company would not have occurred but for a Relief Event (which, for the avoidance of doubt, specifically excludes an FM Relief Event) then (subject to the Company fulfilling its obligations in this clause 32):
- (a) the Company shall not be treated as being in breach of this Overarching SSCS Contract to the extent the Company can demonstrate that the Default by the Company was caused by the Relief Event;
 - (b) the Authority shall not be entitled to exercise any rights that may arise as a result of that Default by the Company to terminate this Overarching SSCS Contract in whole or part;
 - (c) the Company shall have no liability with respect to any Service Credits (in respect of Corporate KPIs, Science KPIs or CPIs) that may arise as a result of that Default to the extent that the Company can demonstrate that the Service Failures giving rise to such Service Credits would not have occurred but for the Relief Event; and
 - (d) where the Default by the Company constitutes the failure to achieve a Milestone by its Milestone Date or a failure to meet a date by which the Company must perform an obligation in accordance with this Overarching SSCS Contract:
 - (i) the Milestone Date or date by which the Company must perform such an obligation shall be postponed by a period equal to the period of Delay that the Company can demonstrate was caused by the Relief Event;
 - (ii) if the Authority, acting reasonably, considers it appropriate, the relevant document setting out the Milestone Date shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from the Relief Event; and
 - (iii) if the Company has incurred any other direct loss and/or expense as a result of a Delay due to a Relief Event, the Company shall be entitled to compensation to the extent that it cannot mitigate that loss or expense (being under a duty to do so as far as reasonably possible). The Company shall provide the Authority with any information the Authority may reasonably require in order to assess the validity of the Company's claim for compensation. If the Company is entitled to compensation in accordance with this clause then such compensation shall consist of the Company's reasonable additional costs and/or expenses arising from such Delay, provided that this calculation shall not operate as to put the Company in a better position than it would have been but for the occurrence of the Relief Event.

- 32.2 If the Company can demonstrate that a Default by the Company (being the Company's inability to perform a material element of its obligations under this Overarching SSCS Contract), would not have occurred but for and is a direct result of an FM Relief Event, then (subject to the Company fulfilling its obligations in this clause 32 and using its best endeavours to remedy the FM Relief Event and its consequences and impacts):
- (a) the Company shall not be treated as being in breach of this Overarching SSCS Contract to the extent the Company can demonstrate that the Default by the Company was caused by the FM Relief Event;
 - (b) the Authority shall not be entitled to exercise any rights that may arise as a result of that Default by the Company to partially terminate this Overarching SSCS Contract; and
 - (c) the Company shall have no liability with respect to any Service Credits in respect of Major Service Failures only (not in respect of Minor Service Failures or Moderate Service Failures) that may arise as a result of that Default to the extent that the Company can demonstrate that the Major Service Failures giving rise to such Service Credits would not have occurred but for the FM Relief Event.
- 32.3 In order to claim any of the rights and/or relief referred to at clauses 32.1 and 32.2, the Company shall within two (2) Working Days of becoming aware that a Relief Event or FM Relief Event has caused, or is likely to cause, a Default by the Company, give the Authority notice (**Relief Notice**) setting out details of:
- (a) the Default;
 - (b) the Relief Event or FM Relief Event and its effect or likely effect on the Company's ability to meet its obligations under this Overarching SSCS Contract;
 - (c) any steps which the Authority can take to eliminate or mitigate the consequences and impact of such Relief Event or FM Relief Event; and
 - (d) the relief (and/or compensation in accordance with clause 32.1(d)(iii)) claimed by the Company.
- 32.4 Following the receipt of a Relief Notice, the Authority shall as soon as reasonably practicable consider the nature of the Default by the Company and the alleged Relief Event or FM Relief Event and whether it agrees with the Company's assessment set out in the Relief Notice as to the effect of the relevant Authority Cause and its entitlement to relief and/or compensation, consulting with the Company where necessary.
- 32.5 Without prejudice to the Dispute Resolution Procedure, if a dispute arises as to:
- (a) whether a Default by the Company would not have occurred but for a Relief Event; and/or
 - (b) the nature and/or extent of the relief and/or compensation claimed by the Company either Party may refer the dispute to the Dispute Resolution Procedure. Pending the resolution of the dispute, both Parties shall continue to resolve the causes of, and mitigate the effects of, the Default.

SECTION 9 TERMINATION

33 Termination by the Authority

- 33.1 The Authority may terminate this Overarching SSCS Contract by serving written notice (**Overarching SSCS Contract Termination Notice**) on the Company:
- (a) if all of the Customers have terminated their Direct Award Contracts pursuant to any of the provisions of the Direct Award Contracts; or
 - (b) where the Company is wound up; or
 - (c) upon the Company suffering an Insolvency Event;
 - (d) if the circumstances set out in paragraph 5 of Schedule 11 (*Financial Distress*) occur and are not remedied in accordance with Schedule 11 (*Financial Distress*); or
 - (e) where the Company is in material breach of a term of this Overarching SSCS Contract,

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

- 33.2 The Authority may exercise its right of termination under this clause 33 without first instigating the Dispute Resolution Procedure or, where such Dispute Resolution Procedure is in progress, without awaiting its final outcome (save that nothing in this clause 33.3 shall prevent the Company from claiming against the Authority for the wrongful termination of this Overarching SSCS Contract).

34 Termination by the Company

- 34.1 The Company has no right to terminate this Overarching SSCS Contract.

35 Consequences of expiry or termination

- 35.1 The expiry or termination of this Overarching SSCS Contract in accordance with clause 33 shall not affect the accrued rights of any Party.
- 35.2 On expiry or the earlier termination of this Overarching SSCS Contract:
- (a) any Service Credits in respect of Corporate KPIs, Science KPIs or the CPI which would have been due to be deducted from future invoices will instead be paid directly by the Company to the Customer.
 - (b) each Party shall cease to use any of the other Party's Confidential Information;
 - (c) the Company shall, at the Authority's direction, provide the Authority and/or the Replacement Contractor with a complete up to date and uncorrupted version of all Customer Data specifically detailing the performance of this Overarching SSCS Contract (save where relevant Customers do not wish their Services to be reprocedured or where the Company is prohibited from disclosing such Customer Data pursuant to obligations of confidentiality) and Health Database in electronic form in a format and on media agreed with the Authority under Schedule 9 (*Exit Management*) and the Exit Plan;

- (d) the Company shall provide the Authority with such knowledge transfer and handover assistance and cooperation as is reasonably necessary to enable the redeployment and/or reprocurement or provision of the Services and Available Services by the Authority and as is more particularly described in Schedule 9 (*Exit Management*) and the Exit Plan; and
- (e) the Parties shall comply with the provisions of Schedule 9 (*Exit Management*) and the Exit Plan.

35.3 On the earlier of:

- (a) the receipt by a Party of the other Party's written instructions (which may only be after the date of expiry or termination of this Overarching SSCS Contract); or
- (b) twelve (12) months after the date of expiry or termination of this Overarching SSCS Contract,

each Party shall destroy all copies of the other Party's Confidential Information and promptly provide written confirmation to the other Party that such data has been destroyed.

35.4 Clause 35.2(d) shall not apply to any copies of the Confidential Information which either Party is required to keep by Law or this Overarching SSCS Contract.

35.5 The provisions of clauses 1 (*Definitions and interpretation*), 8 (*Recovery of sums due*), 9 (*Reports, records and Open Book Data*), 16.8 (*Staff*), 17.13 (*Supply chain rights*), 18 (*Confidentiality*), 20 (*Freedom of Information*), 26 (*IPR Indemnity*), 27 (*Conduct of indemnity claims*), 28 (*Limitations on liability*), 35 (*Consequences of expiry of termination*), 38 (*Exit procedures*), 39 (*Knowledge retention*), 45 (*Severance*), 47 (*Entire agreement*), 48 (*Third party rights*), 49 (*Mitigation*), 50 (*Notices*), 51 (*Disputes*), 52 (*Governing law and jurisdiction*), Schedule 17 (*Financial Reports and Audit Rights*) and such other provisions which are expressly or by implication required to survive termination or expiry, shall survive expiry or the termination of this Overarching SSCS Contract.

36 Retendering and handover

- 36.1 Within twenty one (21) Working Days of being so requested by the Authority, the Company shall provide, and thereafter keep updated, in a fully indexed and catalogued format as required by the Authority, all the information the Authority considers necessary to enable the Authority to issue tender documents for the future provision of the Services, including all such information specified in Schedule 9 (*Exit Management*).
- 36.2 The Authority shall take reasonable precautions to ensure that the information referred to in clause 36.1 is given only to potential providers who have qualified to tender for the future provision of the Services and to its relevant professional advisors.
- 36.3 The Authority shall require that all potential providers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority; and that they shall not use it for any other purpose.
- 36.4 The Company shall ensure that the information provided in accordance with clause 36.1 is complete and correct.
- 36.5 The Company shall, in accordance with the Exit Plan, cooperate fully with the Authority during the handover arising from the expiry or earlier termination of the Overarching SSCS Contract (and any Direct Award Contracts and/or any Agreed Work Orders). This co-operation, during the period of the Replacement Contractor setting up operations, shall extend to allowing full

access to, and providing copies of, all documents, reports, summaries and any other information as the Authority may reasonably require in order to achieve an effective transition without disruption to operational requirements.

- 36.6 Within ten (10) Working Days of being so requested by the Authority, the Company shall in accordance with the Exit Plan transfer to the Authority, or any person designated by the Authority, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services and Available Services. The transfer shall be made in accordance with the Exit Plan.

37 Exit management

- 37.1 The Company shall:

- (a) by no later than two (2) months after the Effective Date, the Company take all such steps as shall be necessary to agree with the Authority the Exit Plan, for the orderly hand over of the Services to the Authority (or its nominee), such that the Services can be carried on with the minimum of interruption and inconvenience;
- (b) implement the Exit Plan in accordance with its terms; and
- (c) from the date of any notice of termination or six (6) months before expiry (including where appropriate after the termination date) cooperate with and provide any further assistance which is reasonably requested by the Authority and in accordance with the Exit Plan in relation to the hand over of the Services to the Authority (or their nominee).

- 37.2 Upon termination the Company shall render reasonable assistance to the Authority in accordance with the Exit Plan to effect an orderly assumption by a Replacement Contractor of the Services in accordance with the following procedure set out in clause 38.

38 Exit procedures

- 38.1 Where the Authority requires a continuation of all or any of the Services on expiry or termination of this Overarching SSCS Contract, either by performing them itself or by engaging a third party to perform them, the Company shall co-operate fully with the Authority and any such third party and shall take all reasonable steps, including in accordance with the Exit Plan, to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.

- 38.2 The following commercial approach shall apply to the transfer of the Services and shall be agreed in accordance with the Exit Plan:

- (a) where the Company does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Contract Price;
- (b) where the Company reasonably incurs additional costs and this is evidenced to the reasonable satisfaction of the Authority and agreed in advance, the Authority will pay such agreed costs based on the Company's Direct Award Day Rates.

- 38.3 The Parties shall comply with the provisions set out in Schedule 9 (*Exit Management*).

39 Knowledge retention

- 39.1 The Company shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Company to the Authority in accordance with the Exit Plan on the expiry or earlier termination of this Overarching SSCS Contract (and any Direct Award Contracts and/or any Agreed Work Orders) and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Company shall provide the Authority with all routine operational requirements including full access to its Staff and, in addition, copies of all documents, reports, summaries and any other information reasonably requested by the Authority. The Company shall comply with the Authority's reasonable request for information no later than fifteen (15) Working Days from the date that that request was made.

SECTION 10 MISCELLANEOUS AND GOVERNING LAW

40 Compliance

- 40.1 The Company shall comply with the provisions of:
- (a) the *Official Secrets Acts 1911 to 1989*; and
 - (b) section 182 of the *Finance Act 1989*.

41 Assignment and novation

- 41.1 The Company shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Overarching SSCS Contract without the prior written consent of the Authority, such consent not to be unreasonably withheld or delayed, or subject to unreasonable conditions.
- 41.2 The Authority may at its discretion assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Overarching SSCS Contract and/or any associated licences to:
- (a) any Public Sector Body or Contracting Authority; or
 - (b) to a body other than a Public Sector Body or Contracting Authority (including any private sector body who has sufficient financial strength to be able to meet any payment and indemnity obligations of the Authority arising under this Overarching SSCS Contract) which performs any of the functions that previously had been performed by the Authority,

on reasonable notice to the Company, and the Company shall, at the Authority's request, enter into a novation agreement in such form as the Authority shall specify in order to enable the Authority to exercise its rights pursuant to this clause 41.2.

42 Waiver and cumulative remedies

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

any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

- 42.2 Unless otherwise provided in this Overarching SSCS Contract, rights and remedies under this Overarching SSCS Contract are cumulative and do not exclude any rights or remedies provided by Law, in equity or otherwise.

43 Relationship of the Parties

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

44 Prevention of fraud and bribery

- 44.1 The Company represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Effective Date:

- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

- 44.2 The Company shall not during the term of this Overarching SSCS Contract:

- (a) commit a Prohibited Act; and/or
- (b) do or suffer anything to be done which would cause the Authority, any Customer or any employees, consultants, contractors, Sub Contractors or agents of the same to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

- 44.3 The Company shall during the term of this Overarching SSCS Contract:

- (a) establish, maintain and enforce, and require that its Sub Contractors establish, maintain and enforce policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
- (b) keep appropriate records of its compliance with its obligations under clause 44.3(a) and make such records available to the Authority and Customers on request;
- (c) have in place reasonable prevention measures (as defined in sections 45(3) and 46(4) of the *Criminal Finance Act 2017*) to ensure that Associated Persons of the Company do not commit tax evasion facilitation offences as defined under the *Criminal Finance Act 2017*;
- (d) take account of any guidance about preventing facilitation of tax evasion offences which may be published and updated in accordance with Section 47 of the *Criminal Finances Act 2017*.

- 44.4 The Company shall immediately notify the Authority and any relevant Customer (**Impacted Parties**) in writing if it becomes aware of any breach of clause 44.1 and/or 45.2, or has reason to believe that it has or any of the Staff have:
- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
 - (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Overarching SSCS Contract or any Direct Award Contract or otherwise suspects that any person or party directly or indirectly connected with this Overarching SSCS Contract or any Direct Award Contract has committed or attempted to commit a Prohibited Act.
- 44.5 If the Company makes a notification to the Impacted Parties pursuant to clause 44.4, the Company shall respond promptly to the Impacted Parties' enquiries, co-operate with any investigation, and allow the Impacted Parties to audit any books, records and/or any other relevant documentation in accordance with clause 9.
- 44.6 If the Company breaches clauses 44.1 and/or 44.2 the Authority may by notice require the Company to remove from performance of this Overarching SSCS Contract any Staff whose acts or omissions have caused the Company's breach.
- 44.7 Any notice served by the Authority under clause 44.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which the Direct Award Procedure shall be suspended or the relevant Direct Award Contract shall terminate).
- 44.8 If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Company shall:
- (a) notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
 - (b) promptly provide to the Authority:
 - (i) details of the steps which the Company is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - (ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

45 Severance

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

- 45.2 In the event that any deemed deletion under clause 45.1 is so fundamental as to prevent the accomplishment of the purpose of this Overarching SSCS Contract or materially alters the balance of risks and rewards in this Overarching SSCS Contract, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Overarching SSCS Contract so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Overarching SSCS Contract and, to the extent that is reasonably possible, achieves the Parties' original commercial intention.
- 45.3 If the Parties are unable to agree on the revisions to this Overarching SSCS Contract within five (5) Working Days of the date of the notice given pursuant to clause 45.2, the matter shall be escalated for resolution in accordance with the Dispute Resolution Procedure.

46 Further assurances

- 46.1 Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be necessary to give effect to the meaning of this Overarching SSCS Contract.

47 Entire agreement

- 47.1 This Overarching SSCS Contract constitutes the entire agreement between the Parties in respect of its subject matter and supersedes and extinguishes all prior negotiations, arrangements, understanding, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.
- 47.2 Neither Party has been given, nor entered into this Overarching SSCS Contract in reliance on any warranty, statement, promise or representation other than those expressly set out in this Overarching SSCS Contract.
- 47.3 Nothing in this clause 47 shall exclude any liability in respect of misrepresentations made fraudulently.

48 Third party rights

- 48.1 Subject to clause 18 and to clause 48.2, a person who is not a Party to this Overarching SSCS Contract has no right under the *Contracts (Rights of Third Parties) Act 1999* to enforce any term of this Overarching SSCS Contract, but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the *Contracts (Rights of Third Parties) Act 1999*.
- 48.2 Each Customer may, with the Authority's prior written consent, enforce any provision of this Overarching SSCS Contract which is for the benefit of the Customer as a third party beneficiary in accordance with the *Contracts (Rights of Third Parties) Act 1999*.
- 48.3 The Authority may act as agent and trustee for each Customer and enforce on behalf of the relevant Customer any provision referred to in clause 48.2 and/or recover any loss, damage or liability suffered by that Customer in connection with the breach of such provision.
- 48.4 Subject to the Customer's prior written consent any rights created under this clause 48 may be altered or extinguished by the Parties without the consent of the third party beneficiaries.

49 Mitigation

- 49.1 The Authority and the Company shall at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other

Party including any loss which might be recoverable pursuant to any of the indemnities in this Overarching SSCS Contract.

50 Notices

- 50.1 Except as otherwise expressly provided within this Overarching SSCS Contract, no notice or other communication from one Party to the other shall have any validity under this Overarching SSCS Contract unless made in writing by or on behalf of the Party concerned.
- 50.2 Any notice which is to be given by either Party to the other shall be given by letter (sent by hand, first class post, recorded delivery or special delivery), or by electronic mail (confirmed in such case by letter). Such letters shall be addressed to the other Party in the manner referred to in clause 50.4. Provided the relevant notice is not returned as undelivered, the notice shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four hours after sending, in the case of electronic mail provided this was sent on a Working Day, or sooner where the other Party acknowledges receipt of such letters, or item of electronic mail.
- 50.3 Any other communication given by either Party to the other shall be given by letter (sent by hand, first class post, recorded delivery or special delivery), or by electronic mail. If the communication is made by letter such letters shall be addressed to the other Party in the manner referred to in clause 50.4. Provided the relevant communication is not returned as undelivered, the communication shall be deemed to have been made two (2) Working Days after the day on which the letter was posted, or four hours after sending, in the case of electronic mail provided this was sent on a Working Day, or sooner where the other Party acknowledges receipt of such letters or item of electronic mail.
- 50.4 For the purposes of clauses 50.2 and 50.3, the address of each Party shall be as stated in the Form of Contract.
- 50.5 Either Party may change its address for service by serving a notice in accordance with this clause.

51 Disputes

- 51.1 In addition to the provisions regarding the relationship between the Parties as set out in Schedule 5 (*Governance and Reporting*), the Parties shall attempt in good faith to negotiate a settlement to any dispute between them within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the Chief Executive Officer of the Company and the Director General of the Authority.
- 51.2 Nothing in this Dispute Resolution Procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 51.3 If the dispute cannot be resolved by the Parties pursuant to clause 51.1 the Parties shall refer it to mediation (such decision to refer to mediation has to be notified to the other Party within thirty (30) Working Days of serving a Dispute Notice) pursuant to the procedure set out in clause 51.5 unless:
- (a) the Authority considers that the dispute is not suitable for resolution by mediation; or
 - (b) the Company does not agree to mediation.
- 51.4 The obligations of the Parties under the Overarching SSCS Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the

Company and its Staff shall comply fully with the requirements of the Overarching SSCS Contract at all times.

51.5 The procedure for mediation and consequential provisions relating to mediation are as follows:

- (a) a neutral adviser or mediator (**Mediator**) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within ten (10) Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (10) Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator.
- (b) the Parties shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations. If considered appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution of London to provide guidance on a suitable procedure.
- (c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
- (d) if the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.
- (e) failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Overarching SSCS Contract without the prior written consent of both Parties.
- (f) if the Parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts unless the dispute is referred to arbitration pursuant to the procedures set out in clause 51.6.

51.6 Subject to clause 51.2, the Parties shall not institute court proceedings until the procedures set out in clauses 51.1 and 51.3 have been completed save that:

- (a) the Authority may at any time before court proceedings are commenced, serve a notice on the Company proposing that the dispute to be referred to and resolved by arbitration in accordance with clause 51.7.
- (b) If the Company intends to commence court proceedings, it shall serve written notice on the Authority of its intentions and the Authority shall have twenty one (21) days following receipt of such notice to serve a reply on the Company proposing that the dispute to be referred to and resolved by arbitration in accordance with clause 51.7.
- (c) The Company may request by notice in writing to the Authority that any dispute be referred and resolved by arbitration in accordance with clause 51.7, to which the Authority may consent as it sees fit.

51.7 In the event that the parties agree to refer a dispute to arbitration:

- (a) the arbitration shall be governed by the provisions of the *Arbitration Act 1996*;

- (b) the Authority shall give a written notice of arbitration to the Company (**Arbitration Notice**) stating:
 - (i) that the dispute is referred to arbitration; and
 - (ii) providing details of the issues to be resolved;
 - (c) the London Court of International Arbitration (**LCIA**) procedural rules in force at the date that the dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference to this Overarching SSCS Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
 - (d) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
 - (e) if the Parties fail to agree the appointment of the arbitrator within ten (10) days of the Arbitration Notice being issued by the Authority under clause 51.7(b) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
 - (f) the arbitration proceedings shall take place in London and in the English language; and
 - (g) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.
- 51.8 The Company shall continue to provide the Services in accordance with the terms of this Overarching SSCS Contract or any Direct Award Contract until a dispute has been resolved.

52 Governing law and jurisdiction

- 52.1 This Overarching SSCS Contract and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.
- 52.2 Subject to clause 51, the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Overarching SSCS Contract or its subject matter or formation.

IN WITNESS of which this Overarching SSCS Contract has been duly executed by the Parties.

SIGNED for and on behalf of the **SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

SIGNED for and on behalf of **FERA SCIENCE LIMITED**:

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