

Award Form

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

1. Buyer	NHS Business Services Authority (the Buyer). Its offices are on: Stella House, Goldcrest Way, Newburn Industrial Estate, Newcastle upon Tyne, NE15 8NY
2. Supplier	Name: Wider Plan Limited Address: 11-16 Chestnut Court, Jill Lane, Sambourne, B96 6EW
3. Contract	This Contract between the Buyer and the Supplier is for the supply of the Nursery Milk Reimbursement Unit. This opportunity was advertised in the Contract Notice in the Find a Tender Service reference 2021/S 000-020685 (FTS Contract Notice).
4. Contract reference	21_03_10 / C43089
5. Deliverables	The Buyer requires a supplier to facilitate the provision of a registration, validation and reimbursement service to Childcare Settings, Milk Agents and Local Authorities who provide milk to children in their care and wish to claim payment for this milk under the Welfare Food Regulations 1996. This service is provided by the Authority, on behalf of the Authority's Sponsor, the Department of Health and Social Care (DHSC) in England and on behalf of the Devolved Authority of Wales. The Buyer is seeking to maintain the effectiveness of the existing service with minimal disruption to current users, with a focus on the prevention and detection of Fraud, Abuse and Error within the system and to ensure compliance by Childcare Settings, Milk Agents and Local Authorities within the rules of the scheme. See Schedule 2 (Specification) for further details.
6. Start Date	1 st August 2022
7. End Date	31 st July 2025
8. Extension Period	An optional Extension Period of 12 months exercised at the Buyer's sole discretion up to 31 st July 2026

<p>9. Incorporated Terms</p> <p>(together these documents form the 'the Contract')</p>	<p>The following documents are incorporated into the Contract. Where numbers are missing we are not using these Schedules. If the documents conflict, the following order of precedence applies:</p> <ol style="list-style-type: none"> 1. This Award Form 2. Any Special Terms (see Section 10 Special Terms in this Award Form) 3. Core Terms (version 1.0) 4. Schedule 1 (Definitions) 5. Schedule 20 (Processing Data) 6. The following Schedules (in equal order of precedence): <ul style="list-style-type: none"> • Schedule 2 (Specification) • Schedule 3 (Charges) • Schedule 5 (Commercially Sensitive Information) • Schedule 6 (Transparency Reports) • Schedule 7 (Staff Transfer) • Schedule 8 (Implementation Plan & Testing) • Schedule 9 (Installation Works) – Not used • Schedule 10 (Service Levels) • Schedule 11 (Continuous Improvement) • Schedule 12 (Benchmarking) • Schedule 13 (Contract Management) • Schedule 14 (Business Continuity and Disaster Recovery) • Schedule 15 (Minimum Standards of Reliability) – Not used • Schedule 16 (Security) • Schedule 17 (Clustering) – Not used • Schedule 18 (Supply Chain Visibility) • Schedule 19 (Cyber Essentials Scheme) • Schedule 20 (Processing Data) • Schedule 21 (Variation Form)
---	---

		<ul style="list-style-type: none"> • Schedule 22 (Insurance Requirements) • Schedule 23 (Guarantee) • Schedule 24 (Financial Difficulties) • Schedule 25 (Rectification Plan) • Schedule 27 (Key Subcontractors) • Schedule 28 (ICT Services) • Schedule 29 (Key Supplier Staff) • Schedule 30 (Exit Management) • Schedule 31 (MoD Terms) – Not used • Schedule 32 (Background Checks) – Not Used • Schedule 33 (Scottish Law) – Not used • Schedule 34 (Northern Ireland Law) – Not used • Schedule 35 (Lease Terms) – Not used <p>7. Schedule 26 (Corporate Social Responsibility)</p> <p>8. Schedule 4 (Tender) as long as any part of the Tender that offers a better commercial position for the Buyer takes precedence over the documents above</p>
10.	Special Terms	All terms and conditions are fully detailed in the Core Terms and Schedules set out in part nine of this Contract Award Form.
11.	Buyer's Environmental Policy	Environment and resource efficiency Strategy and action plan 2019/20 (05/19) (v1.0) and SHEPOL 001 Environmental Policy (12/08/2020) (Revision M) or as updated from time to time available online at https://www.nhsbsa.nhs.uk/what-we-do/safety-health-and-environment
12.	Buyer's Security Policy	NHSBSA Information Security Policy ISMSPOL 001 June 2021 or as updated from time to time available online at https://www.nhsbsa.nhs.uk/search?aggregated_field=&service_taxonomy=%2Fsearch%3Faggregated_field%3Dsecurity%2520policy&content_or_file_type=&sort_by=search_api_relevance
13.	Social Value Commitment	The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, that it will comply with the social value commitments in Schedule 4 (Tender)

14. Commercially Sensitive Information	Supplier's Commercially Sensitive Information: Schedule 5
15. Charges	Details in Schedule 3 (Charges)
16. Reimbursable expenses	None
17. Payment method	Monthly invoices submitted to nhsbsa.hfscontracts@nhs.net
18. Service Levels	<p>Service Credits will accrue in accordance with Schedule 10 (Service Levels).</p> <p>The Service Credit Cap is: equivalent to the Supplier Profit Margin % (as set out in Schedule 3 - Charges) applied to the Charges for that Service Period.</p> <p>The Service Period is one (1) month.</p> <p>A Critical Service Level Failure is:</p> <ul style="list-style-type: none"> - one instance of performance below the Service Level Threshold for that Service Level in any one (1) Service Period, or; - three instances of performance below the Target Service Level for that Service Level within any rolling six (6) Service Periods
19. Insurance	Details in Annex of Schedule 22 (Insurance Requirements).
20. Liability	In accordance with Clause 11.1 of the Core Terms each Party's total aggregate liability in each Contract Year under the Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges
21. Cyber Essentials Scheme	<ul style="list-style-type: none"> • Cyber Essentials Scheme compliance (or equivalent). Details in Schedule 19 (Cyber Essentials Scheme)
22. Progress Meetings and Progress Reports	<ul style="list-style-type: none"> • The Supplier shall attend Progress Meetings with the Buyer Monthly or at such other frequency as reasonably requested by the Buyer • The Supplier shall provide the Buyer with Progress Reports Monthly or at such other frequency as reasonably requested by the Buyer

23.	Guarantee	The Supplier may be required to have a Guarantor to guarantee their performance using the form in Schedule 23 (Guarantee) if the Buyer has any concerns with the financial standing of the Supplier.
24.	Supplier Contract Manager	<div data-bbox="450 360 638 394" style="background-color: black; height: 15px; width: 118px;"></div> <div data-bbox="450 423 713 456" style="background-color: black; height: 15px; width: 165px;"></div> <div data-bbox="450 495 871 528" style="background-color: black; height: 15px; width: 264px;"></div> <div data-bbox="450 566 659 600" style="background-color: black; height: 15px; width: 131px;"></div>
25.	Supplier Authorised Representative	<div data-bbox="450 640 687 674" style="background-color: black; height: 15px; width: 149px;"></div> <div data-bbox="450 703 568 736" style="background-color: black; height: 15px; width: 74px;"></div> <div data-bbox="450 775 916 808" style="background-color: black; height: 15px; width: 292px;"></div> <div data-bbox="450 846 659 880" style="background-color: black; height: 15px; width: 131px;"></div>
26.	Supplier Compliance Officer	<div data-bbox="450 920 687 954" style="background-color: black; height: 15px; width: 149px;"></div> <div data-bbox="450 983 568 1016" style="background-color: black; height: 15px; width: 74px;"></div> <div data-bbox="450 1055 916 1088" style="background-color: black; height: 15px; width: 292px;"></div> <div data-bbox="450 1126 659 1160" style="background-color: black; height: 15px; width: 131px;"></div>
27.	Supplier Data Protection Officer	<div data-bbox="450 1200 687 1234" style="background-color: black; height: 15px; width: 149px;"></div> <div data-bbox="450 1263 1088 1296" style="background-color: black; height: 15px; width: 390px;"></div> <div data-bbox="450 1335 916 1368" style="background-color: black; height: 15px; width: 292px;"></div> <div data-bbox="450 1406 659 1440" style="background-color: black; height: 15px; width: 131px;"></div>
28.	Supplier Marketing Contact	<div data-bbox="450 1480 627 1514" style="background-color: black; height: 15px; width: 111px;"></div> <div data-bbox="450 1543 836 1576" style="background-color: black; height: 15px; width: 242px;"></div> <div data-bbox="450 1615 857 1648" style="background-color: black; height: 15px; width: 255px;"></div> <div data-bbox="450 1686 659 1720" style="background-color: black; height: 15px; width: 131px;"></div>
29.	Key Subcontractors	<div data-bbox="450 1760 767 1794" style="background-color: black; height: 15px; width: 199px;"></div> <div data-bbox="450 1823 509 1856" style="background-color: black; height: 15px; width: 37px;"></div>

30.	Buyer Authorised Representative	<div></div>
		Senior Commercial Manager
		<div></div>
		<div></div>

For and on behalf of the Supplier:		For and on behalf of the Buyer:	
Signature:		Signature:	
Name:		Name:	
Role:		Role:	
Date:		Date:	

Core Terms – Mid-tier

1. Definitions used in the contract

1.1 Interpret this Contract using Schedule 1 (Definitions).

2. How the contract works

2.1 If the Buyer decides to buy Deliverables under the Contract it must state its requirements using the Award Form. If allowed by the Regulations, the Buyer can:

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

2.2 The Contract:

- is between the Supplier and the Buyer
- includes Core Terms, Schedules and any other changes or items in the completed Award Form

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

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

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

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

2.6 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

3. What needs to be delivered

3.1 All deliverables

3.1.1 The Supplier must provide Deliverables:

- that comply with the Specification, the Tender Response and the Contract
- using Good Industry Practice
- using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract
- on the dates agreed
- that comply with Law

3.1.2 In the event that a level of warranty is not specified in the Award Form, the Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects.

3.2 Goods clauses

3.2.1 Where applicable, all Goods delivered must be new, or as new if recycled, unused and of recent origin.

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

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

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

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

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

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

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

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

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

3.2.11 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 days notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.

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

3.3 Services clauses

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

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

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

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

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

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

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

4 Pricing and payments

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

4.2 All Charges:

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

4.3 The Buyer must pay the Supplier the Charges within thirty (30) days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details

stated in the Award Form.

4.4 A Supplier invoice is only valid if it:

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

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

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

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

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

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

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

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

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

5. The Buyer's obligations to the Supplier

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

- the Buyer cannot terminate the Contract under Clause 10.4.1

- the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract
- the Supplier is entitled to additional time needed to make the Delivery
- the Supplier cannot suspend the ongoing supply of Deliverables

5.2 Clause 5.1 only applies if the Supplier:

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

6. Record keeping and reporting

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

6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of the Contract for 7 years after the End Date and in accordance with the GDPR.

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

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

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

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

7. Supplier staff

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

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

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

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

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

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

8. Rights and protection

8.1 The Supplier warrants and represents that:

- it has full capacity and authority to enter into and to perform the Contract
- the Contract is executed by its authorised representative
- it is a legally valid and existing organisation incorporated in the place it was formed
- there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform the Contract
- it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract
- it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract
- it is not impacted by an Insolvency Event

8.2 The warranties and representations in Clauses 2.6 and 8.1 are repeated each time the Supplier provides Deliverables under the Contract.

8.3 The Supplier indemnifies the Buyer against each of the following:

- wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract
- non-payment by the Supplier of any tax or National Insurance

8.4 All claims indemnified under this Contract must use Clause 26.

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

8.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or

misleading, it must immediately notify the Buyer.

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

9. Intellectual Property Rights (IPRs)

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

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

9.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a non-exclusive, royalty-free, revocable licence to use the Buyer's Existing IPRs and any New IPRs for the purpose of fulfilling its obligations under the Contract during the Contract Period.

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

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

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

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

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

9.7 The Supplier warrants that the Buyer's use of the Supplier's Existing IPR shall not infringe any third party IPRs.

10. Ending the contract

10.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if

required by Law.

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

10.3 Ending the contract without a reason

10.3.1 The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier at least 90 days' notice, in which case Clauses 10.5.2 to 10.5.7 shall apply.

10.4 When the Buyer can end the Contract

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

- there's a Supplier Insolvency Event
- there's a Default that is not corrected in line with an accepted Rectification Plan
- the Buyer rejects a Rectification Plan or the Supplier does not provide it within 10 days of the request
- there's any material Default of the Contract
- there's any material Default of any Joint Controller Agreement relating to the Contract
- there's a Default of Clauses 2.6, 9, 14, 15, 27, 32 or Schedule 19 (Cyber Essentials) (where applicable) relating to the Contract
- there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels)
- there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing
- at the Buyer's sole discretion, there is a change in Government Policy affecting the application of this Contract so far as to justify the opinion that either party's ability to give effect to the terms of this Contract is in jeopardy or that the application of this Contract is no longer relevant or authorised.
- there's a Variation to the Contract which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes)
- The Buyer discovers that the Supplier was in one of the situations in articles 57 (1) or 57(2) of the Regulations at the time the Contract was awarded
- the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them

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

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

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

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

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

10.4.5 If any of the events in articles 73 (1) (a) to (c) of the Regulations happen, the Buyer has the right to immediately terminate the Contract and Clauses 10.5.2 to 10.5.7 shall apply.

10.5 What happens if the contract ends

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

10.5.1 The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

10.5.2 The Buyer's payment obligations under the terminated Contract stop immediately.

10.5.3 Accumulated rights of the Parties are not affected.

10.5.4 The Supplier must promptly delete or return the Government Data except where required to retain copies by law.

10.5.5 The Supplier must promptly return and stop using any of the Buyer's property and Existing IPRs provided under the terminated Contract.

10.5.6 The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

10.5.7 The following Clauses survive the termination of the Contract: 3.2.10, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 34, 35 and any Clauses and Schedules which are expressly or by implication intended to continue.

10.6 When the Supplier can end the contract

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

10.6.2 If a Supplier terminates the Contract under Clause 10.6.1:

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

10.7 When subcontracts can be ended

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

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

10.8 Partially ending and suspending the contract

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

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

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

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

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

11. How much you can be held responsible for

11.1 Each Party's total aggregate liability in each Contract Year under the Contract (whether

in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified in the Award Form.

11.2 No Party is liable to the other for:

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

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

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

11.4 In spite of Clause 11.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 8.3, 9.5, 9.7, 12.2 or 14.8 or Schedule 7 (Staff Transfer) of the Contract.

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

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

- Deductions
- any items specified in Clause 11.4

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

12. Obeying the law

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

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

12.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring

that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32.

13. Insurance

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

14. Data protection

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

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

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

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

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

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

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

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

14.8 The Supplier:

- must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request
- must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading

- must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice
- securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it
- indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause 14 and any Data Protection Legislation.

15. What you must keep confidential

15.1 Each Party must:

- keep all Confidential Information it receives confidential and secure
- not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under the Contract
- immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information

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

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

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

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

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

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

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

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

16. When you can share information

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

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

- publish the Transparency Information
- comply with any Freedom of Information Act (FOIA) request
- comply with any Environmental Information Regulations (EIR) request

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

17. Invalid parts of the contract

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

18. No other terms apply

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

19. Other people's rights in the Contract

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

20. Circumstances beyond your control

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

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

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

20.3 Where a Party terminates under Clause 20.2:

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

21. Relationships created by the Contract

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

22. Giving up Contract rights

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

23. Transferring responsibilities

23.1 The Supplier cannot assign the Contract without the Buyer's written consent.

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

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

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

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

23.6 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:

- their name
- the scope of their appointment
- the duration of their appointment

24. Changing the Contract

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

24.2 The Supplier must provide an Impact Assessment either:

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

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

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

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

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

24.6 If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as

reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, the Charges or the Contract and provide evidence:

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

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

25. How to communicate about the contract

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

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

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

26. Dealing with Claims

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

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

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

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

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

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

26.6 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that

it suffers because of the Claim.

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

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

27. Preventing fraud, bribery and corruption

27.1 The Supplier must not during any Contract Period:

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

27.2 The Supplier must during the Contract Period:

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

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

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

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

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

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

28. Equality, diversity and human rights

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

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

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

29. Health and safety

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

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

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

30. Environment

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

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

31. Tax

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

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

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

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

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

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

- the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding
- the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer
- the Worker's contract may be terminated at the Buyer's request if the Worker

provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is not complying with those requirements

- the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management

32. Conflict of Interest

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

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

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

33. Reporting a breach of the contract

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

- Law
- Clause 12.1
- Clauses 27 to 32

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

34. Resolving disputes

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

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

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

- determine the Dispute
- grant interim remedies
- grant any other provisional or protective relief

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

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

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

35. Which law applies

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

Schedule 1 (Definitions)

- 1.1 In the Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In the Contract, unless the context otherwise requires:
 - 1.3.1 the singular includes the plural and vice versa;
 - 1.3.2 reference to a gender includes the other gender and the neuter;
 - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
 - 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
 - 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
 - 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
 - 1.3.8 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
 - 1.3.9 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided; and
 - 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified.

Schedule 1 (Definitions)

Crown Copyright 2019

1.3.11 the headings in the Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract; and

1.3.12 where the Buyer is a Crown Body it shall be treated as contracting with the Crown as a whole.

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

"Abuse"	actions that are improper, inappropriate or outside of acceptable standards, insofar as it relates to making claims for reimbursement from the NMS which should not be made;
"Achieve"	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "Achieved" , "Achieving" and "Achievement" shall be construed accordingly;
"Affected Party"	the party seeking to claim relief in respect of a Force Majeure Event;
"Affiliates"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
"Annex"	extra information which supports a Schedule;
"Approval"	the prior written consent of the Buyer and "Approve" and "Approved" shall be construed accordingly;
"Audit"	<p>the Buyer's right to:</p> <ul style="list-style-type: none">a) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with the Contract);b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;c) verify the Open Book Data;d) verify the Supplier's and each Subcontractor's compliance with the applicable Law;e) identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Schedule 26 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;

Schedule 1 (Definitions)

Crown Copyright 2019

	<p>g) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;</p> <p>h) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract;</p> <p>i) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;</p> <p>j) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources.</p>
"Auditor"	<p>a) the Buyer's internal and external auditors;</p> <p>b) the Buyer's statutory or regulatory auditors;</p> <p>c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</p> <p>d) HM Treasury or the Cabinet Office;</p> <p>e) any party formally appointed by the Buyer to carry out audit or similar review functions; and</p> <p>f) successors or assigns of any of the above;</p>
"Award Form"	<p>the document outlining the Incorporated Terms and crucial information required for the Contract, to be executed by the Supplier and the Buyer;</p>
"Buyer Cause"	<p>any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;</p>
"BACS"	<p>the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;</p>
"Beneficiary"	<p>a Party having (or claiming to have) the benefit of an indemnity under this Contract;</p>

Schedule 1 (Definitions)

Crown Copyright 2019

"Buyer"	means the NHS Business Services Authority based at Stella House, Goldcrest Way, Newburn Riverside, Newcastle upon Tyne, NE15 8NY. An Arm's Length Body (ALB) of the Department of Health and Social Care;
"Buyer Assets"	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;
"Buyer Authorised Representative"	the representative appointed by the Buyer from time to time in relation to the Contract initially identified in the Award Form;
"Buyer Premises"	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
"Contract"	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;
"Contract Period"	the Contract Period in respect of the Contract;
"Central Government Body"	<p>a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none">a) Government Department;b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);c) Non-Ministerial Department; ord) Executive Agency;
"Change in Law"	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
"Change of Control"	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
"Charges"	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under the Contract less any Deductions;
"Childcare Setting"	day-care institutions -including childminders, nurseries run by the voluntary sector, the private sector or Local Authorities, and reception classes in schools – which are eligible under the Nursey Milk Scheme to claim back the cost of providing 1/3 pint of milk or formula to eligible children.

"Claim"	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
"Commercially Sensitive Information"	the Confidential Information listed in the Award Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;
"Comparable Supply"	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
"Compliance Officer"	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
"Confidential Information"	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;
"Conflict of Interest"	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer;
"Contact Centre"	the functionality provided by the Supplier including the telephone helpline and email and postal correspondence service for users of the NMRU;
"Contract"	the contract to be entered into between the Buyer and the Supplier for the provision of the Deliverables;
"Contracts Finder"	the Government's publishing portal for public sector procurement opportunities and contract data;
"Contract Period"	the term of the Contract from the earlier of the: a) applicable Start Date; or b) the Effective Date until the applicable End Date;
"Contract Value"	the higher of the actual or expected total Charges paid or payable under the Contract where all obligations are met by the Supplier;
"Contract Year"	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
"Control"	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and "Controlled" shall be construed accordingly;
"Controller"	has the meaning given to it in the GDPR;

"Core Terms"	the Buyer's standard terms and conditions for common goods and services which comprise one part of the Contract the full title of which is Core Terms – Mid-tier version 1.0;
"Costs"	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <ul style="list-style-type: none"> a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: <ul style="list-style-type: none"> i) base salary paid to the Supplier Staff; ii) employer's National Insurance contributions; iii) pension contributions; iv) car allowances; v) any other contractual employment benefits; vi) staff training; vii) work place accommodation; viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and ix) reasonable recruitment costs, as agreed with the Buyer; b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets; c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables; <ul style="list-style-type: none"> but excluding: <ul style="list-style-type: none"> a) Overhead; b) financing or similar costs; c) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise;

Schedule 1 (Definitions)

Crown Copyright 2019

	d) taxation; e) fines and penalties; f) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);
"Crown Body"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"CRTPA"	the Contract Rights of Third Parties Act 1999;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
"Data Protection Legislation"	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy;
"Data Protection Officer"	has the meaning given to it in the GDPR;
"Data Subject"	has the meaning given to it in the GDPR
"Data Subject Access Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Deductions"	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under the Contract;
"Default"	any breach of the obligations of the Supplier (including abandonment of the Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of the Contract and in respect of which the Supplier is liable to the Buyer;
"Delay Payments"	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
"Deliverables"	Goods and/or Services that may be ordered under the Contract including the Documentation;
"Delivery"	delivery of the relevant Deliverable or Milestone in accordance with the terms of the Contract as confirmed and accepted by the Buyer

Schedule 1 (Definitions)

Crown Copyright 2019

	by the either (a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. " Deliver " and " Delivered " shall be construed accordingly;
" Disaster "	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Award Form (for the purposes of this definition the " Disaster Period ");
" Disclosing Party "	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential);
" Dispute "	any claim, dispute or difference arises out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
" Dispute Resolution Procedure "	the dispute resolution procedure set out in Clause 34 (Resolving disputes);
" Documentation "	<p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under the Contract as:</p> <ul style="list-style-type: none">a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverablesb) is required by the Supplier in order to provide the Deliverables; and/orc) has been or shall be generated for the purpose of providing the Deliverables;
" DOTAS "	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
" Due Diligence Information "	any information supplied to the Supplier by or on behalf of the Buyer prior to the Start Date;

Schedule 1 (Definitions)

Crown Copyright 2019

"Effective Date"	the date on which the final Party has signed the Contract;
"EIR"	the Environmental Information Regulations 2004;
"Eligible Portions"	the number of portions a Childcare Setting is permitted to claim for, based on the number of attendances declared in their claim.
"Employment Regulations"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;
"End Date"	the earlier of: a) the Expiry Date (as extended by any Extension Period exercised by the Buyer under Clause 10.2); or b) if the Contract is terminated before the date specified in (a) above, the date of termination of the Contract;
"Environmental Policy"	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
"Error"	intentional, unintentional, or concealed discrepancies in a claim which result in a payment being made when it should not have been;
"Estimated Year 1 Charges"	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;
"Estimated Yearly Charges"	means for the purposes of calculating each Party's annual liability under clause 11.2 : i) in the first Contract Year, the Estimated Year 1 Charges; or ii) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or iii) after the end of the Contract, the Charges paid or payable in the last Contract Year during the Contract Period;
"Equality and Human Rights Commission"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;

"Existing IPR"	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
"Existing System"	the system owned by the Sponsor which the Supplier can elect to utilise for the delivery of the Service;
"Expiry Date"	the date of the end of the Contract as stated in the Award Form;
"Extension Period"	such period or periods beyond which the Initial Period may be extended up to a maximum of the number of years in total specified in the Award Form;
"FOIA"	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure Event"	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <p>acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract;</p> <ul style="list-style-type: none"> a) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; b) acts of a Crown Body, local government or regulatory bodies; c) fire, flood or any disaster; or d) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ul style="list-style-type: none"> i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds;
"Force Majeure Notice"	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"Fraud"	the intentional deception or misrepresentation of services that an individual knows to be false and could result in an unauthorised reimbursement;
"GDPR"	the General Data Protection Regulation (Regulation (EU) 2016/679)
"General Anti-Abuse Rule"	a) the legislation in Part 5 of the Finance Act 2013 and; and

Schedule 1 (Definitions)

Crown Copyright 2019

	b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;
"General Change in Law"	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
"Goods"	goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
"Good Industry Practice"	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
"Government"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Government Data"	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which: <ul style="list-style-type: none"> i) are supplied to the Supplier by or on behalf of the Buyer; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract;
"Government Policy"	any decision, guideline, procedure or protocol generally adopted or implemented by the Government, including but not limited to the UK Department of Health and Social Care;
"Government Procurement Card"	the Government's preferred method of purchasing and payment for low value goods or services https://www.gov.uk/government/publications/government-procurement-card--2 ;
"Guarantor"	the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others;
"HMRC"	Her Majesty's Revenue and Customs;
"ICT Policy"	the Buyer's policy in respect of information and communications technology, referred to in the Award Form, which is in force as at the

	Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	<p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <ul style="list-style-type: none"> a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract; b) details of the cost of implementing the proposed Variation; c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party; d) a timetable for the implementation, together with any proposals for the testing of the Variation; and e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;
"Implementation Plan"	the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
"Incorporated Terms"	the contractual terms applicable to the Contract specified in the Award Form;
"Indemnifier"	a Party from whom an indemnity is sought under this Contract;
"Independent Control"	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and "Independent Controller" shall be construed accordingly;
"Indexation"	the adjustment of an amount or sum in accordance with the Award Form;
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
"Initial Period"	the initial term of the Contract specified in the Award Form;
"Insolvency Event"	<ul style="list-style-type: none"> a) in respect of a person: b) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or

Schedule 1 (Definitions)

Crown Copyright 2019

	<p>c) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or</p> <p>d) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or</p> <p>e) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</p> <p>f) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or</p> <p>g) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</p> <p>h) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or</p> <p>i) where the person is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or</p> <p>j) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;</p>
"Installation Works"	all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with the Contract;
"Intellectual Property Rights" or "IPR"	<p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
"Invoicing Address"	the address to which the Supplier shall Invoice the Buyer as specified in the Award Form;
"IPR Claim"	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or

Schedule 1 (Definitions)

Crown Copyright 2019

	licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under the Contract;
"IR35"	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: https://www.gov.uk/guidance/ir35-find-out-if-it-applies ;
"Joint Controller Agreement"	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (<i>Processing Data</i>);
"Joint Controllers"	where two or more Controllers jointly determine the purposes and means of Processing;
"Key Personnel"	the individuals (if any) identified as such in the Award Form;
"Key Sub-Contract"	each Sub-Contract with a Key Subcontractor;
"Key Subcontractor"	any Subcontractor: a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or c) with a Sub-Contract with the Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Contract, and the Supplier shall list all such Key Subcontractors in section 29 of the Award Form;
"Know-How"	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the applicable Start Date;
"Law"	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;
"LED"	Law Enforcement Directive (Directive (EU) 2016/680)
"Losses"	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and " Loss " shall be interpreted accordingly;

Schedule 1 (Definitions)

Crown Copyright 2019

"Lots"	the number of lots specified in Schedule 2 (Specification), if applicable;
"Marketing Contact"	shall be the person identified in the Award Form;
"Milestone"	an event or task described in the Implementation Plan;
"Milestone Date"	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Milk Agent"	organisations which supply milk to Childcare Settings;
"Month"	a calendar month and "Monthly" shall be interpreted accordingly;
"National Insurance"	contributions required by the National Insurance Contributions Regulations 2012 (SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;
"New IPR"	<p>a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p> <p>b) IPR in or arising as a result of the performance of the Supplier's obligations under the Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR;</p>
"Nursery Milk Reimbursement Unit"	the service, provided by the Supplier on behalf of the Buyer and Sponsor, which processes and facilitates the reimbursement of claims under the Nursery Milk Scheme;
"Nursery Milk Scheme"	the statutory, universal, scheme which provides babies and children under the age of five years old who attend an eligible day-care institution with 189ml (1/3 pint) of milk or infant formula for each day of attendance;
"Occasion of Tax Non – Compliance"	<p>where:</p> <p>a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <ul style="list-style-type: none"> i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or <p>b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April</p>

Schedule 1 (Definitions)

Crown Copyright 2019

	2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;
"Open Book Data"	<p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Contract, including details and all assumptions relating to:</p> <ul style="list-style-type: none">a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;b) operating expenditure relating to the provision of the Deliverables including an analysis showing:<ul style="list-style-type: none">i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;ii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade;iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; andiv) Reimbursable Expenses, if allowed under the Award Form;c) Overheads;d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;e) the Supplier Profit achieved over the Contract Period and on an annual basis;f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; andh) the actual Costs profile for each Service Period;

"Overhead"	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";
"Parliament"	takes its natural meaning as interpreted within by Law;
"Party"	the Buyer or the Supplier and "Parties" shall mean both of them where the context permits;
"Part Payment"	a payment which is a proportion of the value which a Childcare Setting is entitled to, based on their Eligible Portions.
"Personal Data"	has the meaning given to it in the GDPR;
"Personal Data Breach"	has the meaning given to it in the GDPR;
"Post-Payment Validation"	validation of claims made by Childcare Settings, Milk Agents and Local Authorities to the NMRU, by the Supplier, after to the claim being accepted and paid, to ensure that the claim has been paid correctly and to detect whether Fraud, Abuse or Error has occurred;
"Prescribed Person"	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies ;
"Pre-payment Validation"	validation of claims made by Childcare Settings, Milk Agents and Local Authorities to the NMRU, by the Supplier, prior to the claim being accepted and paid;
"Progress Meeting"	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
"Progress Meeting Frequency"	the frequency at which the Supplier shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Award Form;
"Progress Report"	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
"Progress Report Frequency"	the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Award Form;
"Prohibited Acts"	<p>a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to:</p> <p>i) induce that person to perform improperly a relevant function or activity; or</p>

Schedule 1 (Definitions)

Crown Copyright 2019

	<ul style="list-style-type: none">ii) reward that person for improper performance of a relevant function or activity;b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract; orc) committing any offence:<ul style="list-style-type: none">i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); orii) under legislation or common law concerning fraudulent acts; oriii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; ord) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;
"Protective Measures"	<p>technical and organisational measures which must take account of:</p> <ul style="list-style-type: none">a) the nature of the data to be protectedb) harm that might result from Data Loss Event;c) state of technological developmentd) the cost of implementing any measures <p>including but not limited to pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;</p>
"Recall"	<p>a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;</p>
"Recipient Party"	<p>the Party which receives or obtains directly or indirectly Confidential Information;</p>
"Rectification Plan"	<p>the Supplier's plan (or revised plan) to rectify it's breach using the template in Schedule 25 (Rectification Plan Template) which shall include:</p> <ul style="list-style-type: none">a) full details of the Default that has occurred, including a root cause analysis;b) the actual or anticipated effect of the Default; andc) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring,

Schedule 1 (Definitions)

Crown Copyright 2019

	including timescales for such steps and for the rectification of the Default (where applicable);
"Rectification Plan Process"	the process set out in Clause 10.4.2 to 10.4.4 (Rectification Plan Process);
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
"Reimbursable Expenses"	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none">a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; andb) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
"the Buyer's Confidential Information"	<ul style="list-style-type: none">c) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR);d) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with the Contract; and <p>information derived from any of the above;</p>
"Relevant Requirements"	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
"Reminder Notice"	a notice sent in accordance with Clause 10.6 given by the Supplier to the Buyer providing notification that payment has not been received on time;
"Replacement Deliverables"	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;

Schedule 1 (Definitions)

Crown Copyright 2019

"Replacement Subcontractor"	a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);
"Replacement Supplier"	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
"Request For Information"	a request for information or an apparent request relating to the Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
"Required Insurances"	the insurances required by Schedule 22 (Insurance Requirements);
"Satisfaction Certificate"	the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;
"Schedules"	any attachment to the Contract which contains important information specific to each aspect of buying and selling;
"Security Management Plan"	the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable);
"Security Policy"	the Buyer's security policy, referred to in the Award Form, in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
"Serious Fraud Office"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Service Levels"	any service levels applicable to the provision of the Deliverables under the Contract (which, where Schedule 10 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
"Service Period"	has the meaning given to it in the Award Form;
"Services"	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
"Service Transfer"	any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
"Service Transfer Date"	the date of a Service Transfer;
"Sites"	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:

Schedule 1 (Definitions)

Crown Copyright 2019

	<p>a) the Deliverables are (or are to be) provided; or</p> <p>b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;</p> <p>c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided)</p>
"SME"	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
"Special Terms"	any additional Clauses set out in the Award Form which shall form part of the respective Contract;
"Specific Change in Law"	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
"Specification"	the specification set out in Schedule 2 (Specification), as may, in relation to the Contract, be supplemented by the Award Form;
"Sponsor"	means the Department of Health and Social Care (DHSC);
"Standards"	<p>any:</p> <p>a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;</p> <p>b) standards detailed in the specification in Schedule 2 (Specification);</p> <p>c) standards detailed by the Buyer in the Award Form or agreed between the Parties from time to time;</p> <p>d) relevant Government codes of practice and guidance applicable from time to time;</p>
"Start Date"	the date specified on the Award Form;
"Storage Media"	the part of any device that is capable of storing and retrieving data;

Schedule 1 (Definitions)

Crown Copyright 2019

"Sub-Contract"	any contract or agreement (or proposed contract or agreement), other than a Contract, pursuant to which a third party: a) provides the Deliverables (or any part of them); b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
"Subcontractor"	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
"Subprocessor"	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
"Supplier"	the person, firm or company identified in the Award Form;
"Supplier Assets"	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Contract but excluding the Buyer Assets;
"Supplier Authorised Representative"	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;
"Supplier's Confidential Information"	a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier; b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with the Contract; c) Information derived from any of (a) and (b) above;
"Supplier's Contract Manager"	the person identified in the Award Form appointed by the Supplier to oversee the operation of the Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
"Supplier Equipment"	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
"Supplier Non-Performance"	where the Supplier has failed to: a) Achieve a Milestone by its Milestone Date; b) provide the Goods and/or Services in accordance with the Service Levels ; and/or c) comply with an obligation under the Contract;

Schedule 1 (Definitions)

Crown Copyright 2019

"Supplier Profit"	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of the Contract for the relevant period;
"Supplier Profit Margin"	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under the Contract;
"Supply Chain Information Report Template"	the document at Annex 1 of Schedule 18 Supply Chain Visibility;
"Supporting Documentation"	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Contract detailed in the information are properly payable;
" Tender Response"	the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);
"Termination Notice"	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate the Contract on a specified date and setting out the grounds for termination;
"Test Issue"	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in the Contract;
"Test Plan"	a plan: a) for the Testing of the Deliverables; and b) setting out other agreed criteria related to the achievement of Milestones;
"Tests and Testing"	any tests required to be carried out pursuant to the Contract as set out in the Test Plan or elsewhere in the Contract and "Tested" shall be construed accordingly;
"Third Party IPR"	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
"Transferring Supplier Employees"	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;

Schedule 1 (Definitions)

Crown Copyright 2019

"Transparency Information"	the Transparency Reports and the content of the Contract, including any changes to this Contract agreed from time to time, except for – (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and (ii) Commercially Sensitive Information;
"Transparency Reports"	the information relating to the Deliverables and performance pursuant to the Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);
"Variation"	has the meaning given to it in Clause 24 (Changing the contract);
"Variation Form"	the form set out in Schedule 21 (Variation Form);
"Variation Procedure"	the procedure set out in Clause 24 (Changing the contract);
"VAT"	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"VCSE"	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
"Worker"	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables; and
"Working Day"	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.
"Work Day"	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
"Work Hours"	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;

Schedule 2 (Specification)

This Schedule sets out what the Buyer wants.

For all Deliverables, the Supplier must help the Buyer comply with any specific applicable Standards of the Buyer.

INTRODUCTION

The Buyer requires a supplier to facilitate the provision of a registration, validation and reimbursement service to Childcare Settings who provide milk to children in their care and wish to claim payment for this milk under the Welfare Food Regulations 1996. This service is provided by the Buyer, on behalf of the Buyer's Sponsor, the Department of Health and Social Care (the Sponsor) in England and on behalf of Welsh Government. The Buyer is seeking to maintain the effectiveness of the existing service with minimal disruption to current users, with a focus on the prevention and detection of fraud within the system and to ensure compliance by Childcare Settings, Milk Agents and Local Authorities within the rules of the Scheme.

The Nursery Milk Scheme (NMS) is a statutory, universal, scheme aimed at children under five who attend an eligible day-care institution for at least two hours a day. Eligible day-care institutions include childminders, nurseries run by the voluntary sector, the private sector and Local Authorities, and reception classes in schools. Eligible institutions are referred to as 'Childcare Settings' under the NMS. Children receive 189ml (1/3 pint) of milk each day. Registered Childcare Settings can claim back the cost of providing milk to eligible children via the Nursey Milk Reimbursement Unit (NMRU), through the Welfare Food Scheme Regulations 1996.

Around 56,000 settings are currently registered with the NMS and approximately 268m portions of milk are reimbursed via the NMRU, through around 470,000 claims per year. The current service operates in England and Wales only; separate arrangements are in place in Scotland and Northern Ireland

The Nursery Milk Scheme forms part of the Healthy Food Scheme, which the Buyer manages on behalf of Sponsor. Other schemes included in the wider Healthy Food Scheme are the Healthy Start Scheme, which provides free food and vitamin vouchers to low-income families, and the Schools Fruit and Vegetable Scheme, which provides a free portion of fresh fruit and vegetables to Key Stage 1 children in England.

SCOPE

The broad scope of the includes the following:

- Provision of a registration and claim processing service for approximately 40,000 Childcare Settings per year, making approximately 450,000 claims per year.
- Facilitation of the reimbursement of claims via BACs from the Sponsor's bank account.
- An effective anti-fraud strategy to reduce instances of Fraud, Abuse and Error, in order to protect the public purse.

Schedule 2 (Specification)

Crown Copyright 2019

- Provision of a Contact Centre to manage and respond to queries and complaints in relation to the Nursery Milk Scheme.

The following areas are excluded from the scope of this Services:

- Payments to Childcare Settings; payments will be made by the Sponsor and the Supplier will not be required to make any payments themselves.

It is anticipated that the Effective Date of the Contract will be the 10th January 2022 and the Contract Start Date will be 01st August 2022. The Term is an initial period, which includes implementation up to 31st July 2025 with the option to extend for a further 1 year up to 31st July 2026.

1. General

- 1.1 The Supplier shall provide a registration, validation and reimbursement service to Childcare Settings who provide milk to children in their care and wish to claim payment for this milk under the Welfare Food Regulations 1996.
- 1.2 The Supplier shall have a focus on the prevention and detection of fraud within the system and to ensure compliance by Childcare Settings, Milk Agents and Local Authorities within the rules of the Scheme.
- 1.3 The Nursery Milk Scheme (NMS) is a statutory, universal, scheme aimed at children under five who attend an eligible day-care institution known as a Childcare Setting - mainly childminders, nurseries run by the voluntary sector, the private sector and Local Authorities, and reception classes in schools, and for at least two hours a day. These children receive one portion (189ml or 1/3 pint) of milk each day, free of charge. Babies under 12 months old may receive powdered infant formula made up to 189ml (1/3 pint) each day, free of charge.
- 1.4 The NMS is a reimbursement scheme, which means that Childcare Settings buy the milk and then can reclaim the cost back via the Nursery Milk Reimbursement Unit (NMRU) within six months of purchase.
- 1.5 A Childcare Setting can submit a claim for milk, which is provided to eligible children, direct to the NMRU once registered and reclaim this cost direct to their own bank account.
- 1.6 A Childcare Setting may opt to register with a Milk Agent or Local Authority who will then claim on the Childcare Settings' behalf. Upon registration with a Milk Agent or Local Authority, the Childcare Setting will still be required to register with the NMRU and select their Milk Agent or Local Authority during registration. Milk Agents or Local Authorities will be reimbursed for the claims made in this instance, rather than the Childcare Setting.
- 1.7 The Supplier should note the possibility that, during the life of the contract, Policy responsibility for the NMS in Wales may devolve to the Welsh Government and the Buyer therefore reserves the right to remove the service to Wales under this contract if necessary.
- 1.8 The Supplier should note that with reference to Schedule 7 (Staff Transfer), whilst it is the Buyer's understanding, after liaising with the incumbent supplier, that TUPE may not be deemed to apply on the basis that the incumbent supplier does not have an apparent organised grouping of employees assigned to the Service at the time of this tender process, the Buyer would still emphasise that anyone tendering for the Service would be advised to take their own legal advice, and undertake their own due diligence.

2. Implementation

- 2.1 The Supplier shall ensure continuity of service will be maintained with minimal disruption to Childcare Settings upon the Service Commencement date of 01st August 2022. Existing Settings and Milk Agents should be able to continue submitting and claiming reimbursement for milk in the same way the current service allows, without the change in Supplier affecting this.
- 2.2 The Supplier will provide an Implementation Plan as detailed in Schedule 8 outlining how the Service will be ready from the Contract Start Date and how a continuity of service will be achieved for Childcare Settings.
- 2.3 Any downtime that will affect access to the NMRU website and or portal should be clearly outlined by the Supplier.
- 2.4 The Implementation Plan should include, but is not limited to, the following information:
- (i) Migration design
 - (ii) Dependencies
 - (iii) Requirements
 - (iv) Assumptions
 - (v) Risks
 - (vi) Pre and Post Migration tasks
 - (vii) Testing
 - (viii) Rollback
 - (ix) Integration
 - (x) Go-Live support
 - (xi) Communications Strategy
 - (xii) Milestones and timeline
 - (xiii) Staff information (e.g., roles, qualifications, training etc.)
 - (xiv) Creation of standard operating procedures for staff.
 - (xv) Reporting
 - (xvi) Any areas of Buyer responsibility not otherwise detailed
- 2.5 The Supplier must provide a clear and workable Implementation Plan, with an overview of the project methodology to be used in line with industry standard or a proprietary approach.
- 2.6 To ensure continuity of service for Childcare Settings, Milk Agents and Local Authorities, the name of the Service – the Nursery Milk Reimbursement Unit – will be retained, as will the domain name for the NMRU website (www.nurserymilk.co.uk). The Supplier will need to pay any fees associated with the annual use of the domain name.
- 2.7 The Supplier will have the choice to use the Existing System or utilize their own systems to provide this Service.
- 2.8 The Supplier must provide a system which meets the requirements of the specification and must detail how they propose to fulfil the requirements by implementing a new system or integrating with the Existing System.

3. Registration

3.1 Registration for the NMS will be provided through a registration form via a web portal which is accessible via the NMRU website (www.nurserymilk.co.uk). The registration process is detailed in (Annex 1)

3.2 The Supplier shall ensure that once a Childcare Setting has created an account and password that they then receive a verification e-mail to the Childcare Settings' specified e-mail address. Once the Childcare Setting has clicked the verification link in the e-mail, they are able to continue with their registration.

3.3 The registration process requires the Childcare Setting to prove their eligibility by providing evidence of their OFSTED (England) or Care Inspectorate Wales (CIW) registration. Childcare Settings who can register for the scheme are as follows:

- (i) A registered childminder
- (ii) A registered day care provider
- (iii) A Local Authority who provides day care
- (iv) Reception classes in schools

Those providing day care in a nursery or creche for children (under five years), or management and staff of certain establishments (e.g. children's homes, voluntary or community homes, NHS hospitals) which are exempt from registration should contact the NMRU to confirm their eligibility before registering with the Scheme.

3.4 Where a Childcare Setting contacts the Supplier to confirm that they cannot be OFSTED/CIW registered, the Supplier should confirm that the Childcare Setting is a nursery, they are providing day-care to the staff of the workplace, and that children typically attend for more than two hours per day.

3.5 The Supplier will ensure that upon registration, Childcare Settings provide the following information:

- i. Existing NMRU number (if previously registered with the NMRU)
- ii. Childcare setting name and address
- iii. Registrar's contact details (the registrar's e-mail will need to be confirmed by the user before they can fully register for the scheme)
- iv. Correspondence address (if different)
- v. Childcare registration certificate number (found on the OFSTED/CIW registration certificate)
- vi. Childcare setting opening dates and times
- vii. An estimate of attendance figures for eligible children between the ages of one year and five years old (for milk claims)
- viii. An estimate of attendance figures for eligible children under the age of one year (for milk formula claims)
- ix. How the milk is purchased
- x. The name of the Milk Agent (if being used)
- xi. Bank details if claiming directly (verified via sort code checking software)
- xii. The childcare setting should then electronically sign a declaration to confirm that all the details provided are correct and agree to the rules of the NMS to successfully register for the scheme.

Schedule 2 (Specification)

Crown Copyright 2019

- 3.6 Before a Childcare Setting can commence claiming, their registration certificate must be verified by the Supplier. The Supplier will receive a quarterly data extract from OFSTED via the Buyer which they will be required to use to validate the eligibility of new and current registrations from England. The registration URN can also be checked on the OFSTED website (www.gov.uk/government/organisations/ofsted). This is required to ensure that the setting is appropriately registered and eligible to claim reimbursement from the Scheme.
- 3.7 If the information matches that provided by the Childcare Setting the certificate will be marked as verified on the Childcare Setting's NMRU account.
- 3.8 The Supplier shall encourage Childcare Settings to register for the service via the NMRU website, however, there may be instances where a Childcare Setting has no internet or e-mail access. In these instances, Childcare Settings should be able to request a paper form via the Supplier's Contact Centre.
- 3.9 The registration form should reflect the information required when registering online. The Childcare Setting must complete the form and return via post to the Supplier. An account will be created for the Childcare Setting and a welcome letter posted advising the NMRU registration number and paper claim forms.
- 3.10 Paper claim forms must be accompanied by photocopies of receipts/invoices to substantiate the claim. All action relating to paper documents will be recorded by the Supplier as notes on the account.
- 3.11 Historical volumetric data in relation to the number of Childcare Settings, Milk Agents and Local Authorities is detailed in Annex 2. Volumes may increase or decrease through the Term and there is no minimum volume guaranteed.
- 3.12 The Supplier shall ensure that any Childcare Settings, Milk Agents and Local Authorities which have been inactive on the Scheme for 24 months are de-registered from the Scheme within two working days of the period of inactivity.
- 3.13 The Supplier shall ensure a database of registered Childcare Settings, Milk Agents and Local Authorities is kept up to date, whilst being compliant with GDPR, to be provided to the Buyer upon request, in an Excel document format.
- 3.14 The Supplier shall ensure that all Childcare Settings, Milk Agents and Local Authorities, once registered, receive a unique reference number (URN), known as their NMRU number, in the following format: N123456A.

4. Claims and Payments

- 4.1 Once successfully registered, the Supplier shall ensure that the Childcare Setting will receive an automated confirmation e-mail, generated by the system, for their records, and will have an account set up where they can view and update personal details. A history of claims on-going and reimbursed claims will also be viewable for the Childcare Setting, Milk Agent or Local Buyer.
- 4.2 The Supplier shall support new Childcare Settings, Milk Agents, and Local Authorities to join the Scheme, from registration through to submitting a claim for milk. This can be via existing methods such as Frequently Asked Questions documents, e-mails, telephone calls, news articles or pop-up notifications on the NMRU website etc.

Schedule 2 (Specification)

Crown Copyright 2019

- 4.3 Before the Childcare Setting submits a claim, they should be presented with a message detailing the importance of claiming correctly and maintaining and retaining records of evidence to assist with any future investigations, and the consequences of not adhering to the rules of the Scheme - i.e., claims not reimbursed or claimed back in full if already paid.
- 4.4 The Supplier shall provide a document upload system to ensure Childcare Settings, Milk Agents and Local Authorities can provide evidence to substantiate any claims for reimbursement.
- 4.5 Suppliers will be required to integrate the current upload system if they decide to use the existing system or create an upload system within the portal if they choose to use their own.
- 4.6 The Supplier must ensure that the system they utilise has the capability to upload and store evidence alongside every claim upon the Contract Start Date. Should Suppliers elect to utilise the Existing System they must ensure that it meets the requirement in relation to uploading evidence.
- 4.7 The Supplier should ensure that the maximum file size for each piece of evidence is 20MB and that evidence is only accepted in the following formats: PDF, JPEG, Word, Excel, or CSV.
- 4.8 Childcare Settings and Milk Agents are required to provide evidence of milk purchased, i.e. financial receipts or invoices or redacted information on the number of children who received the milk, to give assurance to the Supplier that the claim has been made appropriately. This evidence will be used as part of the fraud prevention and detection activity.
- 4.9 The Supplier shall ensure that automated Pre-Payment Validation is used to check milk claims to ensure Childcare Settings, Milk Agents and Local Authorities are claiming appropriately in line with the rules of the Nursery Milk Scheme.
- 4.10 Supplier Pre-Payment Validation should include a number of automated checks for Childcare Settings, including but not limited to the following:
- (i) Childcare Settings have a valid registration for the Scheme;
 - (ii) Childcare Settings have a valid OFSTED registration;
 - (iii) the number of days claimed for is accurate in regard to the period to which the claim relates;
 - (iv) the number of children claimed for is accurate in regard to the period to which the claim relates;
 - (v) the claim only covers one-third of a pint of milk per day per child under five years old;
 - (vi) the price per pint of milk, or price per pint or by weight for infant formula, is within the agreed price threshold;
 - (vii) the claim is within six months of the date when the milk was purchased;
 - (viii) the total amount claimed for the period is accurate;
 - (ix) there are no duplicate purchases or issues of double claiming;
 - (x) there are no exclusions or restrictions currently in place for the setting.
- 4.11 The Pre-Payment Validation should include a number of automated checks for Milk Agents and Local Authorities, including but not limited to the following:

Schedule 2 (Specification)

Crown Copyright 2019

- (i) The Milk Agent or Local Buyer has registered with the NMRU and has signed the Milk Agent / Local Buyer Terms and Conditions;
- (ii) the Childcare Setting on behalf of which the Milk Agent / Local Buyer is making a claim is registered with the NMRU;
- (iii) the claim includes a declaration by the Milk Agent or Local Buyer stating that the claim is accurate and has been made according to the Legislation which governs the NMS;
- (iv) the setting has signed up with the Milk Agent or Local Buyer making the claim on their behalf;
- (v) no other claim has been made for the time period in question, either by the setting themselves or by another Milk Agent or Local Buyer;
- (vi) the number of days the Childcare Setting has claimed for is accurate in regard to the period to which the claim relates;
- (vii) the number of children claimed for is accurate in regard to the period to which the claim relates;
- (viii) the claim only covers one-third of a pint of milk per child under five per day;
- (ix) the total amount claimed for the period is accurate;
- (x) there are no duplicate purchases or issues of double claiming;
- (xi) the claim is within six months of the date the milk was purchased;
- (xii) there are no exclusions or restrictions currently in place for the Milk Agent or Local Buyer.

- 4.12 For claims via a Milk Agent or Local Authority, The Milk Agent or Local Authority shall upload a claim file which includes the NMRU number, claim period and volume and price of the milk which has been delivered to the Childcare Setting. No further evidence is required to be provided by the Milk Agent or the Local Authority.
- 4.13 The Childcare Setting will then enter their attendances for the claim period and submit their side of the claim. If the attendances are repetitive, the Supplier will ask the Childcare Setting to confirm the figures are correct and upload evidence to substantiate the claim.
- 4.14 If the Milk Agent or Local Authority has entered the correct claim period, NMRU number and volume and price of milk, and the attendances provided by the setting match the amount of milk uploaded by the Milk Agent or Local Authority, the claim will be paid, and the Milk Agent or Local Authority will receive the reimbursement. The Childcare Setting receives no reimbursement via this process.
- 4.15 An average of 450,000 reimbursement claims a year from Childcare Settings, Milk Agents and Local Authorities will be submitted and handled online through the web portal. Historical data is provided at Annex 2. Volumes may increase or decrease through the Term and there is no minimum volume guaranteed.
- 4.16 The Supplier must ensure Childcare Settings, Milk Agents and Local Authorities receive the correct amount of reimbursement in respect of their validated claim.
- 4.17 Any claims that do not meet the validation criteria or do not have evidence submitted with their claim as detailed above will not be reimbursed.
- 4.18 The Supplier should ensure that the Childcare Setting, Milk Agent or Local Authority should receive a message stating that the claim has not passed validation checks and payment will not be made.

Schedule 2 (Specification)

Crown Copyright 2019

- 4.19 The Childcare Setting, Milk Agent or Local Authority should be presented with the option to contact the Supplier to discuss further if they believe the claim should be accepted.
- 4.20 Claims not accepted that are deemed to be an error by the Childcare Setting, Milk Agent or Local Authority after they have contacted the Supplier to discuss, can be re-submitted by the Childcare Setting, Milk Agent or Local Authority and reimbursed appropriately if validated on resubmission.
- 4.21 The Supplier shall ensure that a validation process is in place for those claims that are received via post.
- 4.22 Paper claims will also require photocopies of evidence to substantiate the claim to be included. Paper claims received with no evidence will require correspondence with the Childcare Setting via telephone or post to advise that reimbursement cannot be made until evidence is sent to the NMRU.
- 4.23 The Supplier shall ensure all correspondence with Childcare Settings, Milk Agents or Local Authorities are recorded in the organisation's account.
- 4.24 The NMRU has access to a bank account that the Sponsor has set up for the purpose of making reimbursement payments for the NMS.
- 4.25 The Supplier will be a registered BACS bureau, or sub-contract with another organization which is a registered BACS bureau in order to facilitate these payments. No charges will be incurred by the Supplier for the use of the Sponsor bank account.
- 4.26 The Buyer will not facilitate any payments.
- 4.27 Upon a claim being validated, Childcare Settings, Milk Agents and Local Authorities will receive notification through the system and via e-mail that their claim has been authorized and the timescale for processing payments.
- 4.28 The timescale for making payments via BACS is 3 working days:
 - Day 1 - Input Day (the last day when the file may be received by the BACS service)
 - Day 2 - Processing Day
 - Day 3 - Payment Day (the day when payments reach the destination account)
- 4.29 Payment files will be made available for the Supplier to access from within the web portal to reimburse claims at the point of validation daily.
- 4.30 The Supplier will process 100% of the payment files through the Supplier's BACS bureau software within one working day.
- 4.31 The total values of the BACS payment will be validated by the Supplier against the information held in the web portal and signed by an authorized member of the Supplier's staff.
- 4.32 Payments are then paid via the BACS system from the Sponsor's account into the relevant Childcare Settings', Milk Agents' or Local Authority's bank account and, in the case of Childcare Settings, will include details of the Childcare Setting's NMRU number.

Schedule 2 (Specification)

Crown Copyright 2019

- 4.33 For any payments which are rejected (e.g., because incorrect bank details have been entered), the Supplier must not make any secondary attempt at payment until the funds have cleared back into the Sponsor's bank account; the Sponsor will advise the Supplier when such payments have cleared.
- 4.34 The Supplier shall ensure that payment files must not exceed the following limits; £4.5million for total claims per day and £1million for single claims.
- 4.35 The Supplier will check the payment file to ensure that:
- (i) The processing date is correct;
 - (ii) the number of transactions is in line with expectations;
 - (iii) the total value of payments is in line with expectations; and
 - (iv) no single payment is over the limit for single claims;
- 4.36 The Supplier will take appropriate action to rectify any errors identified.
- 4.37 If requested by the Supplier, the Sponsor will arrange the cancellation of individual payments or an entire payment file by contacting the Sponsor's BACS sponsor.
- 4.38 The Supplier must make the Sponsor aware of any cancellations by 5pm on the day the payment file is submitted by the Supplier.
- 4.39 The Supplier will ensure that they provide the Sponsor with details of payment files after reimbursement through the BACS system to allow The Sponsor to prepare their own financial records.
- 4.40 The Buyer may choose to audit payment files to ensure that payments are reimbursed correctly.
- 4.41 The Supplier should be able to process approximately 500,000 claims per year and facilitate payments in the region of £50,000,000.00 (fifty million pounds) per year.

5. Contact Centre

- 5.1 The Supplier shall provide a Contact Centre and back-office function, with telephone and correspondence service, to provide advice to Childcare Settings, Milk Agents and Local Authorities about the NMS and handle any queries.
- 5.2 The Supplier must ensure that the telephone helpdesk operates between 09:00 – 17:00, Monday to Friday as a minimum, excluding UK public holidays.
- 5.3 The Supplier shall ensure that the average speed of answer for telephone enquiries does not exceed 120 seconds each month.
- 5.4 Correspondence will include postal letters, e-mails and a 'Contact Us' form on the NMRU website.
- 5.5 The Supplier shall ensure that 98% of emails are processed within two working days each month.

Schedule 2 (Specification)

Crown Copyright 2019

- 5.6 As the NMRU covers Wales, the Supplier must ensure that the Welsh Language Act 1993 is adhered to in providing the service. This will allow Welsh users to access the service in the Welsh language, alongside English, inclusive of any websites, online portals, communications and documents (electronic or other) and a translation service for any telephone calls received.
- 5.7 The Supplier will be required to communicate with Childcare Settings, Milk Agents and Local Authorities to inform them of any changes to the policy or the process of the NMS.
- 5.8 Any communications in relation to Policy changes or ad-hoc communications to be issued to Childcare Settings, Milk Agents and Local Authorities will be provided by the Buyer.
- 5.9 The Supplier shall have a process in place to manage complaints and escalations which as a minimum includes the following:
- (i) An acknowledgement of all complaints within 3 working days of the complaint being received, and an explanation of all remedial and preventative actions to be taken;
 - (ii) regular updates to the Childcare Setting, Milk Agent or Local Authority on the progress with their complaint; and
 - (iii) a full response to the initial complaint should be given within 10 working days. If a complaint is not resolved at this stage, then it will be escalated to the Buyer.
- 5.10 If a complainant is dissatisfied with the resolution provided by the Supplier, the complaint should be escalated to the Buyer to follow the complaint procedure, detailed in Annex 3
- 5.11 The Supplier shall integrate their complaints and escalation procedure with the Buyer's complaint procedure.
- 5.12 The Buyer aims to resolve initial complaints within 10 working days of the date of escalation. If the complainant is unhappy with the resolution provided at this stage, then a formal complaint route will be invoked.
- 5.13 The Supplier must ensure that a written record of all complaints, including details of any subsequent investigations should be retained.
- 5.14 The Supplier shall inform the Buyer of complaints as part of their monthly reporting responsibilities detailed in Schedule 10 (Service Levels).
- 5.15 In the event that a Freedom of Information (FOI) request is received by the Buyer and relates to information held by the Supplier on behalf of the Buyer, the Supplier shall provide the required information to the Buyer within 5 working days of receipt.
- 5.16 If an FOI request is received by the Supplier and relates to information held by the Supplier on behalf of the Buyer, the Supplier shall provide any required information 5 working days of receipt.
- 5.17 The Supplier shall provide the Buyer with information as and when requested to assist with timely responses to queries including, but not limited to, Parliamentary Questions, Minister requests and media requests within 2 hours or up to two working days, depending on the urgency of the request, which will be communicated by the Buyer.

6. Fraud and Error Prevention and Detection

- 6.1 The Supplier shall deliver an effective claim validation and anti-fraud strategy for the scheme, to reduce instances of incorrect or fraudulent claiming and to recover any associated over-payments.
- 6.2 The objective of the anti-fraud strategy should be to limit the exposure of the Scheme to fraud, bribery, and corruption, to minimize the financial loss to the public purse, and to create an anti-fraud culture within the Scheme.
- 6.3 The Supplier shall ensure that there is a clear message to Childcare Settings, Milk Agents and Local Authorities that fraud and corruption is not tolerated within the Scheme.
- 6.4 The Supplier shall ensure that the contract workforce is educated as to what fraudulent activity looks like and how suspected fraud should be managed.
- 6.5 The Supplier shall ensure that the anti-fraud strategy embeds prevention controls within processes such as validation tools and designing reporting mechanisms to identify anomalies and trends.
- 6.6 The Supplier should ensure that reimbursements are paid only in respect of accurate claims and that Fraud, Abuse and Error are prevented and detected, by using both Pre- and Post-Payment Validation.
- 6.7 The anti-fraud strategy should include the elements detailed below as a minimum:
- (i) Pre and Post-Payment Validation checks;
 - (ii) the collection of evidence to support the claim;
 - (iii) assistance and guidance to Childcare Settings, Milk Agents and Local Authorities who have submitted claims in error, to allow them to submit correctly and receive the appropriate reimbursement
 - (iv) a sampling methodology to include factors to be taken into considerations when selecting a claim and/or a Childcare Setting, Milk Agent or Local Authority for investigation;
 - (v) a monthly risk and sample-based approach to the sampling of a minimum of 3% of claims received each month as part of the post-payment validation checks;
 - (vi) an end-to-end process detailing the investigation process if further correspondence is required to substantiate a claim;
 - (vii) a process for the validation of paper claims;
 - (viii) the recovery of payments if, after investigation, the evidence / information provided does not support the claim;
 - (ix) escalation of claims to the Buyer's Loss and Fraud Prevention Team where there is a clear case of intentional dishonesty;
 - (x) processes to ensure that the system is secure against the risk of internal fraud a monthly report to be provided to the Buyer to detail all investigations undertaken;
 - (xi) the storage of all mandatory evidence at the point of claim submission
- 6.8 The Supplier shall have a monthly risk and sample-based approach to substantiate claims already reimbursed as part of their anti-fraud strategy.
- 6.9 The Supplier shall investigate 3% of the number of all claims made each month, as part of their Post Payment Validation checks. This will include paper claims.

Schedule 2 (Specification)

Crown Copyright 2019

- 6.10 As part of the anti-fraud strategy, the Supplier shall have a detailed sampling methodology to inform how they will sample claims and which factors will be taken into consideration.
- 6.11 Examples of factors which could be included in the risk and sample based approach to post-payment validation include but are not limited to:
- (i) Childcare Settings, Milk Agents and Local Authorities whose average monthly claim is significantly above the average;
 - (ii) significant variation in attendance numbers;
 - (iii) frequent requests to change Settings' details;
 - (iv) changes to Childcare Settings, Milk Agents and Local Authority relationships;
 - (v) a random selection of claims received;
 - (vi) specific Childcare Settings, Milk Agents or Local Authorities targeted by the Buyer;
 - (vii) Childcare Settings, Milk Agents and Local Authorities who have previously been subject to requests for evidence to ensure that the rules of the Scheme are being adhered to
- 6.12 The Supplier shall ensure that it is mandatory for Childcare Settings, Milk Agents and Local Authorities to upload evidence for purchased milk to support their claim from the outset. This should act as a deterrent for Childcare Settings, Milk Agents and Local Authorities who may submit claims knowing that they do not have the evidence to substantiate it.
- 6.13 The Supplier shall have an end-to-end process in place for investigations that require further engagement with Childcare Settings, Milk Agents or Local Authorities if the evidence uploaded at the point of claim submission does not substantiate the claim.
- 6.14 The Supplier shall ensure that Childcare Settings, Milk Agents and Local Authorities can view the current status of an investigation and the outcomes of any previous investigations on their online account.
- 6.15 The end-to-end process should include further investigations to request appropriate evidence, such as redacted child registers or invoices/receipts of purchased milk.
- 6.16 The end-to-end process should include timescales and stages of all correspondence to Childcare Settings, Milk Agents or Local Authorities.
- 6.17 The Supplier shall ensure that all correspondence with Childcare Settings, Milk Agents and Local Authorities includes that organization's unique reference number (URN), known as their NMRU number.
- 6.18 The Supplier shall ensure that those claims which cannot be substantiated by evidence will be subject to a recovery of the payment made. The Supplier shall monitor and manage the process of the overpayment recovery through the Childcare Settings', Milk Agents' or Local Authority's account.
- 6.19 The investigation process should be agreed with the Buyer prior to the Contract Start Date.
- 6.20 The Buyer's preferred option to facilitate the recovery of overpayments is by a one-off repayment, however the creation of a repayment plan (of a maximum duration of 24 months) or deducting overpayments through future claims until the value has been paid back in full are also permitted.

Schedule 2 (Specification)

Crown Copyright 2019

- 6.21 The recovery of monies claimed incorrectly through Fraud, Abuse or Error will be arranged by the Supplier on behalf of the Sponsor.
- 6.22 The Supplier shall ensure that any correspondence with the Sponsor in relation to overpayment recoveries will include the URN for that Childcare Setting, Milk Agent or Local Authority.
- 6.23 Any repayment, either through a one off payment or via a repayment plan will be paid directly to the Sponsor's bank account and not to the Supplier.
- 6.24 The Buyer will not arrange any repayments.
- 6.25 The overclaim recovery process should be agreed with the Buyer prior to the Contract Start Date.
- 6.26 The Supplier shall ensure that any current claims by Childcare Settings, Milk Agents or Local Authorities will be put on hold until any investigations or overpayment recoveries have been completed.
- 6.27 The Supplier shall ensure that any suspected fraudulent cases which have resulted in a loss to the public purse or where there is clear evidence of intentional dishonesty (false information and/or invoices) should be escalated to the Buyer's Loss and Fraud Prevention team along with a copy of all correspondence with the Childcare Setting, Milk Agent and or Local Authority.
- 6.28 Any attempted fraud that has not resulted in a loss to the public purse will not be escalated to the Buyer Loss and Fraud Prevention team.
- 6.29 Escalated fraudulent cases must be accompanied by a referral form, detailed in Annex 4
- 6.30 The Supplier shall ensure that Childcare Settings, Milk Agents and Local Authorities can view the current status of investigations in their online account and the outcomes of any previous investigations.
- 6.31 The Supplier will ensure that processes are in place to ensure that the system is secure against the risk of Internal Fraud; for example, fraudulently updating bank details.

7. Reporting

- 7.1 A standard suite of reports will be provided to the Buyer by the 5th working day of each month.
- 7.2 Full details of each report are detailed in Schedule 10 (Service Levels).
- 7.3 The Supplier shall ensure that reports can be provided on an ad-hoc basis, if requested by the Buyer, which will give a snapshot in time.
- 7.4 The Supplier will have a defined and achievable approach to management information, data collation, analysis and reporting.

8. Technical Interfaces

Schedule 2 (Specification)

Crown Copyright 2019

8.1 The Supplier shall ensure that the system is migrated and implemented by the Contract Start Date and that it meets the Buyer's requirements, standards and functionality.

8.2 The minimum requirements to run the system are detailed below:

Component	Requirement
CPU	1.6 GHz, 2 Core
RAM	4 GB
Internet Connection Speed	2 Mbps
Operating System	Windows 10 (1909+), macOS (10.12.6+)
Browser	Google Chrome (latest version), Microsoft Edge (latest version) or Safari (latest version)

8.3 The Supplier shall ensure that the system is able to store mandatory uploaded evidence for every claim received, such as financial receipts, invoices, and redacted child register information, for the required retention period of 7 years from receipt of the information.

8.4 The storage of this evidence is to assist with any current or future investigations by the Supplier and Buyer, and/or prosecution by the Buyer.

8.5 The Supplier shall put a process in place to review and delete evidence after the retention period expires.

8.6 The Supplier system will be required to meet the Buyer's Non-Functional Requirements, as detailed in Annex 5

8.7 The Supplier will ensure that the web portal is available 99% of the time, with the exception of any scheduled downtime agreed in advance with the Buyer.

8.8 The Supplier shall ensure that any instances of unscheduled downtime of the web portal are rectified within five hours.

8.9 The Supplier shall ensure that any instances of downtime of the website are reported to the Buyer within four hours, along with an action plan for resolution.

8.10 The web portal shall offer secure login facilities and other security features to minimize security risks. The Supplier shall be compliant as a minimum with ISO 27001 and/or Cyber Essentials.

8.11 The web portal shall have the functionality to allow Childcare Settings, Milk Agents and Local Authorities to electronically sign a declaration to confirm that the details provided are correct and that they agree to the rules of the NMS.

8.12 The web portal and website must comply with the standards set out in the Government's "Digital by Default" service standards and accessibility standards and should be AA accessibility compliant as defined by the W3C Web Content Accessibility guidelines (WCAG) 2.1.

8.13 As part of the Government Digital Service (GDS), the system must be compatible with the following combinations of assistive technologies and browsers:

Schedule 2 (Specification)

Crown Copyright 2019

- (i) JAWS (desktop reader) v.18 or later with Chrome browser (latest version)
- (ii) NVDA (desktop screen reader) latest version with Firefox browser (latest version)
- (iii) Voiceover on IOS (mobile screen reader – latest version) with Safari browser (version 12 or later)
- (iv) Talkback (mobile screen reader) latest version with Chrome browser (latest version)
- (v) Windows Magnifier or Apple Zoom (screen magnifiers)
- (vi) Dragon (speech recognition)

8.14 The website and web portal shall work across all modern browsers including Google Chrome, Microsoft Edge and Safari.

8.15 The website and web portal must work across all standard device types including PC/laptop (Windows 10, Linux or MacOSX), mobile or tablet and be responsive in design to work across different devices and screen resolutions.

8.16 The website must include a 'Contact Us' form linking Childcare Settings, Milk Agents and Local Authorities to the Supplier's Contact Centre.

8.17 The web portal must have the roles of Childcare Setting, Milk Agents and Local Authorities included.

8.18 The role must allow for the following actions: To be able to register, make claims, upload evidence and review payment information.

8.19 The system must have the role of System Administrator included. The role must allow for the following actions: To be able to manage system settings, dashboard functionality, back- ups and report performance issues.

8.20 The Supplier must migrate the following data from the Existing System to the new Supplier System:

- (i) all active User accounts
- (ii) claims history,
- (iii) payments history
- (iv) barred data.

8.21 The Supplier shall ensure that the General Data Protection Regulation (GDPR) is adhered to, per Schedule 11.

8.22 The Supplier will ensure that the following interface requirements are met:

- (i) The system can load a page in the application within 5 seconds clicking the link or button.
- (ii) The interface can respond to a simple action e.g., navigating the system, within 5 seconds.
- (iii) The interface can respond to a complex action performed by the user e.g., running reports or calculations, within 5 seconds.
- (iv) The Childcare Setting, Milk Agent or Local Buyer can log in to the system within 5 seconds.

9. Management Obligations / Responsibilities

9.1 The Supplier shall detail how they will manage relationships with Childcare Settings, Milk Agents, Local Authorities and the Buyer.

Schedule 2 (Specification)

Crown Copyright 2019

- 9.2 The Supplier shall have a quality assurance process that monitors, measures and assures quality outcomes that adhere to the Service Levels, and other reportable measures detailed in Schedule 10 (Service Levels).
- 9.3 A quarterly Operational Board will take place between the Buyer and Supplier representatives as per Schedule 13 (Contract Management). The purpose of the meeting will be to discuss:
- (i) Performance against Service Levels and/or key milestones;
 - (ii) Risks, issues, and mitigation actions;
 - (iii) Financial performance; and
 - (iv) Innovation and Social Value activities
- 9.4 The Supplier shall share insight and lessons learned with the Buyer in order to assist with continuous service improvement as part of the monthly Performance Review Meetings, detailed in Schedule 10 (Service Levels).
- 9.5 Supplier representatives shall be available to attend ad-hoc meetings, as and when required by the Buyer. The Buyer will provide reasonable notice and flexible timing of such meetings, as well as remote methods of participation e.g., Microsoft Teams, where possible.
- 9.6 The Supplier shall be required to facilitate ad-hoc feedback surveys, via the web portal, with Childcare Settings, Milk Agents and Local Authorities, to allow the Buyer to gather feedback about the NMRU Service.

10. Security Requirements

- 10.1 The Supplier shall follow cyber security design principles guidelines as set out by the National Cyber Security Council (NCSC) (WWW.NCSC.GOV.UK)
- 10.2 As part of this requirement, the Supplier shall ensure the following requirements are met:
- i. Ensure the system provides a transparent audit trail of all user activities, including create, update, delete, view, which can be reported on and interrogated by the Buyer.
 - ii. Audit functionality must be documented and accessible to an end user who has the ability to view audit information.
 - iii. All planned outages must be agreed in advance by all parties.
 - iv. The system is available and functioning for 99% of the time during a standard year.
 - v. Any upgrade schedules are agreed in advance by all parties, at least 4 weeks in advance.
 - vi. Mean time to recovery (information unavailable) of 1 day. This is the average time it takes to recover from a system failure where some information is not available but not all of the system is affected.
 - vii. Have a Recovery Point Objective (RPO) restore time of 12 hours. As a minimum, full backups are taken every 12 hours and a minimum of weekly testing of backups is completed.
 - viii. Have a Recovery Time Objective (RTO) backup time of 12 hours. The maximum time to recover the system from a service disruption does not exceed 12 hours.
 - ix. Mean time to recovery (system down) of 12 hours. This is the average time it takes to recover from a system failure where the entire system is down.
- 10.3 The system must have the role of Auditor present that allows the Supplier to access audit information from the system to be able to carry out reviews of how processes are being followed.

Schedule 2 (Specification)

Crown Copyright 2019

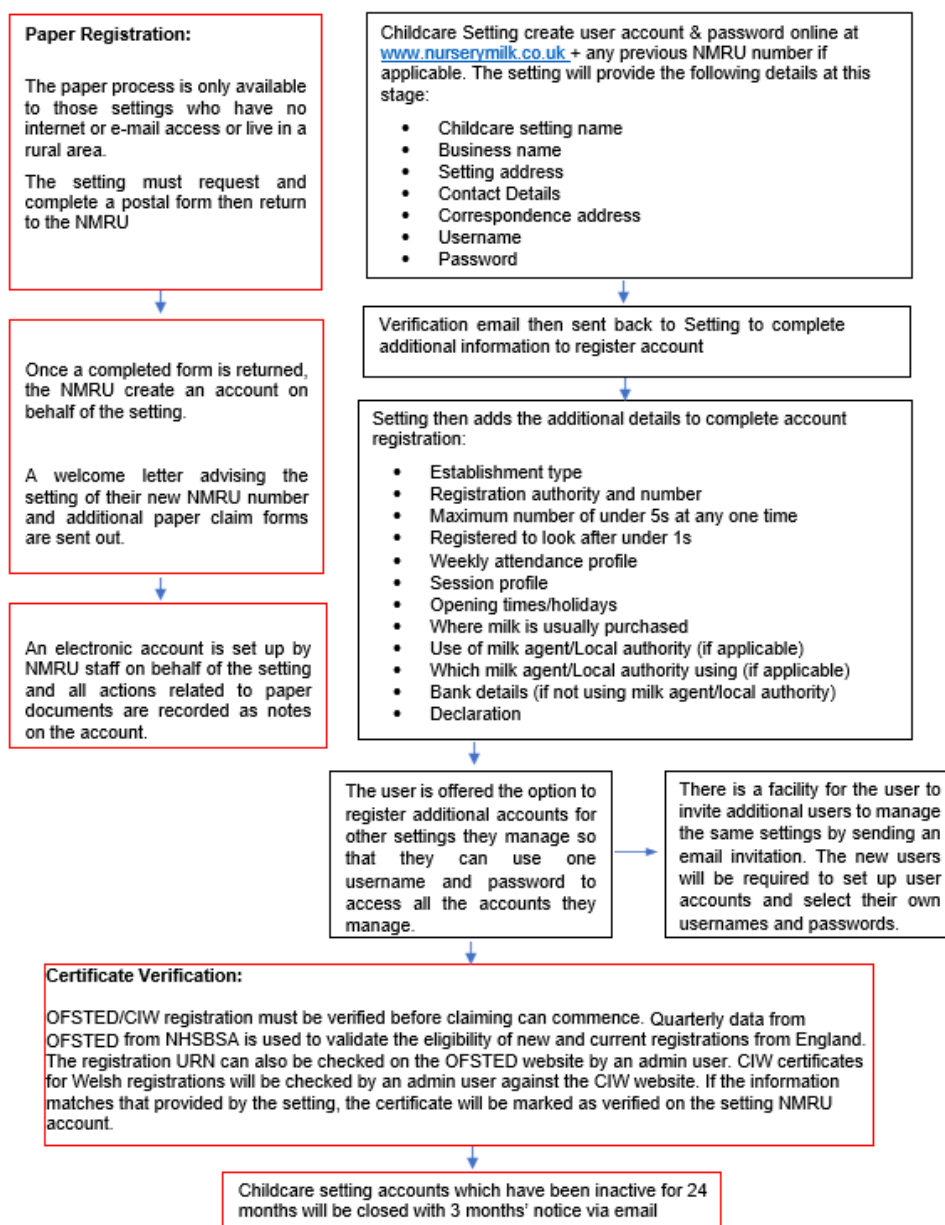
- 10.4 The use of personal data is subject to a Data Protection Impact Assessment (DPIA) and the Supplier must ensure that an appropriate DPIA process is in place. This assessment must be up to date, reflect the latest Information Commissioner's Officers best practice, privacy risks managed to an acceptable level and there are supporting Data Maps and Data Dictionary.
- 10.5 The Supplier must follow cloud security guidelines as set out by the National Cyber Security Council (NCSC). As part of this the Supplier must ensure all sensitive data must be encrypted in transit using at least TLS 1.2 standard. All sensitive data must all also be encrypted at rest using a minimum of AES-256 standard.
- 10.6 The Supplier must follow password principles guidelines as set out by the NCSC. As part of this, the Supplier must ensure that all passwords are stored securely as detailed in the latest NCSC guidance.
- 10.7 The Supplier must ensure that all traffic must use HTTPS and be encrypted, the system must not store the password in plain text and a cryptographic key derivation function to store passwords must be used to following international standards (e.g., PBKDF2).
- 10.8 The Supplier shall operate to comply with Cyber Essentials and or IS027001 or equivalent.

11. Social Value

- 11.1 In line with the Social Value Model set out in Procurement Policy Note 06/20, the Supplier must demonstrate that in delivering this service, workforce inequality is addressed, equal employment opportunities are provided and workforce wellbeing is promoted.
- 11.2 The Supplier shall report progress against Social Value activities to the monthly Performance Insight Management Board, such activities include, but are not limited to the following:
 - (i) identifying, tackling, and managing inequality in employment, skills and pay in the Supplier workforce
 - (ii) existing or planned inclusive and accessible recruitment practices;
 - (iii) reporting on, and improving Supplier workforce wellbeing;
 - (iv) staff engagement practices and feedback; and
 - (v) identifying, addressing and acting on any issues identified

Annex 1

Registration Process for Childcare Settings



Registration Process for Milk Agents and Local Authorities

Milk agents and Local Authority's (LA) are required to register with the NMRU scheme via paper documentation.

The Agent or LA contact the NMRU to request a registration form.

The registration form along with the agent/LA guidelines are sent and must be agreed by the agent/LA



Once the registration form is returned, along with evidence of the bank account details, a copy of the agreement(s) they use with the childcaresetting(s) (including T&Cs) and a copy of their complaint's procedure, the NMRU create an online account.



An invitation email is sent to the agent or LA advising of a successful application and invitation to complete registration by setting up a user account for the person/people who will manage the agent/LA account.



Agent profile to include:

- Geographical area covered by the agent
- Number of settings using the agent
- Bank account details
- Acceptance of Agent T&Cs
- Declaration

Annex 2

Volumetric Data

Summary Volumetric Data

Total 2019	Monthly Average 2019	Total 2020 (Covid School Closures)	Monthly Average 2020 (Covid School Closures)	Total 2021 (Apr – Jul)	Monthly Average 2021
------------	----------------------	------------------------------------	--	------------------------	----------------------

Schedule 2 (Specification)
Crown Copyright 2019

New settings	3,245	270	2,989	249	1,108	277
Claims accepted	442,823	36,902	322,570	26,881	150,429	37,607
Total value paid	£49,611,908	£4,134,326	£29,481,718	£2,456,810	£15,325,978	£3,831,495
Total Calls Received	20,990	1,749	18,500	1,542	6,583	1,646
Total Emails Received	12,425	1,035	11,776	981	4,333	1,083



Volumetric Data.xlsx

Annex 3

The Buyer's Complaints / Escalation Process

Escalating a complaint to the NHSBSA

If the complainant is unhappy with the resolution provided at a local level by the Supplier, or the Supplier is unable to resolve the complaint, the complaint should be escalated to the NHSBSA within 10 working days of the initial complaint being received.

The supplier should escalate the complaint, and include all correspondence with the complainant, to the NHSBSA Customer Resolutions Team (CRT) via e-mail to the following address:
nhsbsa.crt@nhs.uk.

The NHSBSA aim to resolve initial escalated complaints within 10 working days. If it looks like the complaint will take longer than 10 working days to resolve, we will make the Supplier aware and inform of the progress of the complaint throughout the investigation.

Schedule 2 (Specification)

Crown Copyright 2019

If the complaint is not resolved by the NHSBSA at this stage, then the complainant can choose to make a formal complaint. This involves the following stages if not resolved at the initial formal complaint stage:

- Health & Community Services Head of Service response
- Appeal to the NHSBSA Chief Executive
- Parliamentary and Health Service Ombudsman

The NHSBSA will update the Supplier on the outcome of any escalated complaints for their records and for reporting purposes.

Annex 4

Loss and Fraud Prevention Team Referral Form

Referral made by			
Your full name:		Date of report:	
Organisation name / NHSBSA Service Area:		Job title:	
Your preferred telephone number:		Email:	

Suspected offence							
Fraud	Contractor / Supplier / Agent / Setting		Customer (Pension member, student)		Patient	Staff	Other
Bribery	Have you been offered a bribe?	Y/N	Has someone else been offered / accepted a bribe?	Y/N			

Subject details			
Full name or company name:			
Address:			
Date of birth:		NINO:	NHSBSA Reference:
Tel:		Mobile:	Email:
Other identifiable information:			

If this involves an NHS Pension scheme member please complete the following information:

NHS Pension Scheme Member details					
Full name:				Date of birth:	
Address:					
National Insurance No:			Pension ref number:		
Date pension commenced:			Date of death: (if applicable):		
Bank name:		Bank sort code:		Bank account number:	

Allegation / Information
<p>Please put as much detail as possible as to what is suspected and why. Things to consider:</p> <ul style="list-style-type: none"> Any calls made which are relevant to the suspected offence – copies of the recordings to be requested and emailed with this form? Any declarations or written material relevant to the suspected offence – copies of the material to be scanned and emailed with this form?

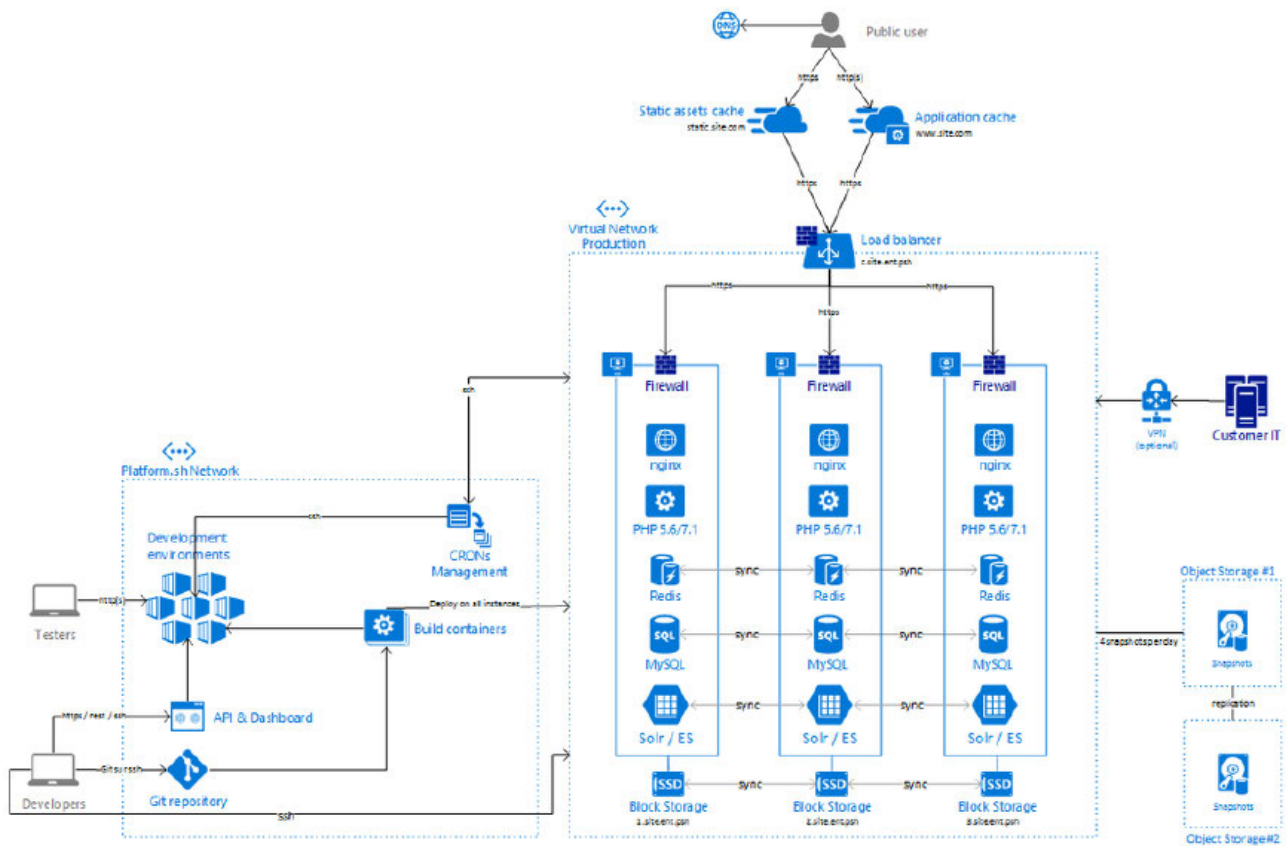
Financial information from NHSBSA Service Area:			
Is person currently in payment?		If yes, amount	£
Frequency:			
Next payment date:	Other info:		
Actual fraud identified: <i>This is the amount of money already obtained.</i>	£	Potential fraud identified: <i>This is the estimated amount of money the subject will obtain if this matter is a fraud.</i>	£
<p>***Relevant Date: To ensure we deal with this matter as expeditiously as possible; we need to know if there is a date this enquiry should be completed by e.g. a payment to the subject is due to be made or if an application, the date it has to be processed by, or if no longer in payment the last date payment was made.</p>			<p>Date:</p> <p>Reason:</p>

Please email this completed form and any supporting documents to NHSBSA.LCFS@nhs.net

An acknowledgement will be sent within ten working days of receipt. Once the allegation has been investigated and an outcome known this will be

Annex 5

Existing System infrastructure design and Buyer Non-Functional Requirements



1. An overview of the hosting technology used can be viewed at the following URL: [Platform.sh Dedicated · Platform.sh Documentation](#)

2. Existing System information:

- MariaDB - Galera Cluster database technology is utilised.
- PHP / Symfony application technology is utilised.
- Nginx web technology is utilised.
- The existing system uses custom built in reports as opposed to specific reporting technology
- PHP & JavaScript programming language is used.
- Software stack is managed by the provider Platform.sh.

3. The following integrations are used in the existing system:

- AWS storage is used to transfer a file to remote storage
- BACS software for downloading payment files in BACS processing software and approval processes
- Sentry.io is used for error reporting
- Get address.io is used for address lookup

Non-Functional Requirements



Non Functional
Requirements - FV2.0

Document Ends

Schedule 3 (Charges)

1. How Charges are calculated

1.1 The Charges:

1.1.1 shall be calculated in accordance with the terms of this Schedule;

1.1.2 cannot be increased except as specifically permitted by this Schedule and in particular shall only be subject to Indexation where specifically stated in the Award Form; and

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

2. The pricing mechanisms

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

3. Are costs and expenses included in the Charges

3.1 Except as expressly set out in Paragraph 4 below, or otherwise stated in the Award Form the Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:

3.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or

3.1.2 costs incurred prior to the Start Date of the Contract, with the exception of the cost of Implementation Charges set out in Annex 1 to this schedule 3, which shall become due following the Start Date.

4. When the Supplier can ask to change the Charges

4.1 The Charges will be fixed for the first **1 (one)** years following the Contract Start Date (the date of expiry of such period is a "**Review Date**"). After this Charges can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a "**Review Date**").

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

4.3 Any notice requesting an increase shall include:

4.3.1 a list of the Charges to be reviewed;

- 4.3.2 for each of the Charges under review, written evidence of the justification for the requested increase including:
- (a) a breakdown of the profit and cost components that comprise the relevant part of the Charges;
 - (b) details of the movement in the different identified cost components of the relevant Charge;
 - (c) reasons for the movement in the different identified cost components of the relevant Charge;
 - (d) evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
 - (e) evidence that the Supplier's profit component of the relevant Charge is no greater than that applying to Charges using the same pricing mechanism as at the Contract Start Date.

4.4 The Buyer shall consider each request for a price increase. The Buyer may grant Approval to an increase at its sole discretion.

4.5 Where the Buyer approves an increase then it will be implemented from the first (1st) Working Day following the relevant Review Date or such later date as the Buyer may determine at its sole discretion and Annex 1 shall be updated accordingly.

5. Other events that allow the Supplier to change the Charges

5.1 The Charges can also be varied (and Annex 1 will be updated accordingly) due to:

- 5.1.1 a Specific Change in Law in accordance with Clause 24;
- 5.1.2 a review in accordance with insurance requirements in Clause 13;
- 5.1.3 a benchmarking review in accordance with Schedule 12 (Benchmarking)
- 5.1.4 a request from the Supplier, which it can make at any time, to decrease the Charges; and
- 5.1.5 indexation, where Annex 1 states that a particular Charge or any component is "subject to Indexation" in which event Paragraph 7 below shall apply.

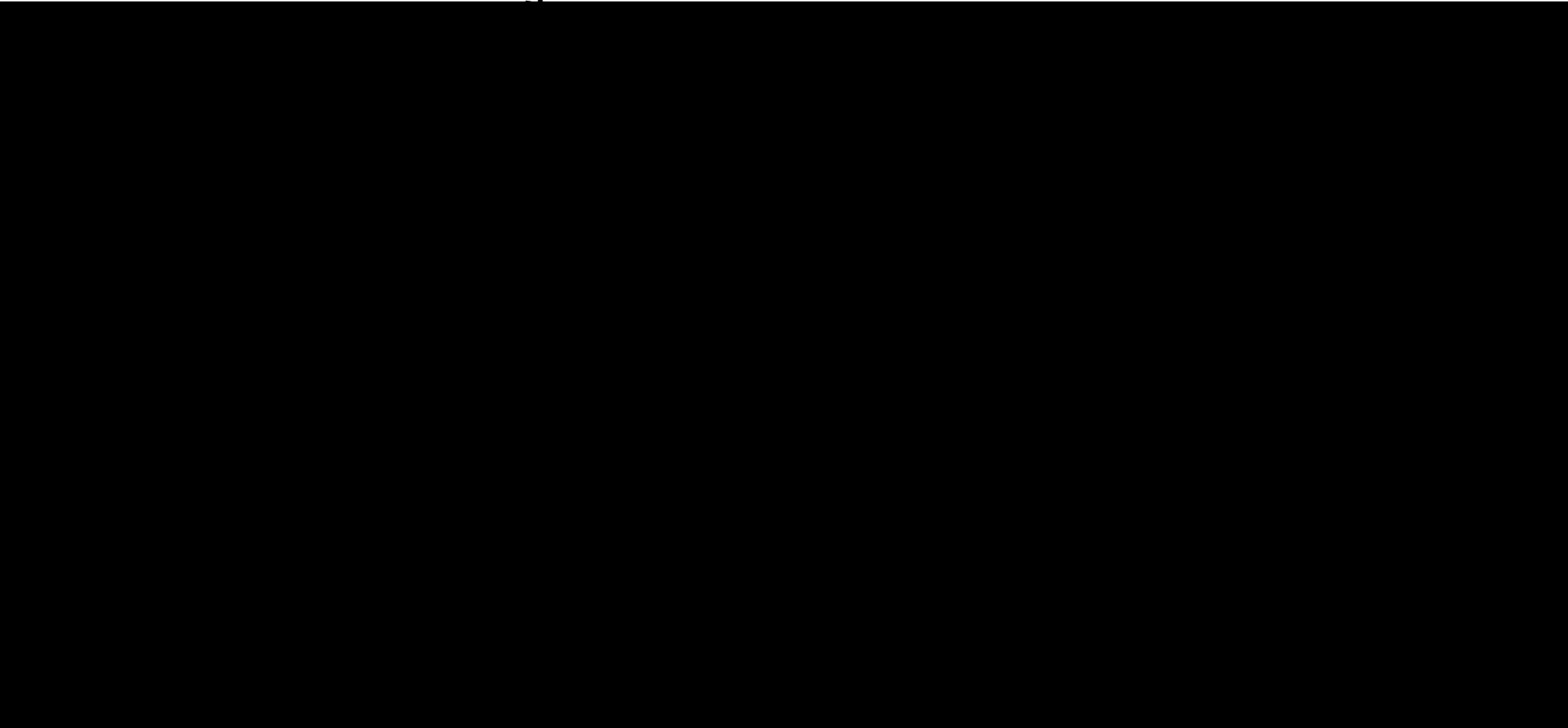
6. When the Charges are linked to inflation

6.1 Where the Charges are stated to be "subject to Indexation" they shall be adjusted in line with changes in the Consumer Price Index ("CPI"). All other costs, expenses, fees and charges shall not be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier.

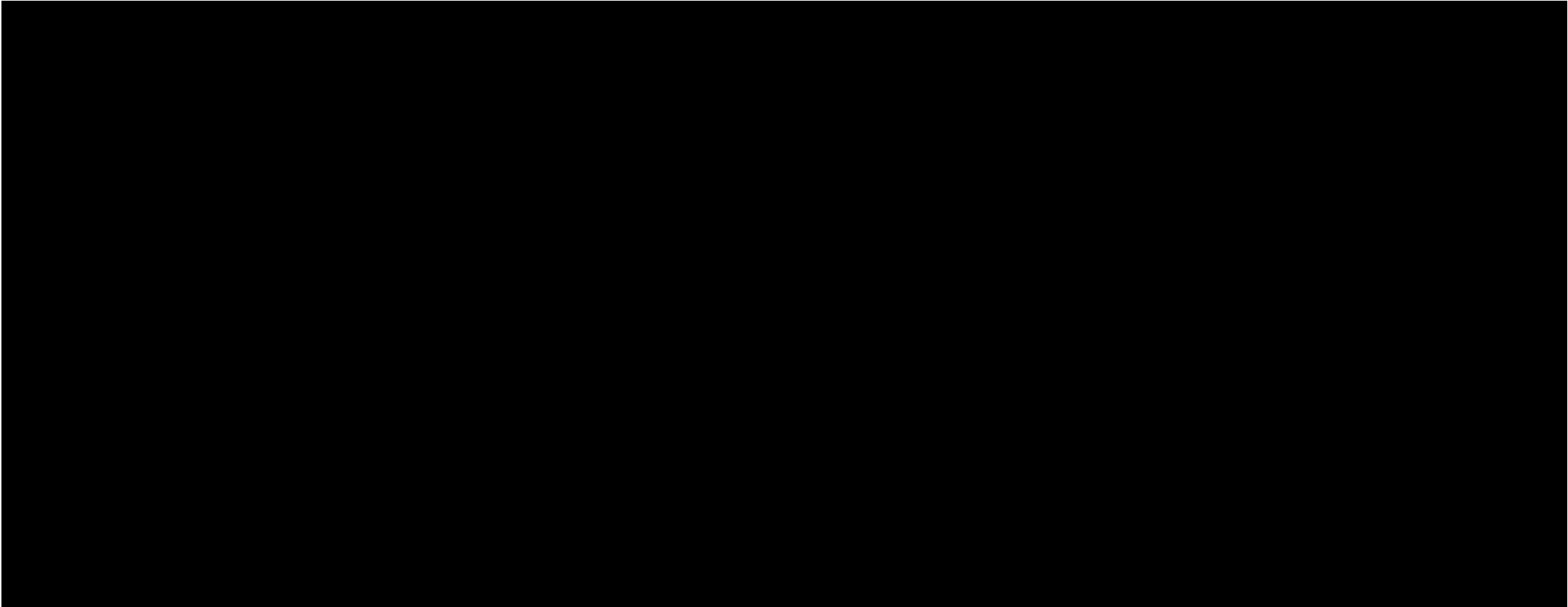
- 6.2 Charges shall not be indexed during the first **1 (one)** year following the Contract Start Date.
- 6.3 Where Annex 1 states a Charge is subject to Indexation then it will be indexed on the date which is **1 (one)** years after the Start Date to reflect the percentage change in the CPI since the Start Date. They shall be indexed on each following yearly anniversary to reflect the percentage change in the CPI since the previous change.
- 6.4 Where the CPI Index:
 - 6.4.1 used to carry out an indexation calculation is updated (for example due to it being provisional) then the indexation calculation shall also be updated unless the Buyer and the Supplier agree otherwise;
 - 6.4.2 is no longer published, the Buyer and the Supplier shall agree a fair and reasonable replacement that will have substantially the same effect.

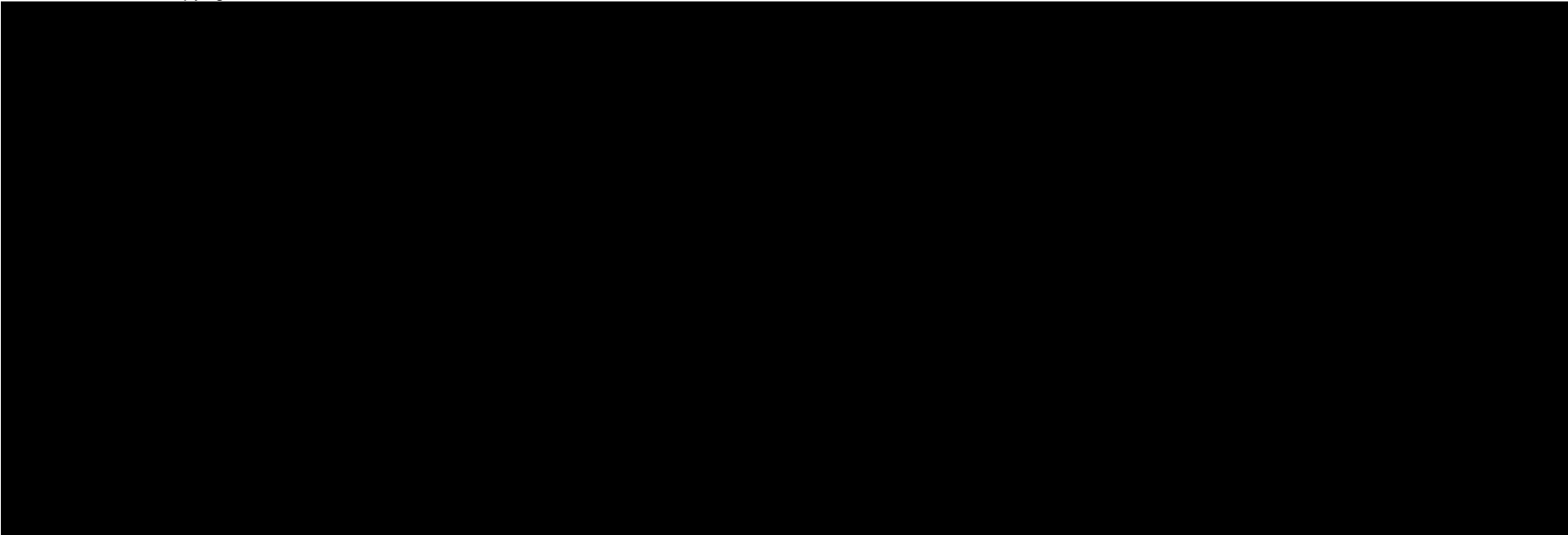
7. Not used

Annex 1: Costs and Charges









Schedule 4 (Tender)

1. General

- 1.1 The Supplier will provide a registration, validation and reimbursement service to Childcare Settings who provide milk to children in their care and wish to claim payment for this milk under the Welfare Food Regulations 1996.
- 1.2 The Supplier will have a focus on the prevention and detection of fraud within the system and to ensure compliance by Childcare Settings, Milk Agents and Local Authorities within the rules of the Scheme.
- 1.3 The Nursery Milk Scheme (NMS) is a statutory, universal, scheme aimed at children under five who attend an eligible day-care institution known as a Childcare Setting - mainly childminders, nurseries run by the voluntary sector, the private sector and Local Authorities, and reception classes in schools, and for at least two hours a day. These children receive one portion (189ml or 1/3 pint) of milk each day, free of charge. Babies under 12 months old may receive powdered infant formula made up to 189ml (1/3 pint) each day, free of charge.
- 1.4 The NMS is a reimbursement scheme, which means that Childcare Settings buy the milk and then can reclaim the cost back via the Nursery Milk Reimbursement Unit (NMRU) within six months of purchase.
- 1.5 A Childcare Setting can submit a claim for milk, which is provided to eligible children, direct to the NMRU once registered and reclaim this cost direct to their own bank account.
- 1.6 A Childcare Setting may opt to register with a Milk Agent or Local Authority who will then claim on the Childcare Settings' behalf. Upon registration with a Milk Agent or Local Authority, the Childcare Setting will still be required to register with the NMRU and select their Milk Agent or Local Authority during registration. Milk Agents or Local Authorities will be reimbursed for the claims made in this instance, rather than the Childcare Setting.
- 1.7 The Supplier notes the possibility that, during the life of the contract, Policy responsibility for the NMS in Wales may devolve to the Welsh Government and the Buyer therefore reserves the right to remove the service to Wales under this contract if necessary.

2. Implementation

- 2.1 The Supplier will ensure continuity of service for Childcare Settings, Milk Agents and Local Authorities by retaining the existing system.
- 2.2 Schedule 8 (Implementation Plan and Testing) details the Implementation Plan which the Supplier will use to ensure that the requirements will be incorporated

Schedule 4 (Tender)

Crown Copyright 2019

into the Service without any discontinuity, using the existing system and the involvement of staff with significant NMRU experience.

2.2.1 The Supplier will train customer-facing staff to be multi-skilled across their product range, rather than being allocated to individual services, ensuring all staff can cover absences or peak periods. All staff involved in the service will be appropriately trained and supervised. There will be no requirement for data migration.

2.3 The Supplier will ensure that downtime is ordinarily limited to standard deployment windows, which occur outside core hours. For downtime related to new functionality which requires changes to database structure, this will be scheduled by agreement with the Buyer during the implementation period, to take place during out-of-hours times with low site usage.

2.4 The following implementation activity will support the Supplier's Implementation Plan under Schedule 8:

2.4.1 The Supplier shall develop a facility for uploading mandatory evidence with every claim.

2.4.2 The Supplier will implement secure messaging within the user accounts, which will enable bulk emails to be sent without using external systems, including communicating policy changes and inviting participation in surveys.

2.4.3 The Supplier will implement functionality for risk-based and randomized claim sampling and audit processing, including reclaiming overpayments, amendments to claim calculations and amendments to processing.

2.4.4 The Supplier's insights into user behavior and evidence fabrication will inform development activity, with checks including both user-generated evidence and independent sources. The system will manage communication with claimants and enforce audit workflows, for efficiency and to prevent internal fraud.

2.4.5 The Supplier will develop enhanced management information, reporting and audit trail, which will allow the Buyer to monitor performance indicators and access reports online, including reports on claiming and audits. This workstream will run concurrently with the audit workstream.

2.4.6 The Supplier will upgrade the system to meet statutory requirements including Welsh Language Act 1993; accessibility; and GDPR enhancements, remaining mindful of the Technology Code of Practice throughout.

2.4.7 The Supplier shall subject the system to targeted penetration testing by a CHECK qualified assessor after each phase of development, followed by a full annual test.

Schedule 4 (Tender)

Crown Copyright 2019

- 2.4.8 The Supplier will ensure that this prioritization minimizes risk, by ensuring the user-facing requirements which have been identified by the Buyer as core functionality (registration, claiming and reimbursement) are established well before 1/8/2022. Workstreams will run concurrently to optimize resource allocation.
- 2.4.9 The Supplier will ensure that internal communications will be managed through fortnightly sprints, twice-weekly sprint meetings, daily stand-ups, weekly team leaders' meetings, monthly management reviews, staff notifications of updated process flows and documentation, in-house training, and competency surveys.
- 2.4.10 The Supplier will ensure that communications with Childcare Settings will be managed in accordance with instructions, guidance, and pre-agreed wording from the Buyer. The Supplier will invite and collate user feedback and ensure the online FAQs, email auto-responses and call greetings reflect changes to the service.
- 2.4.11 The Supplier will liaise with Milk Agents and Local Authorities explaining policy changes, alleviating concerns and demonstrating new features.
- 2.4.12 The Supplier's resource allocation and planning has allowed for:
 - 2.4.12.1 Communications with the Authority: initial and ongoing liaison; optional site visits; agreeing plans in advance; sign-off procedures; progress updates and portal demonstrations.
 - 2.4.12.2 Key development milestones: mandatory evidence upload; secure messaging; changes to claim calculations; administrative/audit interface for the Authority; management information; risk-based audit of claims; statutory compliance.
 - 2.4.12.3 Key processing milestones: updating process flows and staff training; ongoing BACS and ISO accreditations; contingency arrangements; helpline and email helpdesk updates; overflow staffing capacity.
 - 2.4.12.4 Market engagement: liaising with Agents/LAs; communicating changes to service users; user-testing; collating and reviewing feedback.
- 2.4.13 The Supplier's risk assessment, included in Schedule 8 (Implementation) shows the Supplier's consideration of risks and mitigation strategies for this contract, including for example: implementation delay; overspend; staffing capacity; and business risks.
- 2.4.14 Each risk will be assessed by frequency and impact, using well-defined scoring to ensure consistency. A risk score is calculated as frequency x impact and the score is compared to the acceptability matrix. The risk score is recalculated in light of controls and mitigation. Risks are colour-

coded according to the final risk score (green, yellow, amber, red).

2.4.15 The Supplier shall ensure that their approach to risk management includes the following:

- 2.4.15.1 Agreeing a detailed implementation plan, with deadlines, responsibilities and resource allocation, including system development, involvement of third-party assessors (e.g. penetration testing), updates to internal processes, and communications with users.
- 2.4.15.2 Establishing good communication with the Buyer, to ensure the specification is clearly defined and understood, minimizing the risk of delays caused by changes or misunderstandings.
- 2.4.15.3 Using established in-house project management processes to monitor progress, with delays or emerging risks being escalated and addressed promptly
- 2.4.15.4 Using established agile development processes, with constant visibility of 'go-live' progress.
- 2.4.15.5 Keeping the Buyer informed of progress, through weekly updates, regular demonstrations, and access to project management software
- 2.4.15.6 Planning adequate staffing levels, including anticipating peak enquiries following policy changes.
- 2.4.15.7 Maintaining effective monitoring throughout the contract, alongside ongoing investment in preventative measures, system maintenance and infrastructure
- 2.4.15.8 Maintaining and testing contingency plans throughout the contract.
- 2.4.15.9 Maintaining strict controls across the Supplier's wider business, including staff screening, segregation of activities, fraud controls, financial controls, and IT security.

2.4.16 The Supplier's planned approach to implementation will enable enhancements to be introduced early, for example enabling the Buyer to access reports online during the implementation period.

2.4.17 The controlled early release of functionality will provide advantages to users and the Buyer, including bringing forward statutory compliance, without disrupting the existing service.

2.4.18 Any functionality imposing policy changes, such as the mandatory upload of evidence, will be released in a standard deployment window for 1/8/2022.

Schedule 4 (Tender)

Crown Copyright 2019

- 2.5 The Supplier shall use an agile development methodology and effective project management software to facilitate the Implementation of the service, including the following:
- 2.5.1 long-standing use of effective project management software
 - 2.5.2 routinely scheduled fortnightly sprints
 - 2.5.3 clear visibility of progress and well-managed change control
 - 2.5.4 The Supplier shall ensure all development is managed through Github code repositories, peer reviewed, acceptance tested and deployed iteratively, via separate development, testing and production environments, using agile practices.
 - 2.5.5 The Supplier shall use industry-recognized coding standards, ensuring all code is version-controlled and can roll-back to previous versions, avoiding risks such as cross-site scripting and code injection.
 - 2.5.6 The Supplier will ensure that feature development is user-focused, starting from well-specified user stories.
 - 2.5.7 The Supplier's multi-disciplinary project team will include representatives from customer-facing functions.
 - 2.5.8 The Supplier's in-house designer will provide feature mock-ups, ensuring all parties share a common understanding and enabling intuitive and accessible user journeys. Features will be broken down into manageable, clearly defined issues, with dependencies identified and tracked.
 - 2.5.9 In addition to internal peer reviews and user acceptance testing, the Supplier will arrange for Buyer representatives to witness acceptance tests after each key phase of the implementation. Any issues arising will be recorded; rectification will be agreed and integrated into ongoing development plans.
 - 2.5.10 The Supplier will report on progress throughout and arrange sign-off at the next planned acceptance test. Buyer representatives will be invited for on-site visits or remote observations, as preferred.
 - 2.5.11 The Supplier Project Manager will work closely with the Contract Manager, providing the Buyer with weekly updates, offering feature demonstrations, arranging witnessing of tests and agreeing sign-off if required.
 - 2.5.12 The Supplier project team will work collaboratively, with daily stand-ups and twice-weekly sprint meetings, involving relevant personnel.
 - 2.5.13 The Supplier's project management software records progress and dependencies, which are updated continuously, providing visibility of

development timescales.

- 2.5.14 The Supplier shall offer the Buyer guest access to the Supplier's Project Management software, enabling the Buyer to view progress in real time.
 - 2.5.15 The Supplier shall use ISO9001 to highlight potential risks and issues, with an action log recording agreed risk management and mitigation.
 - 2.5.16 Project meetings will include staff with excellent knowledge of IT security, data protection and technical risks. These areas will be considered in collaborative discussions as a routine part of development planning.
 - 2.5.17 Business, financial and strategic risks will be assessed and managed through the Supplier's in-house ISO9001 Business Management software. Risks will be subjected to quarterly management review and half-yearly audits, by reference to pre-defined monitoring indicators.
- 2.6 The Supplier will retain the domain name for the NMRU website (www.nurserymilk.co.uk) and will pay any fees associated with the annual use of the domain name.
- 2.7 The Supplier will retain the Existing System with new features and enhancements being added during the implementation period and update process flows accordingly, which comply with the Governments Technology Code of Practice. The Supplier's planned allocation of resources allows for underlying complexity and their approach to resource allocation will ensure the Service Specification are met, while also enabling users to retain familiarity with the system.
- 2.8 The Supplier will provide a system which meets the requirements of Schedule 2 (Specification).
- 2.9 The Supplier's test strategy will include the following activity:
- 2.9.1 The Supplier will arrange Initial Tests to sign-off the specification requirements which are covered by existing functionality. The Supplier will arrange Feature Tests following the development of each Feature. Each Test will include a Test Plan, Success Criteria, Test Specification, Test Report and Witnesses.
 - 2.9.2 Internal testing will occur five days before witnessed tests, to optimise the likelihood of witnessed tests resulting in a Satisfaction Certificate, respecting Buyer workload. All test records will be shared.
 - 2.9.3 Each Test Plan will cross-reference the specification and be provided 20 working days in advance.
 - 2.9.4 The Supplier will propose Success Criteria against each requirement being tested and feedback will be invited. Ten days in advance, the Supplier will add Test Specifications to each requirement, detailing test data (source, scope, volume and management), resources, test procedures, pre-requisites and expected results. The Buyer will be invited

to provide feedback and arrange Test Witnesses, observing on-site or remotely.

- 2.9.5 Any defects will be raised as Test Issues and recorded in the Test Report, with Severity Levels. If Issues arise, a Rectification Plan will be provided. Related actions will be managed in a Test Issue Management Log, and incorporated into sprint planning. Development time will be allocated to Issues within five days, automatically updating the Gantt chart. The Supplier will notify the Buyer as Issues are resolved.
- 2.9.6 If Test Issues delay a Milestone, the Supplier will arrange a further witnessed test if desired or, alternatively, rectification will be approved at the next planned test.
- 2.9.7 Some requirements will be verified externally (e.g. penetration testing, BACS Bureau assessments). Reports will be shared and any Issues rectified as above.
- 2.9.8 Throughout the contract, the Supplier's internal testing will include:
 - 2.9.8.1 User acceptance testing
 - 2.9.8.2 Peer-reviewing code
 - 2.9.8.3 Testing development in staging before deploying to production
 - 2.9.8.4 Establishing automated tests for all features
 - 2.9.8.5 Using browser testing software, ensuring device-agnostic solutions
 - 2.9.8.6 Monitoring uptime, page speed, SSL and exceptions
 - 2.9.8.7 Penetration testing, annually and after substantial change
 - 2.9.8.8 Business continuity testing
 - 2.9.8.9 Testing data restoration from back-ups
 - 2.9.8.10 Issues arising will be logged, triaged, and rectified immediately or incorporated into sprint planning.

3. Registration

- 3.1 Online registration for the NMS will be provided through a registration form via a web portal which is accessible via the NMRU website (www.nurserymilk.co.uk).
- 3.2 The Supplier will ensure that Childcare Settings, Milk Agents and Local Authorities are required to pass eligibility checks during registration and to reconfirm eligibility and compliance during claiming. The Supplier shall ensure that users enter the Setting's name, address and correspondence address (using postcode lookup for accuracy), their contact details, and a username and password. The Supplier will ensure that the user must click through a system-generated email to verify their email address.
- 3.3 The Supplier will ensure that before Settings can claim, their Ofsted/CIW certificate is verified (using uploaded evidence or the registration body's website), including a cross-check of the Setting's address.
 - 3.3.1 The Supplier will ensure that the following Childcare Setting types can

register for the NMRU:

- 3.3.1.1 A registered childminder
- 3.3.1.2 A registered day-care provider
- 3.3.1.3 A Local Authority who provides day-care
- 3.3.1.4 Reception classes in schools
- 3.3.1.5 Those providing day care in a nursery or creche for children (under five years), or management and staff of certain establishments (e.g. children's homes, voluntary or community homes, NHS hospitals) which are exempt from registration should contact the NMRU to confirm their eligibility before registering with the Scheme.

3.3.2 Milk Agent and Local Authority Registration

- 3.3.2.1 On receiving an enquiry, the Supplier will provide the registration form, Milk Agent and Local Authority guidelines and Scheme rules, which must be formally accepted by the Milk Agent and/or Local Authority.
- 3.3.2.2 Milk Agent and Local Authorities will provide to the Supplier: evidence of bank details; Terms and Conditions governing their arrangements with Childcare Settings; and complaints procedure.
- 3.3.2.3 The Supplier will create online Milk Agent and/or Local Authority accounts after receiving completed registration forms and evidence, having checked the list of banned Milk Agents, to ensure the Milk Agent / Local Authority is not on the banned list.
- 3.3.2.4 The Supplier will send Milk Agent and Local Authority registration forms to the NHSBSA to approve the registration.
- 3.3.2.5 A system-generated email notifies the Milk Agent and/or Local Authority of successful registration.
- 3.3.2.6 The Milk Agent and/or Local Authority will be required to invite staff to create individual user accounts, with all activity traceable.
- 3.3.2.7 Childcare Settings can then login to link to the Milk Agent and/or Local Authority.

3.4 For exempt Childcare Settings, the Supplier will verify the Childcare Setting's nature, session length and exempt status.

3.5 Childcare Settings are required to log-in to enter:

Childcare establishment type

Schedule 4 (Tender)

Crown Copyright 2019

Registration body and certificate / reason for exemption
Maximum number of under-5s / under-1s on-site
Opening times (days of the week, sessions, holidays)
Estimated daily attendance for under-1s and under-5s
Bank details (except Agent/LA settings)

Individuals employed by Childcare Settings must register separately to co-administer the account, with individual login and declarations.

- 3.6 The Supplier will validate the OFSTED registration using the quarterly data extract which will be sent via the Buyer, and can also verify the registration URN via the OFSTED website (www.gov.uk/government/organisations/ofsted).
- 3.7 If the information matches that provided by the Childcare Setting the certificate will be marked as verified on the Childcare Setting's NMRU account.
- 3.8 Settings without internet access may request paper registration forms by phone or post.
- 3.9 The information required for paper registration forms will replicate online registration. The Supplier shall ensure that completed paper registration forms are date-stamped on receipt. Supplier administrators will enter the information online, resolving queries and checking eligibility. Registration forms will be scanned and uploaded. The Supplier shall ensure that a system-generated welcome letter provides the Childcare Setting's NMRU number, guidance on claiming and a claim form.
- 3.10 Paper claim forms must be accompanied by photocopies of receipts and redacted attendance registers. The Supplier will transfer data into the Childcare Setting's account, uploading and verifying evidence and will contact the Childcare Setting to follow-up any incomplete information.
- 3.11 The Supplier recognises that registration volumes may increase or decrease through the Term and there is no minimum volume guaranteed.
- 3.12 Settings are automatically de-activated after 24 months of inactivity. The database is updated in real-time, reflecting registrations and closures.
- 3.13 The Supplier will provide the Buyer with secure online access to downloadable, up-to-date details of registered Childcare Settings, Milk Agents and Local Authorities. For accuracy, the system imposes validation during data entry and users regularly reconfirm their details. GDPR compliance ensures data remains accurate, accessible and undamaged.
- 3.14 The Supplier shall ensure that upon registration, a unique NMRU number (formatted N123456A) is automatically allocated and quoted in subsequent correspondence.
- 3.15 The Supplier will ensure that duplicate registrations and re-registration of suspended Childcare Settings are prevented.

4 Claims and Payments

- 4.1 Childcare Settings will complete their registration by confirming they understand the rules and the implications of non-compliance. A confirmation email is sent by the Supplier. Online accounts will provide easy access to claim history (amounts, attendances, purchases, status, rejection reasons). User and Childcare Setting details can be updated online, with automatic validation. The Supplier will retain a record of all correspondence, linked to each organisation's account.
- 4.2 The Supplier will provide friendly, helpful and timely support to Childcare Settings, Milk Agents and Local Authorities, by freephone, email, online contact form or post.
 - 4.2.1 Incoming emails will receive an automated response, including helpful information.
 - 4.2.2 Call greetings and auto-responses are updated to provide additional information as matters arise.
 - 4.2.3 Online FAQs and paper forms reinforce guidance on eligibility and claiming.
 - 4.2.4 The system provides intuitive user journeys, benefiting from user-testing, on-screen guidance and helpful validation messages.
 - 4.2.5 Important user communications are presented on login, with acceptance buttons to confirm understanding.
 - 4.2.6 Built-in flexibility supports users by allowing:
 - 4.2.6.1 Settings to enter data/evidence throughout the claim period.
 - 4.2.6.2 Settings to skip unwanted claim periods.
 - 4.2.6.3 Claim periods to end early for holidays.
 - 4.2.6.4 Users to administer several settings through a single login.
 - 4.2.7 Milk Agents and Local Authorities will be allocated a named contact and dedicated email support.
 - 4.2.8 Milk Agents and Local Authorities will receive demo accounts and individual support.
 - 4.2.9 Catering for large data volumes, Milk Agents and Local Authority accounts allow viewing, downloading or searching of:
 - 4.2.9.1 Template claim forms.
 - 4.2.9.2 Claims accepted, rejected, paid or pending
 - 4.2.9.3 Payments made over custom date ranges, including underlying claim details.

- 4.2.9.4 Setting details (name, NMRU number, claim status).
- 4.2.10 The Supplier will liaise with Milk Agents and Local Authorities before major changes, alleviating concerns.
- 4.3 The Supplier will ensure that declarations at claim submission remind users of the rules of the NMS and the consequences of not following the Scheme rules, in plain English, including reminders to retain evidence.
- 4.4 The Supplier will provide a document upload and storage system with automatically expanding capacity to cover retention requirements which includes:
 - 4.4.1 Copies of Ofsted/CIW certificates
 - 4.4.2 Copies of paper registration and claim forms
 - 4.4.3 Scanned copies of correspondence and attachments to account notes
 - 4.4.4 Receipts/invoices to evidence milk purchases
 - 4.4.5 Attendance registers
- 4.5 The Suppliers will integrate a document upload system as per Schedule 2 (Specification) Clause 4.5
- 4.6 Childcare Settings will be required to upload attendance registers covering the whole claim period, with weekly uploads encouraged by the Supplier. The storage capacity will be unlimited, facilitating retention for 7 years.
- 4.7 The Supplier will ensure that the system will restrict uploads to the permitted formats: PDF, JPEG, Word, Excel, or CSV. Each upload will be limited to 20MB.
- 4.8 After passing registration, self-claiming Childcare Settings will enter purchase and attendance data for each claim.
 - 4.8.1 The Supplier will ensure that self-claiming Childcare Settings must upload every receipt and/or invoice to support the claim, entering:
 - 4.8.1.1 Date
 - 4.8.1.2 Supplier
 - 4.8.1.3 Milk type
 - 4.8.1.4 Quantity
 - 4.8.1.5 Cost
 - 4.8.2 Childcare Settings enter information and evidence from daily registers of under-1s / under-5s.

Schedule 4 (Tender)

Crown Copyright 2019

- 4.8.3 Claims can include unexpected absences but not planned or extended absences. Figures should exclude non-milk-drinkers.
- 4.8.4 Childcare Settings can claim for any eligible sessions, avoiding double-counting children who attend multiple sessions.
- 4.9 The Supplier shall ensure that automated Pre-Payment Validation is used to check milk claims to ensure Childcare Settings, Milk Agents and Local Authorities are claiming appropriately in line with the rules of the Nursery Milk Scheme. The Supplier shall ensure that strict validation applies to all claims - as per Section 6 of this Supplier Solution (Fraud and Error Prevention and Detection).
- 4.10 The Supplier will conduct Pre-Payment Validation for Childcare Settings as per Schedule 2 (Specification) Clause 4.10 and automated checks as per Section 6 of this Supplier Solution (Fraud and Error Prevention and Detection)
- 4.11 The Supplier will conduct Pre-Payment Validation for Milk Agents and Local Authorities as per Schedule 2 (Specification) Clause 4.11 and automated checks as per Section 6 of this Supplier Solution (Fraud and Error Prevention and Detection)
- 4.12 Milk Agents and Local Authorities upload CSV claims files, including the type, quantity and cost of milk supplied to each Childcare Setting in the claim period.
- 4.13 Milk Agents and Local Authority Childcare Settings only submit attendance data; the Milk Agents and/or Local Authority independently submits milk volumes. Rows are automatically matched to claims submitted by linked Childcare Settings, for validation and calculation.
- 4.14 If the Milk Agent or Local Authority has entered the correct claim period, NMRU number and volume and price of milk, and the attendances provided by the setting match the amount of milk uploaded by the Milk Agent or Local Authority, the claim will be paid, and the Milk Agent or Local Authority will receive the reimbursement. The Supplier will ensure that the Childcare Setting receives no reimbursement in this circumstance.
- 4.15 The Supplier recognises that claim volumes may increase or decrease through the Term and there is no minimum volume guaranteed.
- 4.16 The Supplier will use the following process to ensure the correct amount of claim is paid to Childcare Settings:
 - 4.16.1 The Supplier will ensure that volume of milk purchased (in the case of Childcare Settings) or supplied (in the case of Milk Agents and/or Local Authorities) is converted into Eligible Portions.
 - 4.16.2 If the Eligible Portions are below attendances, Childcare Settings will be asked by the Supplier to confirm which attendances to ignore for the purpose of the claim. This will be automatically calculated by the system.

Schedule 4 (Tender)

Crown Copyright 2019

- 4.16.3 If the Eligible Portions exceed attendances, Childcare Settings will be asked by the Supplier to confirm which purchases to exclude for the purpose of the claim (e.g. milk purchased for other purposes). This will be automatically calculated by the system.
- 4.16.4 Once the amount of milk for which reimbursement is sought matches attendances, the claim is calculated based on costs and Eligible Portions will be paid in full.
- 4.16.5 Purchases and attendances will be compared separately for under-1s / under-5s.
- 4.16.6 For accepted claims, Childcare Settings are notified of payment amounts and timescales.
- 4.17 Where claims do not meet the validation criteria they will be rejected. For rejected claims, Childcare Settings are given a reason and offered assistance. Childcare Settings linked to Milk Agents and/or Local Authority claims with incorrectly formatted or incomplete rows are rejected.
 - 4.17.1 Where claims do not have evidence submitted, the claim will remain open on the portal until the evidence is submitted. If the claim, with supporting evidence, is uploaded within the six-month claiming window it will be processed. If the claim is uploaded outside of the six-month claiming window, it will be rejected.
- 4.18 If the claim is rejected following validation, the Supplier will contact the Childcare Setting, explaining the outcome and next steps.
- 4.19 The Childcare Setting, Milk Agent or Local Authority will be presented with the option to contact the Supplier to discuss further if they believe the claim should be accepted.
- 4.20 The Supplier will offer secure, controlled facilities to allow prompt, suitably evidenced rectification of errors made by Childcare Settings, Milk Agents or Local Authorities, without circumventing validation.
- 4.21 The Supplier will ensure that a validation process is in place for those claims that are received via post.
- 4.22 Paper claim forms must be accompanied by photocopies of receipts and redacted attendance registers. Paper claims received with no evidence will require the Supplier to correspond with the Childcare Setting via telephone or post to advise that reimbursement cannot be made until evidence is sent to the NMRU.
- 4.23 The Supplier shall ensure all correspondence with Childcare Settings, Milk Agents or Local Authorities are recorded in the organisation's account.

Schedule 4 (Tender)

Crown Copyright 2019

- 4.24 The Supplier will have access to a bank account that the Sponsor has set up for the purpose of making reimbursement payments for the NMS.
- 4.25 The Supplier is a registered BACS Bureau and will process payments daily, directly from the Sponsor's account to the recipients, referenced by NMRU number.
- 4.26 The Supplier acknowledges that the Buyer will not facilitate any payments.
- 4.27 Accepted claims will be automatically added to the Childcare Setting, Milk Agents or Local Authority's ledger.
- 4.28 The Supplier will process BACS payments within the standard BACS timescales as per Schedule 2 (Specification).
- 4.29 The Supplier recognises that payment files will be made available for the Supplier to access from within the web portal to reimburse claims at the point of validation daily.
- 4.30 The Supplier will process 100% of the payment files through the Supplier's BACS bureau software within one working day, as per Schedule 10 (Service Levels).
- 4.31 The total values of the BACS payment will be validated by the Supplier against the information held in the web portal and signed by an authorized member of the Supplier's staff. Payment files are system-generated daily by totalling ledger entries and will be checked by the Supplier before processing.
- 4.32 Payments are then paid via the BACS system from the Sponsor's account into the relevant Childcare Settings', Milk Agents' or Local Authority's bank account and, in the case of Childcare Settings, will include details of the Childcare Setting's NMRU number.
- 4.33 For any payments which are rejected (e.g., because incorrect bank details have been entered), the Supplier will not make any secondary attempt at payment until the funds have cleared back into the Sponsor's bank account; the Sponsor will advise the Supplier when such payments have cleared.
- 4.34 The Supplier will ensure that payment files must not exceed the following limits; £4.5million for total claims per day and £1million for single claims.
- 4.35 The Supplier will check the payment file to ensure that:
 - 4.35.1 The processing date is correct;
 - 4.35.2 The number of transactions is in line with expectations;
 - 4.35.1 The total value of payments is in line with expectations; and
 - 4.35.2 no single payment is over the limit for single claims;

Schedule 4 (Tender)

Crown Copyright 2019

- 4.36 The Supplier will take appropriate action to rectify any errors identified. The Supplier will take immediate action to manage cancellation requests and rejected payments will be managed under agreed procedures, within time limits.
- 4.37 If requested by the Supplier, the Sponsor will arrange the cancellation of individual payments or an entire payment file by contacting the Sponsor's BACS sponsor.
- 4.38 The Supplier will make the Sponsor aware of any cancellations by 5pm on the day the payment file is submitted by the Supplier.
- 4.39 The Supplier will ensure that they provide the Sponsor with details of payment files after reimbursement through the BACS system to allow The Sponsor to prepare their own financial records.
- 4.40 The Supplier acknowledges that the Buyer may choose to audit payment files to ensure that payments are reimbursed correctly.
- 4.41 The Supplier will be able to process approximately 500,000 claims per year and facilitate payments in the region of £50,000,000.00 (fifty million pounds) per year.

5 Contact Centre

- 5.1 The Supplier will provide a freephone helpline and email helpdesk and users may also contact the Supplier online via www.nurserymilk.co.uk or by post.
- 5.2 The helpline and helpdesk will be operated between 09:00 – 17:00 weekdays, excluding bank holidays.
 - 5.2.1 During peak times, the Supplier will operate extended hours on the email helpdesk. The Supplier's recorded helpline greeting will be regularly updated to reflect prevailing FAQs. Incoming emails will receive an auto-response, including FAQs.
 - 5.2.1 The Supplier will support remote and on-site working, providing continuity if an incident affects the Supplier's premises, and resilience against lockdowns or commuting issues.
 - 5.2.3 Calls will be recorded for quality assurance. Detailed notes will be stored against each user/organisation, facilitating consistent and efficient service at the next contact.
 - 5.2.4 The Supplier will hold weekly inter-departmental management meetings, to update staff and identify changes or risks. The Supplier will monitor email and call volumes and response times at every meeting, with prompt redeployment of resource to maintain KPIs.
 - 5.2.5 Alongside investing in staffing, the Supplier will invest in reliable technology and software, ensuring the helpline and email service is reliably

available. We favour cloud-based systems in line with Government standards.

- 5.3 The Supplier shall ensure that the average speed of answer for telephone enquiries does not exceed 120 seconds each month as per Schedule 10 (Service Levels).
- 5.4 Correspondence will include postal letters, e-mails and a 'Contact Us' form on the NMRU website.
- 5.5 The Supplier shall ensure that 98% of emails are processed within two working days each month as per Schedule 10 (Service Levels).
- 5.6 The Supplier will ensure that incoming calls in Welsh will be transferred to a Welsh-speaking advisor; Welsh correspondence will receive a Welsh response.
 - 5.6.1 The Supplier will enable users to access the service in Welsh, including all on-screen text (on public-facing pages and in user accounts), validation messages, wording in on-screen diagrams, and secure online communications. Users will select their language preference online.
 - 5.6.2 All system-generated emails for Welsh settings will provide a bilingual option for future system-generated emails to be in Welsh. Preferences can be updated online.
 - 5.6.3 The Supplier's in-house Welsh expertise enables users to receive helpline or email support in Welsh. Recorded helpline greetings will include information in Welsh.
- 5.7 The Supplier will communicate policy changes and reminders to users through:
 - 5.7.1 Automated call greetings and email auto-responses;
 - 5.7.2 Login pop-ups, with user confirmation being recorded;
 - 5.7.3 On-screen information;
 - 5.7.4 Bulk emails, sent through a new secure messaging facility in online accounts .
 - 5.7.5 The Supplier will also liaise directly with Milk Agents and Local Authorities, including hosting online meetings as necessary.
- 5.8 The Supplier acknowledges that any communications in relation to Policy changes or ad-hoc communications to be issued to Childcare Settings, Milk Agents and Local Authorities will be provided by the Buyer.
- 5.9 Under ISO9001 arrangements, the Supplier will ensure that complaints are logged in a non-conformance register (including cause, remedial action and

lessons learned) and reviewed quarterly at inter-departmental meetings, ensuring trends are considered for continuous improvement.

- 5.9.1 Any complaints are escalated through the Supplier's ticketing system, enabling the Supplier to accurately monitor response times. The Supplier's escalation team is trained in complaint procedures and requirements.
 - 5.9.2 The Supplier will adopt a professional, sensitive and courteous approach to complaints, aiming for swift resolution and communicating clearly with service users
 - 5.9.3 Complaints will receive an initial response within three working days (usually same day), with immediate resolution or a clear timescale for resolution, including details of corrective steps or relevant preventative measures.
 - 5.9.4 The Supplier's IT department will be immediately alerted if complaints indicate system errors. HR will be alerted to complaints which indicate training issues. The Contract Manager will be alerted to complaints which indicate widespread or serious issues.
 - 5.9.5 Where complaints are not resolved immediately, the Supplier will provide regular updates to the user, including actions taken and estimated timescale for resolution. If a full response is outstanding after 5 working days, the complaint will be escalated to the Contract Manager.
- 5.10 If a full response is outstanding at 10 working days, or if the complainant remains dissatisfied, the Supplier will escalate the complaint to the Buyer via nhsbsa.crt@nhs.uk.
- 5.11 The Supplier will assist with any investigations and follow guidance from the Buyer. Supplier staff are trained to use the Supplier's internal procedure flowcharts, which will incorporate the Buyer's complaint procedures.
- 5.12 The Supplier acknowledges that the Buyer aims to resolve initial complaints within 10 working days of the date of escalation. If the complainant is unhappy with the resolution provided at this stage, then a formal complaint route will be invoked.
- 5.13 All investigations will be recorded against the user/organization account.
- 5.13.1 The Supplier will use an email ticketing system, with tickets linked to user/organisation accounts and supplemented by admin notes. The ticketing system enforces escalation pathways for complaints, data protection requests or complex queries.
 - 5.13.2 The ticketing system will include a quick-reference knowledge base and adaptable template responses, further supporting efficient working. The Supplier has swift internal processes for authorised staff

to add new templates or automated responses for emerging issues.

- 5.14 The Supplier will report on complaints monthly, including the progress of complaints escalated to the Buyer, or onwards through formal proceedings, ensuring lessons are learned swiftly.
- 5.15 In the event that a Freedom of Information (FOI) request is received by the Buyer and relates to information held by the Supplier on behalf of the Buyer, the Supplier will provide the required information to the Buyer within 5 working days of receipt enabling the Authority to meet statutory timescales.
- 5.16 If an FOI request is received by the Supplier and relates to information held by the Supplier on behalf of the Buyer, the Supplier will provide any required information to the Buyer within 5 working days of receipt enabling the Authority to meet statutory timescales.
- 5.17 When urgent ad-hoc requests arise, for example for Parliamentary Questions, Minister requests and media requests, the Supplier will respond within required timescales, noting a response may be required within two hours.
- 5.18 The Supplier will routinely train all customer-facing staff to provide business continuity, with fully-trained cross-departmental overflow capacity for unusual absences or peaks.
 - 5.18.1 As well as general induction training, the Supplier will ensure that new customer-facing staff receive one-to-one training in the NMRU which includes: an overview of the scheme, eligibility and compliance; demo accounts; and shadowing a helpline colleague. Staff will be initially assigned to handle simple email enquiries, under supervision, with task complexity increasing as they demonstrate competence.
 - 5.18.2 All staff will receive annual refresher training in areas including IT security and data protection. Competency surveys are used to establish the effectiveness of training. The Supplier will also invest in soft skills, ensuring a customer-centred service.
 - 5.18.3 The Supplier will invest in ongoing training and professional development. Performance will be monitored via team leaders and through mid-year and annual appraisals. Staff are recognised through Peer-to-Peer Thanks and instant rewards, helping to ensure high morale which supports the quality of service

6 Fraud and Error Prevention and Detection

- 6.1 The Supplier will deliver an effective claim validation and anti-fraud strategy for the scheme, to reduce instances of incorrect or fraudulent claiming and to recover any associated over-payments.
- 6.2 The Supplier will target audits and validation checks to deter malpractice. The Supplier will implement a robust and continuous approach to audits, with a

Schedule 4 (Tender)

Crown Copyright 2019

proportionate and risk-based review of evidence, focussing on reducing the cost of error and fraud to minimize the financial loss to the public purse.

6.2.1 The Supplier will retain the existing NMRU systems, making use of existing validation alongside enhancements and development to meet the requirements of Schedule 2 (Specification).

6.3 The Supplier shall ensure that there is a clear message to Childcare Settings, Milk Agents and Local Authorities that fraud and corruption is not tolerated within the Scheme.

6.4 Supplier staff are experienced in recognising suspect behaviour and fabricated evidence and new staff will be trained accordingly. The Supplier's culture promotes vigilance, swift escalation and thorough follow-up.

6.5 The Supplier will ensure that the anti-fraud strategy embeds prevention controls within their processes as per the requirements of Schedule 2 (Specification) including:

6.5.1 Comparing attendance data to the Childcare Setting's maximum permitted attendances

6.5.1.1 During registration, Childcare Settings declare: the maximum number of under-1s/under-5s on-site; typical attendance numbers; and opening pattern. Attendance figures entered during claiming are compared to the information provided during registration.

6.5.1.2 Where excessive attendances are entered, Childcare Settings are prevented from submitting the claim.

6.5.2 Enforcing evidence upload

6.5.3 Soft Checks

6.5.3.1 At claim submission, soft checks identify Childcare Settings which are claiming for bank holidays, have unusually stable attendances or appear to run two sessions every day at full occupancy.

6.5.3.2 Childcare Settings breaching the soft checks must check the claim and complete a further declaration, as a deterrent.

6.5.4 Enforcing a quantity cap of 1/3 pint per child (or 200ml in individual cartons)

6.5.4.1 If a Childcare Setting has purchased more milk than justified by the attendances, the Supplier will remove some purchases from the claim. This check applies separately to formula milk and liquid milk. This will be automatically calculated by the system.

6.5.5 Rejecting duplicate receipts

- 6.5.5.1 If a Childcare Setting claims for the same receipt twice, within or between claims, the claim is rejected. Childcare Settings can correct the error and re-submit claims, or provide evidence for manual review by the Supplier.
- 6.5.6 Enforcing a price cap based on an average cost per portion for each claim
 - 6.5.6.1 If the cost per portion is above the cap, the Supplier will ensure the claim is rejected.
 - 6.5.6.2 The Childcare Setting will be permitted one opportunity to correct and re-submit the claim. If the price remains above the cap, the claim is rejected and can only be re-submitted following a manual review of evidence.
 - 6.5.6.3 A custom cap can be established where Childcare Settings demonstrate their actual milk costs are above the default limit.
- 6.5.7 Enforcing a submission deadline of six months
 - 6.5.7.1 Claims will be rejected if submitted after the six month deadline. If any part of the claim is still within six months, the claim can be corrected and re-submitted for that part alone.
- 6.6 The Supplier will ensure that reimbursements are paid only in respect of accurate claims and that Fraud, Abuse and Error are prevented and detected, by using both Pre- and Post-Payment Validation including:
 - 6.6.1 Childcare Settings are not permitted to claim until they have completed registration and passed eligibility checks.
 - 6.6.2 If a Childcare Setting's maximum attendances or opening pattern has changed, they are prompted to provide evidence and their attendance pattern is then updated by the Supplier.
 - 6.6.3 The Supplier will ensure that postal claims will be handled similarly to online claims, capturing the same data and requiring a signed declaration of accuracy.
 - 6.6.3.1 Postal claims will be entered into the system by the Supplier, with automatic validation checks identical to online claimants.
 - 6.6.3.2 Evidence is verified during data entry and all documents will be scanned and uploaded; all activity is recorded through audit logs and online notes.
 - 6.6.4 The Supplier will only accept claims from Milk Agents and Local Authorities which have passed registration checks.

- 6.6.5 When claim files are uploaded by Milk Agents and Local Authorities, rows which are incomplete or incorrectly formatted will be rejected by the Supplier.
- 6.6.6 Milk Agents and Local Authorities will only be permitted to submit claims for Childcare Settings which have chosen the Milk Agent and/or Local Authority, in their online account. Claim lines relating to non-linked Childcare Settings will be rejected.
- 6.6.7 The Supplier will ensure that system controls within the claiming portal prevent:
 - 6.6.7.1 Milk Agents or Local Authorities linking to Childcare Settings on the Childcare Settings' behalf;
 - 6.6.7.2 Childcare Settings being linked to multiple Milk Agents or Local Authorities simultaneously.
 - 6.6.7.3 Childcare Settings claiming as both a Milk Agent or Local Authority Childcare Setting and a self-claimant simultaneously.
 - 6.6.7.4 Milk Agent and Local Authority claims will not be processed if the related Childcare Setting is suspended.
- 6.6.8 Childcare Settings with milk supplied by a Milk Agent or Local Authority are required to independently enter attendances online for each claim, and to declare the accuracy of the claim and their compliance with scheme rules.
 - 6.6.8.1 Milk Agents and Local Authorities cannot enter attendances on behalf of the Childcare Setting within the claim portal. Childcare Settings are reminded that attendance figures should not be shared with, or influenced by, the Milk Agent or Local Authority
 - 6.6.8.2 For each Childcare Setting in the claim file, the number of portions of milk supplied by the Milk Agent or Local Authority will be compared to the number of attendances. The claim amount is capped at the minimum of (a) the price of milk supplied and (b) the volume of milk justified by attendances.
 - 6.6.8.3 The portion cost will be validated against the Milk Agent or Local Authority's registration information and any authorised changes in pricing. Claims which exceed the expected price will be rejected.
 - 6.6.8.4 Milk Agents and/or Local Authorities, and Childcare Settings, will be provided with a clear reason for any rejected claims
- 6.7 The Supplier's anti-fraud strategy includes the following checks:
 - 6.7.1 Registration checks:

- 6.7.1.1 Ofsted/CIW certificates, including cross-checking the Childcare Setting's address.
- 6.7.1.2 For exempt Childcare Settings, confirming that children typically attend for over two hours per day and that exemption criteria are satisfied.
- 6.7.1.3 Checking evidence for Milk Agent or Local Authority registrations (their Terms and Conditions for Childcare Settings, bank details, complaints policy, agreement to rules).
- 6.7.1.4 Modulus-checking bank details.
- 6.7.1.5 Verifying email addresses.
- 6.7.1.6 Preventing duplicate accounts or re-registration of suspended Childcare Settings / barred Milk Agents.
- 6.7.1.7 The system does not permit Childcare Settings to register as both paper and online claimants.
- 6.7.2 Logins:
 - 6.7.2.1 Each user will be given an individual login, so all account activity is individually traceable. The Supplier will routinely log the user's IP address.
 - 6.7.2.2 If a user forgets their password, a reset link is emailed. Supplier staff have no access to create or view user passwords, which are stored encrypted.
- 6.7.3 Inactive accounts:
 - 6.7.3.1 Inactive organisations will be automatically de-registered within two working days of 24 months of inactivity. Their bank details and Ofsted/CIW verification will also be de-activated.
 - 6.7.3.2 On re-activation, the Supplier will ensure verification checks are equivalent to those for new registrations. Inactive user accounts will also be automatically closed.
- 6.7.4 Access controls:
 - 6.7.4.1 If a Childcare Setting has been barred/de-activated, the Supplier will ensure that users cannot login or submit claims.
 - 6.7.4.2 For Childcare Settings under investigation, the Supplier will have the ability to allow claiming but prevent payments, suspend claim submission and prevent login, if required.

6.7.4.3 For Milk Agents and Local Authorities under investigation, the Supplier will have the ability to allow claiming but prevent payments, suspend claim submission, prevent login and prevent Childcare Settings linking to the Milk Agent or Local Authority.

6.7.5 Controls during claiming:

6.7.5.1 CSV files from Agents will only be accepted via online upload, ensuring secure data transfer. Files will be validated during upload.

6.7.5.2 Claim period dates will be system-controlled. Childcare Settings will not be permitted to submit both a self-claim and a Milk Agent or Local Authority claim for any period, or link to different Milk Agents or Local Authorities with overlapping dates.

6.7.5.3 Childcare Settings will only be permitted to enter attendances for dates falling within the claim period, on which the Childcare Setting was open. Childcare Settings must contact the Supplier, with evidence, to vary their opening times and maximum attendances.

6.7.5.4 When Childcare Settings enter purchases, the portion cost will be calculated and displayed on-screen, to prevent mistakes. The price cap will not be communicated to Childcare Settings.

6.7.5.5 Childcare Settings will be encouraged to enter attendances and purchases as they arise, rather than entering details after the claim period. The system will only accept entries up to the current day, preventing Childcare Settings from estimating future entries. Childcare Settings will not be permitted to submit claims until the last day of the period.

6.7.5.6 Part of the Childcare Setting's bank details will be displayed during claim submission; users will need to confirm that the details remain valid.

6.7.5.7 Bank details can only be changed by Childcare Settings, in their online accounts, with Supplier staff having no access. Bank details are modulus-checked on entry. Changes to bank details are confirmed by automated email to the Childcare Setting's primary contact. If a Milk Agent or Local Authority requests a change in bank details, the Supplier will require evidence.

6.7.5.8 Users receive automated email confirmation of any changes to contact details. If an email address is updated, confirmation is sent to the old address and a verification link will be sent to the new address.

6.7.5.9 Procedures are in place to manage changes of nursery ownership, with strict controls to ensure changes to contact details and bank details are only made by authorised personnel, with evidence

requested as necessary.

- 6.7.5.10 All actions for paper-based claimants will be logged, including which member of the Supplier's staff performed the action.
- 6.7.6 All completed claims will be retained by the Supplier, including rejected claims and original versions of claims which have been re-submitted.
- 6.7.7 The Supplier will permit corrections to genuine errors, subject to deadlines and evidence. The system will not allow Childcare Settings to submit repeated corrections or variations, thereby preventing Childcare Settings from manipulating figures to find the maximum possible claim amount. To further prevent this behaviour, the average portion cost will be tracked and Childcare Settings with increasing claims will be prioritised for audit by the Supplier.
- 6.7.8 Claim calculations will be system-driven and subject to unit tests to ensure they remain unchanged.
- 6.7.9 Claims will be automatically added to the organization's ledger. Payments due for each organization will be calculated automatically.
- 6.7.10 Payment files will be system-generated and capped to the daily payment limit. They will be accessed via secure login by Supplier Finance users. Large payments are displayed on-screen for Supplier Finance users to verify when accessing a payment file.
- 6.7.11 Internal controls prevent payment files from being edited. Each file will be checked to confirm the total value, amount of single large payments, number of transactions and processing date are as expected and within prevailing limits. Payment processing will require dual sign-off.
- 6.7.12 Bank details will be re-validated prior to payment, through BACS Bureau software.
- 6.7.13 Prompt action will be taken to resolve any payment errors, following agreed procedures before re-attempting rejected payments, and ensuring any cancellation requests are communicated to the Sponsor correctly and within time limits.
- 6.7.14 The Sponsor will be provided with details of payments for its own records and for audit and accountability.
- 6.7.15 The Supplier will undertake the following activity to ensure user compliance:
 - 6.7.15.1 At each claim submission, users must declare their compliance with NMS eligibility requirements, including session times of at

least 2 hours and the amount and type of milk allowed. Users will declare that they are only claiming for milk delivered under the NMS (not for staff milk or milk used in cooking) and confirm that their claim is accurate. The Supplier will ensure that online messaging communicates that fraud is not tolerated. Childcare Settings will be reminded that fraudulent claiming leads to serious consequences. Users will confirm their identity during the declaration, reinforcing individual responsibility.

6.7.15.2 The Supplier will maintain direct communication with Childcare Settings which are linked to a Milk Agent or Local Authority, to ensure they understand the rules and are not adversely influenced by the Milk Agent or Local Authority.

6.7.15.3 The Supplier will also maintain positive relationships with Milk Agents and Local Authorities, communicating effectively about Scheme rules and compliance.

6.7.15.4 The Supplier will work with Childcare Settings to address errors in claiming and prevent repeated failed claims, providing additional on-screen and email guidance when undesirable claiming behaviour is identified or suspected.

6.8 The Supplier will choose Childcare Settings for audit through randomisation and risk-based factors, using parameter-based sampling to accommodate varying priorities.

6.8.1 The system-integrated end-to-end process will ensure a robust and consistent approach, including: claim selection; evidence review; system-generated correspondence for seeking additional evidence (quoting the setting's NMRU number); retention of correspondence and evidence; claim re-submission; reimbursement calculation; post-audit advice to settings; monitoring reimbursements; reinstating ongoing claiming; and management information. Tasks and timescales will be system-driven.

6.8.2 Online Childcare Setting accounts will show which claims are: accepted; under review; pending re-submission; or re-submitted. Milk Agents and Local Authorities will have visibility of claim statuses for linked Childcare Settings.

6.9 The Supplier will ensure that at least 3% of claims processed each month will be audited; claims will be selected continuously, so each month's audits are completed within the reporting period.

6.10 The Supplier's sampling methodology will ensure appropriate coverage of online and paper self-claimants, alongside Childcare Settings linked to Milk Agents or Local Authorities. Supplier staff can also manually flag Childcare Settings for audit, based on suspect activity or prevailing priorities.

Schedule 4 (Tender)

Crown Copyright 2019

6.11 The Supplier will develop and analyse reports to identify emerging anomalies, patterns and risks.

6.11.1 Sampling will include risks such as:

- 6.11.1.1 High claim value relative to other Childcare Settings
- 6.11.1.2 Very high claim, compared to the Childcare Setting's previous claims
- 6.11.1.3 Consistently increasing claims
- 6.11.1.4 Unusual changes in attendance
- 6.11.1.5 Unusual stability in attendance
- 6.11.1.6 Claiming for bank holidays / school holidays
- 6.11.1.7 Repeated invalid claims
- 6.11.1.8 Slow responses to audits
- 6.11.1.9 Slow re-submission of corrected claims
- 6.11.1.10 Discrepancies identified at previous audits
- 6.11.1.11 Unusual changes in setting details or agent relationship
- 6.11.1.12 Breach of "soft checks"
- 6.11.1.13 No prior audit history
- 6.11.1.14 If Childcare Settings make repeated errors or have been identified as over-claiming, they will be prioritised for future audit.
- 6.11.1.15 If a Childcare Setting has had a significant overpayment, their next claim will also be subject to audit and further audits will occur within agreed timescales.

6.11.2 The Supplier will review uploaded attendance registers during each audit. The Supplier will apply professional judgement, as Childcare Settings are permitted to claim for children who were unexpectedly absent (and therefore not in the register) but should not claim for planned absences or non milk-drinkers. An exact match between the attendance figures entered and daily registers is therefore not expected.

6.11.3 The Supplier will closely monitor attendance during periods when attendance is likely to fall, such as summer holidays or Christmas.

6.11.4 For cost-effective use of time, the Supplier will initially check attendance registers for three randomly selected days from the claim period. If this initial check reveals minor differences which would not have affected the amount payable, manually correcting attendances throughout the claim period would not benefit the public purse. Instead, the Childcare Setting will be flagged by the Supplier as demonstrating poor claiming behaviour, making it more prone to future audit, and the Supplier will provide follow-up corrective guidance by phone or email to the Childcare Setting.

6.11.5 In cases where the initial check of attendances indicates an overpayment, the Supplier will enter corrected attendances for the whole claim period, based on evidence.

6.11.6 In addition to the review of attendance registers, the Supplier will ensure that audits include a periodic review of attendance information from

independent sources, taking a risk-based approach. This will include, for example:

- 6.11.6.1 Reviewing the Childcare Setting's website or Facebook page to verify its capacity, whether it operates multiple sessions per day, and whether it opens during holidays;
- 6.11.6.2 Reviewing Ofsted reports;
- 6.11.6.3 Reviewing whether the setting's site on Google Earth is consistent with the claimed number of children

6.11.7 The Supplier will also re-verify Childcare Settings' Ofsted/CIW status during audits, to supplement information provided in the quarterly data feed from Ofsted

6.12 The Supplier will check that the evidence uploaded for the selected claims is sufficient. If evidence is incomplete or not acceptable, the Supplier will notify the Childcare Setting of the need to upload further evidence. Ongoing claiming will be suspended until evidence is uploaded.

6.12.1 Pre-payment validation will ensure Childcare Settings upload redacted attendance registers to substantiate every claim.

6.12.2 Self-claimants will be required enter line item details of every purchase for which they are seeking reimbursement. For self-claimants, the Supplier will check the uploaded receipts against the purchase information entered. Validation will ensure every purchase line is linked to an uploaded receipt.

6.13 If the Supplier re-opens and corrects a claim at audit, it will then be made read-only and the Childcare Setting will be required to login and re-submit the claim, including declaring its accuracy and compliance. Childcare Settings will be notified of this requirement by email and on-screen. The Supplier will suspend future claim payments until the Childcare Setting has re-submitted the corrected claim.

6.14 Childcare Settings will be permitted to appeal corrections by providing additional evidence. The Supplier will be vigilant to the possibility of additional evidence being fabricated. Following a correction of a claim, Childcare Settings will be provided with follow-up guidance to promote improved behaviour.

6.15 The Supplier will ensure that Childcare Settings, Milk Agents and Local Authorities can view the current status of an investigation and the outcomes of any previous investigations on their online account

6.16 The end-to-end process should include further investigations to request appropriate evidence, such as redacted child registers or invoices/receipts of purchased milk .

6.17 The end-to-end process should include timescales and stages of all correspondence to Childcare Settings, Milk Agents or Local Authorities.

Schedule 4 (Tender)

Crown Copyright 2019

- 6.18 The Supplier will ensure that all correspondence with Childcare Settings, Milk Agents and Local Authorities includes that organization's unique reference number (URN), known as their NMRU number.
- 6.19 The Supplier will ensure that those claims which cannot be substantiated by evidence will be subject to a recovery of the payment made. The Supplier shall monitor and manage the process of the overpayment recovery through the Childcare Settings', Milk Agents' or Local Authority's account.
- 6.19.1 When a claim is re-submitted, the overpayment amount to be reimbursed will create a negative entry in the payment ledger, to be deducted automatically from the next claim.
- 6.19.2 The Supplier will provide regular and meaningful management information to enable the Authority to monitor the volume and efficacy of audits. The reports and audit results will be discussed at review meetings, with a view to continuous refinement and responsiveness to changes in claiming behaviour.
- 6.20 The investigation process should be agreed with the Buyer prior to the Contract Start Date.
- 6.21 The Supplier's default approach will be to automatically offset overpayments against future claims, minimising workload for the Sponsor's Finance team.
- 6.21.1 For substantial overpayments, which would not be covered by a future claim, or where Childcare Settings have ceased claiming, the Childcare Setting will be instructed to make a single repayment to the Sponsor (quoting the NMRU number) or, where necessary, a repayment plan of up to 24 months will be implemented.
- 6.21.2 Repayments will be monitored through the Supplier's systems. If Childcare Settings fail to make the required repayments, the Supplier will chase by email and post. The Supplier will suspend future payments where reimbursement is not forthcoming. The Supplier will escalate persistent non-payers.
- 6.22 The recovery of monies claimed incorrectly through Fraud, Abuse or Error will be arranged by the Supplier on behalf of the Sponsor.
- 6.23 The Supplier will ensure that any correspondence with the Sponsor in relation to overpayment recoveries will include the URN for that Childcare Setting, Milk Agent or Local Authority.
- 6.24 The Supplier acknowledges that any repayment, either through a one off payment or via a repayment plan will be paid directly to the Sponsor's bank account and not to the Supplier.
- 6.25 The Supplier acknowledges that the Buyer will not make any repayments.

Schedule 4 (Tender)

Crown Copyright 2019

- 6.26 The overclaim recovery process should be agreed with the Buyer prior to the Contract Start Date.
- 6.27 The Supplier will ensure that any current claims by Childcare Settings, Milk Agents or Local Authorities will be put on hold until any investigations or overpayment recoveries have been completed.
- 6.28 The Supplier will ensure that any suspected fraud resulting in loss of public funds will be promptly escalated to the Buyer, using the referral form included in Schedule 2 (Specification) and including copies of evidence, correspondence and account notes. The Supplier will create clear and accurate timelines to assist investigations. Supplier staff are familiar with providing witness statements.
- 6.29 Any attempted fraud that has not resulted in a loss to the public purse will not be escalated to the Buyer Loss and Fraud Prevention team.
- 6.30 Escalated fraudulent cases will be accompanied by a referral form, detailed in Schedule 2 (Specification) - Annex 4
- 6.31 The Supplier shall ensure that Childcare Settings, Milk Agents and Local Authorities can view the current status of investigations in their online account and the outcomes of any previous investigations.
- 6.32 The Supplier will use internal fraud prevention measures including: secure individual system logins; role-based access controls; comprehensive system logs; call recordings; and duplicate sign-off for payments.
 - 6.32.1 The Supplier will operate strict recruitment procedures including: DBS checks; references covering the last three years of employment; and extensive evidence of identity. Ongoing vetting rights are included in all employment contracts.
 - 6.32.2 Claim validation is system-driven and customer-facing staff cannot override it. Any system changes by IT will require double sign-off and are captured through version control.
 - 6.32.3 On discovering internal fraud, the Supplier will ensure system access for the relevant employee will be revoked and disciplinary action would commence, including recouping funds and involving external authorities as applicable. The Supplier's monthly reporting will highlight any internal investigations. The Supplier's whistle-blowing procedure supports a culture of accountability.
 - 6.32.4 The Supplier will fully cooperate with any investigations in relation to employees or contract delivery.
- 6.33 Management of errors:
 - 6.33.1 If claimants make an error, the system will allow for controlled corrections, for example by the Supplier unlocking the relevant part of a claim and enabling a re-submission. Corrections to Childcare Setting or

user details, or to previously submitted claims, are recorded in system logs, along with original details. Evidence is requested as appropriate.

6.33.2 Minor internal errors by Supplier staff will be promptly corrected and recorded through internal non-conformance procedures. Trends and underlying causes will be identified and addressed through ISO9001 arrangements. Any significant internal error will be escalated to the Contract Manager and discussed promptly with the Buyer, with a proposal for effective remediation.

7 Reporting

7.1 The Supplier will provide Buyer representatives with secure online accounts, where the reports specified in Schedule 10 (Service Levels) will be available for secure download within the specified timescales. If preferred by the Buyer, password-protected reports can be emailed to Buyer representatives. Additional information to substantiate reports will be readily available.

7.2 The Supplier's system will automatically capture data for management and financial reporting, with built-in validation and logical structures to facilitate meaningful, accurate outputs, including the reports detailed in the Schedule 8 (Implementation Plan).

7.3 For ad-hoc reports, the Supplier will provide access to an online dashboard, showing real-time information from the NMRU database.

7.3.1 Live data from the Supplier's phone and email systems will be integrated as far as practicable and the Supplier will otherwise provide snapshots to the Buyer on request.

7.3.2 The Supplier will generate ad-hoc reports and analysis of emerging issues, ensuring informative, unbiased and consistent results. If new complex reports are requested, the Supplier will agree development timescales and report on progress, including agreeing testing and sign-off.

7.4 The Supplier will have a defined and achievable approach to management information, data collation, analysis and reporting.

The Supplier will pro-actively meet the Buyer's audit requirements, such as routinely sampling payment data. The Supplier will welcome auditors, fraud prevention agencies and Buyer staff on-site.

8 Technical Interfaces

8.1 The Supplier will retain the existing system (web portal, back-end administration and database), and website (at www.nurserymilk.co.uk) suitably upgraded before go-live to meet all specified requirements, standards and non-functional requirements.

Schedule 4 (Tender)

Crown Copyright 2019

8.2 The Supplier acknowledges the minimum requirements to run the system as detailed in Schedule 2 (Specification).

8.2.1 The NMRU service is cloud-based. The code utilises open source frameworks and best practice coding standards.

8.3 The Supplier will ensure that the system is able to store mandatory uploaded evidence for every claim received, such as financial receipts, invoices, and redacted child register information, for the required retention period of 7 years from receipt of the information. The system will provide reliable and accessible document storage, with automatically expanding capacity to cover retention requirements.

8.4 The Supplier acknowledges that the storage of evidence will be to assist with any current or future investigations by the Supplier and Buyer, and/or prosecution by the Buyer.

8.4.1 Childcare Settings will be required to upload a receipt/invoice covering each purchase, as a deterrent against entering unsubstantiated purchases.

8.4.2 Each receipt will be linked to the relevant purchase lines, facilitating verification and preventing errors.

8.4.3 The Supplier will encourage Childcare Settings to enter purchases and upload receipts in real-time, throughout the claim period.

8.4.4 Childcare Settings will be required to upload attendance registers covering the whole claim period, with weekly uploads encouraged. The upload facility will allow settings to link registers to a particular week, for easier verification.

8.4.5 Clear on-screen messaging, with a visual example, will advise Childcare Settings to redact children's names. Users will be required to confirm they have applied redaction prior to the upload proceeding.

8.4.6 The system will not allow claim submission until evidence has been uploaded. On-screen messages will remind Childcare Settings to upload evidence.

8.4.7 The system will restrict uploads to the permitted formats: PDF, JPEG, Word, Excel, or CSV. Each upload will be limited to 20MB.

8.4.8 The storage capacity is unlimited, facilitating retention for 7 years.

8.4.9 Uploaded files are stored securely at the London-based AWS S3 "bucket", leveraging Amazon's resilience.

8.4.10 Files will be stored with unique names, which are recorded alongside the upload date in the NMRU database. They will be accessible read-only through the online user and admin accounts.

Schedule 4 (Tender)

Crown Copyright 2019

- 8.5 Files will be automatically deleted after 7 years unless the Childcare Setting/claim is under investigation. The deletion date of each file will be stored for auditing.
- 8.6 The Supplier system will be required to meet the Buyer's Non-Functional Requirements, as detailed in Schedule 2 (Specification) - Annex 5
- 8.7 The Supplier will commission a multi-master cluster of three dedicated servers from Platform.sh for the NMRU, all running the website code and with continually replicated databases, providing resilience and limiting the risk of data loss in a disaster. The website host provides a 99.99% uptime guarantee.
- 8.8 The portal will be available 24/7, at least 99% of the time, except for scheduled pre-agreed maintenance which will ordinarily occur outside core hours.
- 8.8.1 The Supplier will monitor the site 24/7 and key staff will receive alerts of any downtime, enabling issues to be investigated and rectified promptly. The Supplier will maintain a priority support package with Platform.sh.
- 8.9 The Supplier will ensure rectification of unscheduled downtime within the five hour limit.
- 8.10 The Supplier shall ensure that any instances of downtime of the website are reported to the Buyer within four hours, along with an action plan for resolution.
- 8.11 The web portal will offer secure login facilities and other security features to minimize security risks. The Supplier shall be compliant as a minimum with ISO 27001 and/or Cyber Essentials .
- 8.12 The portal will require users to reconfirm their eligibility and compliance with the rules of the NMS at each claim submission.
- 8.13 The web portal and website will comply with the standards set out in the Government's "Digital by Default" service standards and accessibility standards and should be AA accessibility compliant as defined by the W3C Web Content Accessibility guidelines (WCAG) 2.1.
- 8.13.1 The Supplier will upgrade the service to meet level AA of the WCAG standards, demonstrating that the site meets the requirement to be perceivable, operable, understandable, and robust. The Supplier will ensure:
- 8.13.1.1 Consistent navigation, providing navigational choices and intuitive process flows;
Maintenance of high standards of HTML, including start/end tags, alternative text for images, correct use of headings, line and paragraph spacing, and page structure which can be interpreted programmatically;
- 8.13.1.2 Plain English instructions, clear links and headings, with instructions not reliant on sensory cues (e.g. colour);

- 8.13.1.3 Clearly defined data fields, with clear validation and error prevention;
- 8.13.1.4 Options to complete data fields using only a keyboard, with no keyboard 'traps'.
- 8.13.2 The Supplier will test compatibility with the specified assistive technologies / browsers and implement changes as necessary before demonstrating compatibility to the Buyer.
- 8.13.3 A pre-approved accessibility statement will be added to the website. The Supplier will ensure the site remains accessible throughout the contract, including following any post-implementation changes.
- 8.13.4 The Supplier will be mindful of the Government's Technology Code of Practice and will employ best practice.
- 8.13.5 The Supplier will adopt a user-focussed approach, understanding user needs, providing a simple, intuitive, complete solution and offering a joined-up service across support channels. The Supplier will undertake user research and invite user feedback.
- 8.14 As part of the Government Digital Service (GDS), the system will be compatible with the following combinations of assistive technologies and browsers:
 - 8.14.1 JAWS (desktop reader) v.18 or later with Chrome browser (latest version)
 - 8.14.2 NVDA (desktop screen reader) latest version with Firefox browser (latest version)
 - 8.14.3 Voiceover on IOS (mobile screen reader – latest version) with Safari browser (version 12 or later)
 - 8.14.4 Talkback (mobile screen reader) latest version with Chrome browser (latest version)
 - 8.14.5 Windows Magnifier or Apple Zoom (screen magnifiers)
 - 8.14.6 Dragon (speech recognition)
- 8.15 The website and web portal will work across all modern browsers including Google Chrome, Microsoft Edge and Safari.
- 8.16 The Supplier will use browser testing software and will ensure the portal operates across all modern browsers, on standard devices and operating systems, with a responsive design for access via mobiles, tablets and other standard screens.
- 8.17 The Supplier will ensure a 'contact us' form is available online, along with details of the freephone helpline and email helpdesk for Childcare Settings, Milk Agents and Local Authorities.
- 8.18 The portal will enforce segregated roles for Childcare Settings, Milk Agents, Local Authorities and administrators, with secure individual logins for every user.

Schedule 4 (Tender)

Crown Copyright 2019

8.19 Users from Childcare Settings can: register the setting; update user/setting details; invite other authorised representatives to register; switch between settings which they manage; make permitted changes, such as moving to a different Milk Agent; view secure messages; enter claims; upload evidence; review previous claims; make authorised corrections; and review payments.

8.19.1 Milk Agent and Local Authority users can: review registration details; invite authorised representatives to register; view secure messages; upload claim files; review claim progress; make authorised corrections; review payments; and view/download bulk information for reconciliation with their records

8.20 Administrators will receive segregated and limited access as appropriate to their role/seniority. Access to payment files is restricted to authorised Finance users.

8.20.1 All administrators can: search for Childcare Settings/users and access information for customer support; flag suspect Childcare Settings for audit; add notes to an account; and report performance issues.

8.20.2 Enforced password complexity and regular password changes add security to admin accounts. Audit logs ensure actions taken by administrators are traceable to the individual.

8.20.3 Parameterised settings can be amended by authorised administrators; e.g. the maximum portion cost for a setting can be amended following an evidence review. Changes to broader system settings and user functionality is rigorously controlled and restricted to IT administrators, with dual sign-off.

8.21 The Supplier will not be required to migrate any data.

8.22 The Supplier will ensure that the General Data Protection Regulation (GDPR) is adhered to, per Schedule 11.

8.22.1 The Supplier's in-house developers are experienced in database design, system integrity, privacy and security. Best practice data design applies throughout, including: primary keys, indexation, logical data separation, input validation, audit trails (time, person, action), encryption, soft deletion, and maintaining history. Data is stored in an appropriate format, e.g. monetary values are stored as GBP, to 2 decimal places.

8.22.2 The Supplier's systems allow data to be accessed securely and with traceability, presenting data in read-only or writable format as appropriate and preventing data corruption. Data is easily extracted via: on-screen views and downloads; well-defined and tested reporting functionality; and read-only database queries performed by authorised personnel.

Schedule 4 (Tender)

Crown Copyright 2019

8.22.3 Anonymised data and test sets are used during development. All code is subject to internal review and testing, and re-tested in staging before being used with live data.

8.22.4 The NMRU database will be backed-up several times daily with cloud-based and on-site copies. Files in the AWS document store are read-only, with multiple back-up replication. Internal files and call recordings are backed-up daily, on-site and off-site

8.23 The Supplier will ensure that the following interface requirements are met:

8.23.1 The system can load a page in the application within 5 seconds clicking the link or button.

8.23.2 The interface can respond to a simple action e.g., navigating the system, within 5 seconds.

8.23.3 The interface can respond to a complex action performed by the user e.g., running reports or calculations, within 5 seconds.

8.23.4 The Childcare Setting, Milk Agent or Local Buyer can log in to the system within 5 seconds.

8.23.5 New development will not be allowed to increase the minimum system operating requirements for users, nor to adversely affect page response times.

9 Management

9.1 The Supplier will build good relationships with Childcare Settings, Milk Agents, Local Authorities and the Buyer.

9.1.1 The Supplier will assign an experienced Contract Manager to the service, as well as an experienced Deputy who will be assigned for absence cover. Day-to-day issues can be raised with the Contract Manager or, if preferred, discussed with senior contacts in Customer Services or Finance.

9.1.2 The Supplier's Contract Manager will regularly seek Buyer feedback, noting areas for continuous improvement. They will work closely with Supplier colleagues, remaining fully informed about day-to-day operations and ensuring feedback reaches relevant personnel. The Supplier Contract Manager will be notified of emerging issues and will manage escalation.

9.1.3 The Supplier will notify the Buyer promptly of any changes to key personnel. Staff who are assigned to NMRU responsibilities will not be re-deployed without agreement.

Schedule 4 (Tender)

Crown Copyright 2019

- 9.1.4 The Supplier Contract Manager will address any Buyer complaints as priority. Complaints which remain unresolved after three working days will be escalated to Supplier management.
- 9.1.5 Serious issues and complaints remaining unresolved after five working days will be escalated to a Supplier Director.
- 9.1.6 The Buyer will be provided with contact details covering all points of escalation.
- 9.2 The Supplier will comply with the specified KPIs and reportable measures detailed in Schedule 10 (Service Levels), providing monthly performance reports as required.
 - 9.2.1 The Supplier will strive to maintain the highest standards; however, if service credits apply, the Supplier will reliably reflect these in invoices.
 - 9.2.2 During the implementation period, the Supplier will provide template KPI reports and invite feedback from the Buyer.
 - 9.2.3 The Supplier will monitor call and email volumes and response times in weekly meetings, with customer-facing staff monitoring statistics in real-time to facilitate swift reactions. Website performance is monitored 24/7, with IT staff being alerted to any issues.
 - 9.2.4 The Supplier will promote a culture of support and accountability, encouraging staff to anticipate risks, welcoming suggestions and rewarding improvements.
 - 9.2.5 The Supplier's documented operational processes will be reviewed for accuracy and efficiency via half-yearly internal audits and BSI audits, which cover staff training and knowledge, resources, development and day-to-day operations.
- 9.3 A quarterly Operational Board will take place between the Buyer and Supplier representatives as per Schedule 13 (Contract Management). The Supplier will provide meaningful information to the quarterly Operational Boards, including discussing the specified agenda items through an open, partnership approach. The Supplier will circulate minutes and action logs after each meeting, routinely seeking formal agreement from the Buyer.
- 9.4 The Supplier will highlight emerging issues, insights, lessons learned and continuous improvement suggestions to the Buyer. The Supplier will pro-actively share: insurance certificates; company accounts; penetration test and accessibility results; and ISO9001, ISO27001 and BACS Bureau reports
- 9.5 Supplier representatives will be available to attend ad-hoc meetings, as and when required by the Buyer. The Buyer will provide reasonable notice and flexible timing of such meetings, as well as remote methods of participation e.g., Microsoft Teams, where possible.

- 9.6 The Supplier will run surveys via online accounts to gather specific feedback from Childcare Settings, Milk Agents and Local Authorities, to allow the Buyer to gather feedback about the NMRU Service.

10 Security

- 10.1 The Supplier will follow cyber security design principles guidelines as set out by the National Cyber Security Council (NCSC) (WWW.NCSC.GOV.UK).
- 10.2 As part of this requirement, the Supplier will ensure the following requirements are met:
- 10.2.1 Ensure the system provides a transparent audit trail of all user activities, including create, update, delete, view, which can be reported on an interrogated by the Buyer
 - 10.2.2 Audit functionality must be documented and accessible to an end user who has the ability to view audit information.
 - 10.2.3 All planned outages must be agreed in advance by all parties.
 - 10.2.4 The system is available and functioning for 99% of the time during a standard year.
 - 10.2.5 Any upgrade schedules are agreed in advance by all parties, at least 4 weeks in advance.
 - 10.2.6 Mean time to recovery (information unavailable) of 1 day. This is the average time it takes to recover from a system failure where some information is not available but not all of the system is affected.
 - 10.2.7 Have a Recovery Point Objective (RPO) restore time of 12 hours. As a minimum, full backups are taken every 12 hours and a minimum of weekly testing of backups is completed.
 - 10.2.8 Have a Recovery Time Objective (RTO) backup time of 12 hours. The maximum time to recover the system from a service disruption does not exceed 12 hours.
 - 10.2.9 Mean time to recovery (system down) of 12 hours. This is the average time it takes to recover from a system failure where the entire system is down.
- 10.3 Representatives from the Buyer will have secure online user accounts, providing access to management information and audit logs (subject to permissions).

Schedule 4 (Tender)

Crown Copyright 2019

- 10.3.1 All key events are captured at user, organisation and system level, with alerts in place as appropriate.
- 10.3.2 Users with audit rights can interrogate user and organisation activity, including viewing claims, payments, communication logs and evidence.
- 10.4 The Supplier will be registered with the ICO and experienced in processing sensitive information, with appropriate identification, categorisation, access controls and permissions in place (including auditor / administrator roles).
 - 10.4.1 A GDPR-compliant DPIA will be conducted during the implementation period and agreed with the Authority. The DPIA will be reviewed annually.
 - 10.4.2 Record management and document control will be included within the Supplier's ISO9001 procedures and verified through internal and external audits. All internal processes are documented and audited.
 - 10.4.3 The Supplier's culture encourages staff to maintain high typographical standards, rectify mistakes and investigate anomalies. A paper-free approach, time-stamped data entries and version controlling prevent out-of-date data/documents being used.
 - 10.4.4 Staff will receive annual GDPR training, including statutory response times, avoiding inappropriate processing and maintaining good practice. Additional training will be provided to remote workers, ensuring privacy is maintained. Remote workers will have no facility to connect to home printers, avoiding confidential information being inadvertently shared.
 - 10.4.5 Staff who become aware of unredacted children's data will delete it and notify the Childcare Setting. Evidence to substantiate claims will not be accepted by email; instead, Childcare Settings will be required to upload evidence, ensuring secure transfer.
 - 10.4.6 The Supplier's management procedures ensure contracts cover GDPR, including clearly defined controller/processor responsibilities, onward supply chain responsibilities and geographical restrictions.
 - 10.4.7 The Supplier's websites will display GDPR compliant privacy notices.
 - 10.4.8 The Supplier's system enhancements will ensure the system fully supports subject access requests, right to be forgotten, rectification of data errors, restrictions or objections to processing, and automated retention periods.

Schedule 4 (Tender)

Crown Copyright 2019

- 10.4.9 The Supplier understands the complexity of GDPR compliance and will plan accordingly, including allowing for non-essential data to be removed on request and essential data to be removed only after mandatory retention periods. The Supplier will communicate clearly with users, explaining the action taken and timescales for further action.
- 10.4.10 Supplier Staff will be trained to recognise data protection requests, with escalation through established procedures.
- 10.5 The Supplier will follow cloud security guidelines as set out by the National Cyber Security Council (NCSC). As part of this the Supplier must ensure all sensitive data must be encrypted in transit using at least TLS 1.2 standard. All sensitive data must all also be encrypted at rest using a minimum of AES-256 standard.
- 10.6 The Supplier will ensure that passwords are encrypted and stored securely, with regular enforced updates for admin users.
- 10.7 In accordance with the non-functional requirements in Schedule 2 (Specification), all sensitive data will be encrypted at rest and in transit.
- 10.8 The Supplier will hold ISO9001, Cyber Essentials and BACS Bureau accreditation and will operate in accordance with ISO27001. The Supplier will provide evidence of controls on request, including offering site visits.

11 Social Value

- 11.1 In line with the Social Value Model set out in Procurement Policy Note 06/20, the Supplier will ensure that in delivering this service, workforce inequality is addressed, equal employment opportunities are provided and workforce wellbeing is promoted
 - 11.1.1 The Supplier will develop and administer staff wellbeing packages, financial education and reward programs for clients and provide benefits to Supplier staff, including healthcare, gym discounts, a financial, legal and wellbeing helpline and qualifications via salary sacrifice.
 - 11.1.2 The Supplier will donate at least 5% of profit to charity, promote grass-roots fundraising by staff and clients and offset their carbon footprint by donations to wildlife trusts.

Schedule 4 (Tender)

Crown Copyright 2019

- 11.1.3 Supplier staff shall receive a paid day of annually to volunteer.
- 11.1.4 Supplier staff shall have a monthly opportunity to nominate a charity for a £250 donation via our payday prize-draw
- 11.1.5 The Supplier will use solar energy and energy-efficient lighting, promote paper-free working, encourage recycling and provide electric vehicle charging on-site.
- 11.1.6 The Supplier will routinely check that there is no bias between full-time/part-time workers, or by gender within each role/department.
- 11.1.7 The Supplier will support flexible working, including remote-working, part-time hours, term-time hours, sabbaticals and annual leave purchase schemes.
- 11.1.8 The Supplier will make adaptations to ensure operations and premises are neurodiversity-friendly
- 11.1.9 The Supplier will invest in removing inequalities associated with neurodiversity and disability, providing opportunities for young people to achieve qualifications, access further and higher education, and benefit from work experience.
- 11.1.10 The Supplier may propose to signpost equality issues, access to training and employment advice in online user accounts, subject to approval from the Buyer.
- 11.1.11 The Supplier will ensure no discrimination in recruitment procedures, secondments or promotions, including supporting flexible working to ensure staff with family commitments are not prevented from career progression. The Supplier will welcome applications from people with disabilities and other protected characteristics.
- 11.1.12 The Supplier will offer training and professional development opportunities, including company-funded training, qualifications through salary sacrifice, allocation of working time for upskilling, and internal secondments.
- 11.1.13 Supplier staff will undertake annual and mid-year appraisals.
- 11.1.14 The Supplier will invest in robust software, systems, and procedures, facilitating work satisfaction and minimizing staff frustration.

- 11.1.15 The Supplier will support staff mental health, offering training, keeping in touch with remote workers and organizing events. The Supplier will provide extended HR support to staff experiencing gender, health, and relationship issues, including mental ill-health.
 - 11.1.16 In the event of staff gender transition, the Supplier will facilitate workplace changes at a pace and in a manner chosen by the individual, including supporting client interactions, updating systems with their name and gender, consistently using preferred identity pronouns, and maintaining existing individual unisex washrooms.
 - 11.1.17 The Supplier will monitor engagement indicators at least half-yearly, including retention and turnover, absences, attendance at company socials, HR surveys, feedback from employee appraisals, and quality performance KPIs which indicate staff commitment. Staff feedback will be invited and taken seriously.
 - 11.1.18 Wherever possible, any issues arising are resolved in collaboration with relevant staff, by inviting suggestions, offering choices, and listening carefully to illuminate root causes. The Supplier will commit to resolving issues by allocating budget and implementing procedural change as necessary, with progress reported in inter-departmental meetings or, for confidential matters, through supervisory channels.
- 11.2 The Supplier will report progress against Social Value activities to the monthly Performance Insight Management Board, including the following:
- 11.2.1 existing or planned inclusive and accessible recruitment practice
 - 11.2.2 identifying, tackling, and managing inequality in employment, skills and pay in the Supplier workforce
 - 11.2.3 reporting on, and improving Supplier workforce wellbeing
 - 11.2.4 staff engagement practices and feedback; and
 - 11.2.5 identifying, addressing and acting on any issues identified

Schedule 5 (Commercially Sensitive Information)

1. What is the Commercially Sensitive Information?

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

No.	Date	Item(s)	Duration of Confidentiality
1.	07/01/2022	Financial Model (Schedule 3 – Charges)	Contract Term

Schedule 6 (Transparency Reports)

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in the Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

Annex A: List of Transparency Reports

Title	Content	Format	Frequency
Project Santiago Report	Performance of the top three KPIs and Social Value KPI as detailed in Schedule 10 (Service Levels)	Excel	Quarterly

The content, format and frequency of the Transparency Reports will be agreed in writing between the Supplier and the Buyer and may include areas set out above

Schedule 7 (Staff Transfer)

If there is a staff transfer from the former/incumbent Supplier on entry (2nd generation), Part B shall apply.

If Part B applies, the Buyer shall indicate on the Award Form which Annex shall apply (either D1 (CSPS), D2 (NHSPS), or D3 (LGPS)). Part D pensions may also apply where there is not a TUPE transfer for example where the incumbent Supplier is successful.

If there is no staff transfer at the Start Date then Part C shall apply and Part D pensions may also apply where there is not a TUPE transfer for example where the incumbent Supplier is successful.

If the position on staff transfers is not known at the bid stage, the Buyer shall include Parts B, C and D at the bid stage and then update the Contract Details before signing to specify whether Parts B, C and/or D apply to the Contract.

Part E (dealing with staff transfer on exit) shall apply to every Contract.

1. Definitions

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

"Employee Liability"	<p>all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:</p> <ul style="list-style-type: none">a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;b) unfair, wrongful and/or constructive dismissal compensation;c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and/or maternity or sexual orientation or claims for equal pay;d) compensation for less favourable treatment of part-time workers and/or fixed term employees;e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments
-----------------------------	--

made by the Buyer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Sub-contractor if such payment should have been made prior to the Service Transfer Date and also including any payments arising in respect of pensions;

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

any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

"Former Supplier"

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

"Partial Termination"

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

"Relevant Transfer"

a transfer of employment to which the Employment Regulations applies;

"Relevant Transfer Date"

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

"Supplier's Final Supplier Personnel List"

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

"Supplier's Provisional Supplier Personnel List"

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

"Staffing Information"

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

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

the identity of the employer or relevant contracting Party;

- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries, bonuses and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) details of any grievance, disciplinary and/or investigation(s) being undertaken;
- (j) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and

	(k) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;
"Term"	the period commencing on the Start Date and ending on the expiry of the Initial Period or any Extension Period or on earlier termination of the relevant Contract;
"Transferring Buyer Employees"	those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Supplier on or prior to the Relevant Transfer Date;
"Transferring Former Supplier Employees"	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Supplier on or prior to the Relevant Transfer Date.

2. INTERPRETATION

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

3. Which parts of this Schedule apply

As set out at the start of this document, if the position on staff transfers is not known at the bid stage, the Buyer shall include Parts B, C and D at the bid stage and then update the Contract Details before signing to specify whether Parts B, C and/or D, together with which Annexes, apply to the Contract.

The Buyer therefore asserts that, at this time, the following parts of this Schedule shall apply to this Contract, and as well as the Buyer continuing to undertake its own due diligence in order to satisfy itself on the position of staff transfers, it will be for the tendering Suppliers to take their own legal advice and undertake their own due diligence.

- Part B (Staff Transfer At Start Date – Transfer From Former Supplier)
- Part C (No Staff Transfer On Start Date)
- Part D (Pensions)
 - Annex D1 (CSPS)
 - Annex D2 (NHSPS)
 - Annex D3 (LGPS)

- Part E (Staff Transfer on Exit)

1. PART B: STAFF TRANSFER AT THE START DATE

TRANSFER FROM A FORMER SUPPLIER ON RE-PROCUREMENT

1. What is a relevant transfer

1.1 The Buyer and the Supplier agree that:

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

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

2. Indemnities given by the Former Supplier

- 2.1** Subject to Paragraph 2.2, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Sub-contractor against any Employee Liabilities arising from or as a result of any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;
- 2.2** The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date.
- 2.3** Subject to Paragraphs 2.4 and 2.5, if any employee of a Former Supplier who is not identified as a Transferring Former Supplier Employee and claims, and/or it is determined, in relation to such person that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-contractor pursuant to the Employment Regulations then:
 - 2.3.1** the Supplier will within 5 Working Days of becoming aware of that fact notify the Buyer and the relevant Former Supplier in writing;

Schedule 7 (Staff Transfer)

Crown Copyright 2019

- 2.3.2 the Former Supplier may offer employment to such person, or take such other steps as it considers appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;
- 2.3.3 if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;
- 2.3.4 if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

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

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

- 2.4.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of the Supplier and/or any Sub-contractor; or
- 2.4.2 that the termination of employment was unfair because the Supplier and/or Sub-contractor neglected to follow a fair dismissal procedure.

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

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

3. Indemnities the Supplier must give and its obligations

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

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

Former Supplier's failure to comply with its obligations under the Employment Regulations.

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

4. Information the Supplier must give

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

5. Cabinet Office requirements

- 5.1 The Supplier shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Former Supplier Employee as set down in (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007; (ii) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999; (iii) HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or (iv) the New Fair Deal.
- 5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Change Control Procedure.

6. Limits on the Former Supplier's obligations

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

7. Pensions

- 7.1 The Supplier shall comply with:

- 7.1.1 all statutory pension obligations in respect of all Transferring Former Supplier Employees; and
- 7.1.2 the provisions in Part D: Pensions.

PART C: NO STAFF TRANSFER ON THE START DATE

1. What happens if there is a staff transfer

- 1.1 The Buyer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Buyer and/or any Former Supplier.
- 1.2 Subject to Paragraphs 1.3, 1.4 and 1.5, if any employee of the Buyer and/or a Former Supplier claims, or it is determined in relation to any employee of the Buyer and/or a Former Supplier, that his/her contract of employment has been transferred from the Buyer and/or the Former Supplier to the Supplier and/or any Sub-contractor pursuant to the Employment Regulations then:
- 1.2.1 the Supplier will, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing;
 - 1.2.2 the Buyer may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;
 - 1.2.3 if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;
 - 1.2.4 if after the period referred to in Paragraph 1.2.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;
- and subject to the Supplier's compliance with Paragraphs 1.2.1 to 1.2.4:
- (a) the Buyer will indemnify the Supplier and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2; and
 - (b) the Buyer will procure that the Former Supplier indemnifies the Supplier and/or any Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2.
- 1.3 The indemnities in Paragraph 1.2 shall not apply to any claim:
- 1.3.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or Sub-contractor; or
 - 1.3.2 any claim that the termination of employment was unfair because the Supplier and/or any Sub-contractor neglected to follow a fair dismissal procedure

Schedule 7 (Staff Transfer)

Crown Copyright 2019

- 1.4 The indemnities in Paragraph 1.2 shall not apply to any termination of employment occurring later than 3 Months from the Start Date.
- 1.5 If the Supplier and/or the Sub-contractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Sub-contractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-contractor.

2. Limits on the Former Supplier's obligations

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

2. PART D: PENSIONS

1. Definitions

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

"Actuary"	a Fellow of the Institute and Faculty of Actuaries;
"Admission Agreement"	means either or both of the CSPA Admission Agreement (as defined in Annex D1: CSPA) or the LGPS Admission Agreement) as defined in Annex D3: LGPS), as the context requires;
"Broadly Comparable"	<p>(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and</p> <p>(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,</p> <p>and "Broad Comparability" shall be construed accordingly;</p>
"CSPA"	the schemes as defined in Annex D1 to this Part D;
"Fair Deal Employees"	<p>those:</p> <p>(a) Transferring Buyer Employees; and/or</p> <p>(b) Transferring Former Supplier Employees; and/or</p> <p>(c) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Sub-contractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.3.4 of B or</p>

Paragraph 1.2.4 of Part C;

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

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

"Fair Deal Schemes"	means the relevant Statutory Scheme or a Broadly Comparable pension scheme;
"Fund Actuary"	means Fund Actuary as defined in Annex D3 to this Part D;
"LGPS"	the schemes as defined in Annex D3 to this Part D;
"NHSPS"	the schemes as defined in Annex D2 to this Part D;
"New Fair Deal"	the revised Fair Deal position set out in the HM Treasury guidance: <i>"Fair Deal for Staff Pensions: Staff Transfer from Central Government"</i> issued in October 2013 including: <ul style="list-style-type: none"> (a) any amendments to that document immediately prior to the Relevant Transfer Date; and (b) any similar pension protection in accordance with the subsequent Annex D1-D3 inclusive as notified to the Supplier by the CCS or Buyer; and
"Statutory Schemes"	means the CSPA, NHSPS or LGPS.

2. Supplier obligations to participate in the pension schemes

- 2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPA, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.
- 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
- 2.3 The Supplier undertakes:
 - 2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and

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

3. Supplier obligation to provide information

3.1 The Supplier undertakes to the Buyer:

- 3.1.1 to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and
- 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed).

4. Indemnities the Supplier must give

- 4.1 The Supplier undertakes to the Buyer to indemnify and keep indemnified NHS Pensions, the Buyer and/or any Replacement Supplier and/or any Replacement Sub-contractor on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Supplier of this Part D, and/or the CSPA Admission Agreement and/or the Direction Letter and/or the LGPS Admission Agreement or relates to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Fair Deal Schemes.
- 4.2 The Supplier hereby indemnifies the NHS Pensions, the Buyer and/or any Replacement Supplier and/or Replacement Sub-contractor from and against all Losses suffered or incurred by it or them which arise from claims by Fair Deal Employees of the Supplier and/or of any Sub-contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:
 - 4.2.1 relate to pension rights in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract; or
 - 4.2.2 arise out of the failure of the Supplier and/or any relevant Sub-contractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract.
- 4.3 The indemnities in this Part D and its Annexes:
 - 4.3.1 shall survive termination of this Contract; and
 - 4.3.2 shall not be affected by the caps on liability contained in Clause 11 (How much you can be held responsible for).

5. What happens if there is a dispute

- 5.1 The Dispute Resolution Procedure will not apply to this Part D and any dispute between the Buyer and the Supplier or between their respective actuaries or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the Buyer and the Supplier be referred to an independent Actuary:
- 5.1.1 who will act as an expert and not as an arbitrator;
 - 5.1.2 whose decision will be final and binding on the Buyer and the Supplier; and
 - 5.1.3 whose expenses shall be borne equally by the CCS and/or the Buyer and the Supplier unless the independent Actuary shall otherwise direct.

6. Other people's rights

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

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

- 7.1 The Supplier agrees to notify the Buyer should it breach any obligations it has under this Part D and agrees that the Buyer shall be entitled to terminate its Contract for material Default in the event that the Supplier:
- 7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or
 - 7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the breach and requiring the Supplier to remedy it.

8. Transferring New Fair Deal Employees

- 8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under the Employment Regulations) the Supplier shall and shall procure that any relevant Sub-Contractor shall:
- 8.1.1 consult with and inform those Fair Deal Employees of the pension provisions relating to that transfer; and
 - 8.1.2 procure that the employer to which the Fair Deal Employees are transferred (the "**New Employer**") complies with the provisions of

this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Employees so transferred to the New Employer.

9. What happens to pensions if this Contract ends

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

10. Broadly Comparable Pension Schemes

10.1 If either:

- 10.1.1 the terms of any of Paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and or 4 of Annex D3: LGPS apply; and/or
- 10.1.2 the Buyer agrees, having considered the exceptional cases provided for in New Fair Deal, (such agreement not to be unreasonably withheld) that the Supplier (and/or its Sub-contractors, if any) need not continue to provide the Fair Deal Employees, who continue to qualify for Fair Deal Protection, with access to the appropriate Statutory Scheme;

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

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

- 10.2.1 supply to the Buyer details of its (or its Sub-contractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability covering all relevant Fair Deal Employees, as soon as it is able to do so and in any event no later than 28 days before the Relevant Transfer Date;
- 10.2.2 fully fund any such Broadly Comparable pension scheme in accordance with the funding requirements set by that Broadly Comparable pension scheme's Actuary or by the Government Actuary's Department for the period ending on the Service Transfer Date;
- 10.2.3 instruct any such Broadly Comparable pension scheme's Actuary to, and to provide all such co-operation and assistance in respect of any such Broadly Comparable pension scheme as the Replacement Supplier and/or NHS Pension and/or CSPA and/or the relevant Administering Authority and/or the Buyer may

- reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;
- 10.2.4 provide a replacement Broadly Comparable pension scheme with immediate effect for those Fair Deal Employees who are still employed by the Supplier and/or relevant Sub-contractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Sub-contractor's Broadly Comparable pension scheme is terminated;
- 10.2.5 allow and make all necessary arrangements to effect, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the relevant Statutory Scheme and as is relevant on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal. For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the appropriate Statutory Scheme to fund day for day service ("**Shortfall**"), the Supplier or the Sub-contractor (as agreed between them) must pay the Statutory Scheme, as required, provided that in the absence of any agreement between the Supplier and any Sub-contractor, the Shortfall shall be paid by the Supplier; and
- 10.2.6 indemnify the Buyer and/or NHS Pension and/or CSPA and/or the relevant Administering Authority and/or on demand for any failure to pay the Shortfall as required under Paragraph 10.2.5 above.

Annex D1:

Civil Service Pensions Schemes (CSPS)

1. Definitions

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

"CSPS Admission Agreement"	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services;
"CSPS Eligible Employee"	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the CSPS Admission Agreement;
"CSPS"	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

2. Access to equivalent pension schemes after transfer

- 2.1 The Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the CSPS for service from (and including) the Relevant Transfer Date.
- 2.2 The Supplier undertakes that should it cease to participate in the CSPS for whatever reason at a time when it has CSPS Eligible Employees, that it will, at no extra cost to the Buyer, provide to any Fair Deal Employee who immediately prior to such cessation of participation remained a CSPS Eligible Employee with access to a pension scheme which is Broadly Comparable to the CSPS on the date the CSPS Eligible Employees ceased to participate in the CSPS.

Annex D2: NHS Pension Schemes

1. Definitions

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

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

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

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

and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time

in the delivery of services (the same as or similar to the Services).

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

"NHS Body"	has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;
"NHS Pensions"	NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS;
"NHSPS"	the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and governed by subsequent regulations under that Act including the NHS Pension Scheme Regulations;
"NHS Pension Scheme Arrears"	any failure on the part of the Supplier or its Sub-contractors (if any) to pay employer's contributions or deduct and pay across employee's contributions to the NHSPS or meet any other financial obligations under the NHSPS or any Direction Letter in respect of the NHSPS Eligible Employees;
"NHS Pension Scheme Regulations"	as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time;
"NHS Premature Retirement Rights"	rights to which any Fair Deal Employee (had they remained in the employment of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS) would have been or are entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury

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

"Pension Benefits"

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

"Retirement Benefits Scheme"

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

2. Membership of the NHS Pension Scheme

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Sub-contractors to which the employment of any NHSPS Eligible Employee compulsorily transfers as a result of the award of this Contract, if not an NHS Body or other employer which participates automatically in the NHSPS, must by or as soon as reasonably practicable after the Relevant Transfer Date, each secure a Direction Letter to enable the NHSPS Eligible Employees to retain either continuous active membership of or eligibility for, the NHSPS for so long as they remain employed in connection with the delivery of the Services under this Contract, and have a right to membership or eligibility of that scheme under the terms of the Direction Letter.
- 2.2 The Supplier must supply to the Buyer by or as soon as reasonably practicable after the Relevant Transfer Date a complete copy of each Direction Letter.
- 2.3 The Supplier must ensure (and procure that each of its Sub-Contracts (if any) ensures) that all of its NHSPS Eligible Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter.
- 2.4 The Supplier will (and will procure that its Sub-contractors (if any) will) comply with the terms of the Direction Letter, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health in respect of the NHSPS Eligible Employees for so long as it remains bound by the terms of any such Direction Letter.
- 2.5 Where any employee omitted from the Direction Letter supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Eligible Employee, the Supplier will (and will procure that its Sub-contractors (if any) will) treat that person as if they had been an NHSPS Eligible Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.

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

3. Access to NHS Pension Schemes after transfer

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

4. Continuation of early retirement rights after transfer

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

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

- 5.1 The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Sub-contractor) breaches the terms of its Direction Letter. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Sub-contractor) breaches the terms of its Direction Letter.
- 5.2 If the Buyer is entitled to terminate the Contract or the Supplier (or its Sub-contractor, if relevant) ceases to participate in the NHSPS for whatever other reason, the Buyer may in its sole discretion, and instead of exercising its right to terminate this Contract where relevant, permit the Supplier (or any such Sub-contractor, as appropriate) to offer Broadly Comparable Pension Benefits, on such terms as decided by the Buyer. The provisions of Paragraph 10 (Bulk Transfer Obligations in relation to any Broadly Comparable pension scheme) of Part D: Pensions shall apply in relation to any Broadly Comparable pension scheme established by the Supplier or its Sub-contractors.
- 5.3 In addition to the Buyer's right to terminate the Contract, if the Buyer is notified by NHS Pensions of any NHS Pension Scheme Arrears, the Buyer will be entitled to deduct all or part of those arrears from any amount due to be paid under this Contract or otherwise.

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

- 6.1 If the Supplier (or its Sub-contractor, if relevant) is unable to provide the NHSPS Eligible Employees with either:
- 6.1.1 membership of the NHSPS (having used its best endeavours to secure a Direction Letter); or
 - 6.1.2 access to a Broadly Comparable pension scheme,

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

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

7. Indemnities that a Supplier must give

- 7.1 The Supplier must indemnify and keep indemnified the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Eligible Employee that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.
- 7.2 The Supplier must indemnify and keep indemnified the Buyer, NHS Pensions and any Replacement Supplier against all Losses arising out of the Supplier (or its Sub-contractor) allowing anyone who is not an NHSPS Eligible Employee to join or claim membership of the NHSPS at any time during the Contract Period.

8. Sub-Contractors

- 8.1 If the Supplier enters into a Sub-Contract for the delivery of all or part or any component of the Services which will involve the transfer of employment of any NHSPS Eligible Employee it will impose obligations on its Sub-contractor in identical terms as those imposed on the Supplier in relation to Pension Benefits and NHS Premature Retirement Rights by this Annex, including requiring that:
- 8.1.1 if the Supplier has secured a Direction Letter, the Sub-contractor also secures a Direction Letter in respect of the NHSPS Eligible Employees for their future service with the Sub-contractor as a condition of being awarded the Sub-Contract and the Supplier shall be responsible for ensuring that the Buyer receives a complete copy of each such Sub-contractor direction letter as soon as reasonably practicable; or
 - 8.1.2 if, in accordance with Paragraph 4 of this Annex, the Supplier has offered the NHSPS Eligible Employees access to a pension scheme under which the benefits are Broadly Comparable to those provided under the NHSPS, the Sub-contractor either secures a Direction Letter in respect of the NHSPS Eligible Employees or (with the prior consent of the Buyer) provides NHSPS Eligible Employees with access to a scheme with Pension Benefits which are Broadly Comparable to those provided under the NHSPS whereupon the provisions of Paragraph 10 below (Bulk Transfer Obligations in relation to any Broadly Comparable Scheme) shall apply.

Schedule 7 (Staff Transfer)

Crown Copyright 2019

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

Annex D3:

Local Government Pension Schemes (LGPS)

1. Definitions

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

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

2. Supplier must become a LGPS admission body

- 2.1 Where the Supplier employs any LGPS Eligible Employees from a Relevant Transfer Date, the Supplier shall become an LGPS Admission Body and shall on or before the Relevant Transfer Date enter into a LGPS Admission Agreement with the Administering Authority which will have effect from and including the Relevant Transfer Date.
- 2.2 The LGPS Admission Agreement must ensure that all LGPS Eligible Employees covered by that Agreement who were active LGPS members immediately before the Relevant Transfer Date are admitted to the LGPS with effect on and from the Relevant Transfer Date. Any LGPS Eligible Employees who were eligible to join the LGPS but were not active LGPS members immediately before the Relevant Transfer Date must retain the ability to join the LGPS after the Relevant Transfer Date if they wish to do so.
- 2.3 The Supplier shall provide any indemnity, bond or guarantee required by an Administering Authority in relation to an LGPS Admission Agreement.
- 2.4 The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Eligible Employees in any pension scheme other than the LGPS.

3. Right of set-off

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

4. Supplier ceases to be an LGPS Admission Body

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

5. Discretionary benefits

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

Part E: Staff Transfer on Exit

1. Obligations before a Staff Transfer

- 1.1 The Supplier agrees that within 20 Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
 - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract;
 - 1.1.3 the date which is 12 Months before the end of the Term; and
 - 1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any 6 Month period),

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

- 1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Sub-contractor (i) the Supplier's Final Supplier Personnel List, which shall identify the basis upon which they are Transferring Supplier Employees and (ii) the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-contractor.
- 1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it shall not assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall, unless otherwise instructed by the Buyer (acting reasonably):

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

not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which

were not previously pensionable or reduce the pension contributions payable) of the Supplier Personnel (including any payments connected with the termination of employment);

- 1.5.1 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.2 not introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
- 1.5.3 not increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
- 1.5.4 not terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process;
- 1.5.5 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Buyer and/or the Replacement Supplier and/or Replacement Sub-contractor;
- 1.5.6 give the Buyer and/or the Replacement Supplier and/or Replacement Sub-contractor reasonable access to Supplier Personnel and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Buyer, Replacement Supplier and/or Replacement Sub-contractor in respect of persons expected to be Transferring Supplier Employees;
- 1.5.7 co-operate with the Buyer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
- 1.5.8 promptly notify the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Sub-contractor of any notice to terminate employment given by the Supplier or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect;
- 1.5.9 not for a period of 12 Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Sub-contractors whose employment or engagement is transferred to the Buyer and/or the Replacement Supplier (unless otherwise instructed by the Buyer (acting reasonably));
- 1.5.10 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;

Schedule 7 (Staff Transfer)

Crown Copyright 2019

- 1.5.11 fully fund any Broadly Comparable pension schemes set up by the Supplier;
 - 1.5.12 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Sub-contractor in the provision of the Services on the expiry or termination of this Contract (including without limitation identification of the Fair Deal Employees);
 - 1.5.13 promptly provide to the Buyer such documents and information mentioned in Paragraph 3.1.1 of Part D: Pensions which the Buyer may reasonably request in advance of the expiry or termination of this Contract; and
 - 1.5.14 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Sub-contractor in the provision of the Services on the expiry or termination of this Contract.
- 1.6 On or around each anniversary of the Effective Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide such information as the Buyer may reasonably require which shall include:
 - 1.6.1 the numbers of employees engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
 - 1.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part D: Pensions); and
 - 1.6.4 a description of the nature of the work undertaken by each employee by location.
- 1.7 The Supplier shall provide all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:
 - 1.7.1 the most recent month's copy pay slip data;
 - 1.7.2 details of cumulative pay for tax and pension purposes;

Schedule 7 (Staff Transfer)

Crown Copyright 2019

- 1.7.3 details of cumulative tax paid;
- 1.7.4 tax code;
- 1.7.5 details of any voluntary deductions from pay; and
- 1.7.6 bank/building society account details for payroll purposes.

2. Staff Transfer when the contract ends

- 2.1 A change in the identity of the supplier of the Services (or part of the Services), howsoever arising, may constitute a Relevant Transfer to which the Employment Regulations will apply. The Buyer and the Supplier agree that where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Supplier Employee.
- 2.2 The Supplier shall comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Fair Deal Schemes (as defined in Part D: Pensions).
- 2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of any act or omission of the Supplier or any Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date.
- 2.4 The indemnity in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date.
- 2.5 Subject to Paragraphs 2.6 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations then.
 - 2.5.1 the Replacement Supplier and/or Replacement Sub-contractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing;
 - 2.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Sub-contractor;

Schedule 7 (Staff Transfer)

Crown Copyright 2019

- 2.5.3 if such offer of employment is accepted, the Replacement Supplier and/or Replacement Sub-contractor shall immediately release the person from its employment;
 - 2.5.4 if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, the Replacement Supplier and/or Replacement Sub-contractor may within 5 Working Days give notice to terminate the employment of such person;
- 1. and subject to the Replacement Supplier's and/or Replacement Sub-contractor's compliance with Paragraphs 2.5.1 to 2.5.4 the Supplier will indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees referred to in Paragraph 2.5.
- 2.6 The indemnity in Paragraph 2.5 shall not apply to:
 - 2.6.1 (a) any claim for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of the Replacement Supplier and/or Replacement Sub-contractor, or
 - 2.6.2 (b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure.
- 2.7 The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than 3 Months from the Service Transfer Date.
- 2.8 If at any point the Replacement Supplier and/or Replacement Sub-contractor accepts the employment of any such person as is described in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 2.5 shall cease to apply to such person.
- 2.9 The Supplier shall promptly provide the Buyer and any Replacement Supplier and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Sub-contractor, shall promptly provide to the Supplier and each Sub-contractor in writing such information as is necessary to enable the Supplier and each Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.10 Subject to Paragraph 2.9, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its Sub-contractors against any Employee Liabilities arising from or as a result of any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Sub-contractor in respect of any Transferring Supplier Employee or any

Schedule 7 (Staff Transfer)

Crown Copyright 2019

appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee.

- 2.11 The indemnity in Paragraph 2.10 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Supplier's Final Supplier Personnel List in accordance with Paragraph 2.5 (and subject to the limitations set out in Paragraphs 2.6 and 2.7 above).

Schedule 8 (Implementation Plan and Testing)

Part A - Implementation

1. definitions

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

"Delay"	a) a delay in the Achievement of a Milestone by its Milestone Date; or b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
"Deliverable Item"	an item or feature in the supply of the Deliverables delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan;
"Milestone Payment"	a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone;
Implementation Period"	has the meaning given to it in Paragraph 7.1;

2. Agreeing and following the Implementation Plan

- 2.1 A draft of the Implementation Plan is set out in the Annex to this Schedule. The Supplier shall provide a further draft Implementation Plan 20 working days after the Effective Date.
- 2.2 The draft Implementation Plan:
- 2.2.1 must contain information at the level of detail necessary to manage the implementation stage effectively and as the Buyer may otherwise require; and
 - 2.2.2 it shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
- 2.3 Following receipt of the draft Implementation Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the Implementation Plan. If the Parties are unable to agree the contents of the Implementation Plan within twenty (20) Working Days of its

submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 2.4 The Supplier shall provide each of the Deliverable Items identified in the Implementation Plan by the date assigned to that Deliverable Item in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.
- 2.5 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and report to the Buyer on such performance.

3. Reviewing and changing the Implementation Plan

- 3.1 Subject to Paragraph 4.3, the Supplier shall keep the Implementation Plan under review in accordance with the Buyer's instructions and ensure that it is updated on a regular basis.
- 3.2 The Buyer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.
- 3.3 Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.
- 3.4 Time in relation to compliance with the Implementation Plan shall be of the essence and failure of the Supplier to comply with the Implementation Plan shall be a material Default.

4. Security requirements before the Start Date

- 4.1 The Supplier shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Supplier Staff have the necessary security clearance in place before the Start Date. The Supplier shall ensure that this is reflected in their Implementation Plan.
- 4.2 The Supplier shall ensure that all Supplier Staff and Subcontractors do not access the Buyer's IT systems, or any IT systems linked to the Buyer, unless they have satisfied the Buyer's security requirements including but not limited to the Security Policy.
- 4.3 The Supplier shall be responsible for providing all necessary information to the Buyer to facilitate security clearances for Supplier Staff and Subcontractors in accordance with the Buyer's requirements.
- 4.4 The Supplier shall provide the names of all Supplier Staff and Subcontractors and inform the Buyer of any alterations and additions as they take place throughout the Contract Period.
- 4.5 The Supplier shall ensure that all Supplier Staff and Subcontractors requiring access to the Buyer Premises have the appropriate security clearance. It is the Supplier's responsibility to establish whether or not

the level of clearance will be sufficient for access. Unless prior approval has been received from the Buyer, the Supplier shall be responsible for meeting the costs associated with the provision of security cleared escort services.

- 4.6 If a property requires Supplier Staff or Subcontractors to be accompanied by the Buyer's Authorised Representative, the Buyer must be given reasonable notice of such a requirement, except in the case of emergency access.

5. What to do if there is a Delay

- 5.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:
- 5.1.1 notify the Buyer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
 - 5.1.2 include in its notification an explanation of the actual or anticipated impact of the Delay;
 - 5.1.3 provide an alternative addressing or mitigating the impact of the Delay or the anticipated Delay suitable to the Buyer or comply with the Buyer's instructions in order to address the impact of the Delay or anticipated Delay; and
 - 5.1.4 use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

6. Compensation for a Delay

- 6.1 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Buyer such Delay Payments (calculated as set out by the Buyer in the Implementation Plan) and the following provisions shall apply:
- 6.1.1 the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to Achieve the corresponding Milestone;
 - 6.1.2 Delay Payments shall be the Buyer's exclusive financial remedy for the Supplier's failure to Achieve a Milestone by its Milestone Date except where:
 - (a) the Buyer is otherwise entitled to or does terminate this Contract pursuant to Clause 10.4 (When the Buyer can end this contract); or
 - (b) the Delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;

- 6.1.3 the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;
- 6.1.4 no payment or other act or omission of the Buyer shall in any way affect the rights of the Buyer to recover the Delay Payments or be deemed to be a waiver of the right of the Buyer to recover any such damages; and
- 6.1.5 Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 11 (How much you can be held responsible for).

7. Implementation Plan

- 7.1 The Implementation Period will be a six (6) Month period.
- 7.2 During the Implementation Period, the incumbent supplier shall retain full responsibility for all existing services until the Start Date or as otherwise formally agreed with the Buyer. The Supplier's full service obligations shall formally be assumed on the Start Date as set out in Award Form.
- 7.3 In accordance with the Implementation Plan, the Supplier shall:
 - 7.3.1 work cooperatively and in partnership with the Buyer and incumbent supplier, where applicable, to understand the scope of Services to ensure a mutually beneficial handover of the Services;
 - 7.3.2 work with the incumbent supplier and Buyer to assess the scope of the Services and prepare a plan which demonstrates how they will mobilise the Services;
 - 7.3.3 liaise with the incumbent Supplier to enable the full completion of the Implementation Period activities; and
 - 7.3.4 produce an Implementation Plan, to be agreed by the Buyer, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.
- 7.4 The Implementation Plan will include detail stating:
 - 7.4.1 how the Supplier will work with the incumbent Supplier and the Buyer Authorised Representative to capture and load up information such as asset data; and
 - 7.4.2 a communications plan, to be produced and implemented by the Supplier, but to be agreed with the Buyer, including the frequency, responsibility for and nature of communication with the Buyer and end users of the Services.
- 7.5 In addition, the Supplier shall:
 - 7.5.1 appoint a Supplier Authorised Representative who shall be responsible for the management of the Implementation Period, to ensure that the Implementation Period is planned and resourced adequately, and who will act as a point of contact for the Buyer;

- 7.5.2 mobilise all the Services specified in the Specification within the Contract;
- 7.5.3 produce an Implementation Plan report for each Buyer Premises to encompass programmes that will fulfil all the Buyer's obligations to landlords and other tenants:
 - (a) the format of reports and programmes shall be in accordance with the Buyer's requirements and particular attention shall be paid to establishing the operating requirements of the occupiers when preparing these programmes which are subject to the Buyer's approval; and
 - (b) the Parties shall use reasonable endeavours to agree the contents of the report but if the Parties are unable to agree the contents within twenty (20) Working Days of its submission by the Supplier to the Buyer, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 7.5.4 manage and report progress against the Implementation Plan;
- 7.5.5 construct and maintain an Implementation risk and issue register in conjunction with the Buyer detailing how risks and issues will be effectively communicated to the Buyer in order to mitigate them;
- 7.5.6 attend progress meetings (frequency of such meetings shall be as set out in the Award Form) in accordance with the Buyer's requirements during the Implementation Period. Implementation meetings shall be chaired by the Buyer and all meeting minutes shall be kept and published by the Supplier and the minutes of the preceding meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each following meeting; and
- 7.5.7 ensure that all risks associated with the Implementation Period are minimised to ensure a seamless change of control between incumbent provider and the Supplier.

Annex 1: Implementation Plan

The Implementation Plan is set out below and the Milestones to be Achieved are identified below:

Table 1 - Milestones

Milestone	Deliverable Items	Duration	Milestone Date	Comments
1	<p>System Build</p> <p>(i) Build the infrastructure to support the Nursery Milk system, as per the Existing System architecture. Adding (if required) additional infrastructure based off the NFRs and requirements.</p> <p>(ii) Build the Nursery Milk system by obtaining the source code from the Existing Supplier and any additional configuration required to build the system. E.g. integrations with external providers such as BACS, address lookup</p> <p>(iii) Internal System Pre-Testing and rectification of defects by the Supplier, such as backup and recovery, availability testing.</p> <p>(iv) Obtain a first cut of the data from Existing System and import into the system</p> <p><u>Supplier Activity:</u></p>			<p>The Supplier will retain the existing systems: website, code-base, database etc.</p> <p>New features will be added and enhancements will be made as detailed in the implementation plan.</p> <p>Features will be tested internally before being presented to the Buyer.</p> <p>There will be no data migration; enhancements will be integrated seamlessly into the existing system using iterative deployment.</p> <p>This approach aligns with agile development and enables the achievement of milestones to be assessed throughout the implementation period rather than being back-ended.</p>

Call-Off Schedule 8 (Implementation Plan and Testing)

Crown Copyright 2019

	<u>1. Preliminary Activity:</u> <ul style="list-style-type: none">• Agree implementation plan• Schedule weekly updates for the Authority.• Agree Satisfaction Certificate in relation to the specification requirements which are already met.• Conduct Accessibility Assessment.	1 week [presuming contract signature 28/01/2022]	All preliminary tasks to be completed by 5/2/2022.	
	<u>2. Evidence upload</u> <ul style="list-style-type: none">• Facility to upload evidence of attendance data, enabling settings to optionally familiarise themselves with this.• Mandatory upload of attendance and purchase evidence set to take effect from contract commencement.• Secure messaging functionality added to user accounts, supporting bulk messaging.	8 weeks	01/04/2022 - System Test Report confirming no Test Issues of Severity 1, 2, 3 or 4.	
	<u>3. Improving management information and audit trail</u> <ul style="list-style-type: none">• Provision of online dashboard and reporting suite for Authority users.• Access for authorized users to review audit logs.	12 weeks	01/05/2022 - System Test Report confirming no Test Issues of Severity 1, 2, 3 or 4.	

Call-Off Schedule 8 (Implementation Plan and Testing)

Crown Copyright 2019

	<p><u>5. Audit of claims</u></p> <ul style="list-style-type: none"> • Facility to select 3% of claims for audit (using risk- based and randomised sampling) during each serviceperiod. • System-driven workflow including: admin checks; user communications; reclaiming overpayments from futureclaims. • Other fraud-related improvements. • Changes to claim calculations. • Management information in relation to audits. 	20 weeks	01/07/2022 - System Test Report confirming no Test Issues of Severity 1, 2, 3 or 4.	
	<p><u>6. Accessibility</u></p> <p>User interface changes as required.</p>	20 weeks	01/07/2022 - System Test Report confirming no Test Issues of Severity 1, 2, 3 or 4.	
	<p>8. <u>Welsh Language Act</u></p> <ul style="list-style-type: none"> • Welsh option for paper forms / paper correspondence. • Welsh option for emails. • Welsh option on telephone helpline. • Welsh option on website. 	22 weeks	15/07/2022 - System Test Report confirming no Test Issues of Severity 1, 2, 3 or 4 in relation to ability of website to	

Call-Off Schedule 8 (Implementation Plan and Testing)

Crown Copyright 2019

	<p>9. GDPR improvements</p> <ul style="list-style-type: none"> • Subject access requests, right to be forgotten, right to rectification, right to restrict processing. • Automated deletion after retention period. • Data Protection Impact Assessment 	24 weeks	<p>display Welsh language.</p> <p>01/08/2022 - System Test Report confirming no Test Issues of Severity 1, 2, 3 or 4.</p>		
2	<p>Acceptance Test</p> <p>(i) Test integrations with external sources, eg BACS</p> <p>(ii) Validation of tests</p>	As above	<p>After completion of each Deliverable under Milestone 1.</p>	<p>The Supplier will conduct an initial Acceptance Test in relation to the aspects of the specification which are already met.</p> <p>The Supplier will conduct additional Acceptance Tests on completion of each feature, as set out.</p>	
3	<p>(i) System Test Report</p> <p>(ii) Defects Log</p>	As above	<p>After completion of each Deliverable under Milestone 1.</p>	<p>The Supplier will create a System Test Report in relation to each Acceptance Test.</p>	
4	<p>IT Health Check and Penetration Testing</p> <p>(i) Risk and Issues Log</p> <p>(ii) Defects Log</p>			<p>The Supplier will arrange targeted Penetration Tests after the completion of the customer-facing changes.</p>	

Crown Copyright 2019

	<p><u>Supplier Activity:</u></p> <p><u>4. First penetration test</u></p> <p>Penetration test following development of Milestone 1, Deliverables 1,2 and 3</p> <p><u>7. Second penetration test</u></p> <p>Penetration test following above development of Milestone 1, Deliverables 5 & 6</p>	<p>12 weeks</p> <p>20 weeks</p>	<p>01/05/2022 - provision of evidence that no significant issues exist.</p> <p>01/07/2022 - provision of evidence that no significant issues exist.</p>	<p>This approach supports iterative development and aligns with the Supplier's proposal of providing an optional evidence upload facility before contract commencement. It is also consistent with the Supplier's commitment to arrange penetration tests annually and after any significant change.</p> <p>The Supplier will arrange a further Penetration Test once the development is complete.</p>	
5	<p>Final Data Copy and Start Date</p> <p>(i) Domain migration</p> <p>(ii) DNS migration</p> <p><u>Supplier Activity:</u></p> <p>Provision of evidence that the new user-facing requirements (priorities 2, 3 and 4) are functioning as required.</p>	24 weeks	1 st August 2022	There will be no data migration; enhancements will be integrated seamlessly into the existing system using iterative deployment.	

Call-Off Schedule 8 (Implementation Plan and Testing)

Crown Copyright 2019

6	<p>Post Start Date Review</p> <p>(i) Final Inspection and Testing Report</p> <p><u>Supplier Activity:</u></p> <ul style="list-style-type: none"> • Agreement that the new user-facing functionality (priorities 2, 3 and 5) are functioning as required and there are no outstanding implementation tasks other than post- implementation tasks • Completion of any low-impact tasks which have been moved out of previous milestones to ensure focus remains on critical path. 	25 weeks	<p>8th August 2022</p> <p>Completion of all post-implementation tasks by 31st October 2022.</p>	<p>The Supplier will arrange a formal implementation review for 8th August 2022.</p> <p>Any residual actions will be actively managed by the Supplier Contract Manager and the project team, with ongoing weekly updates in the event of any tasks remaining outstanding.</p> <p>As a risk management proposal, the Supplier suggests that if any area of development proves more complex than anticipated, the additional man-time required may be allocated to sprints following contract commencement. This will only apply to low- impact tasks (i.e. tasks which do not affect the functionality of core features).</p> <p>Tasks would only be permitted to migrate to the post- implementation category if they can be implemented post- implementation with negligible impact on the majority of users.</p> <p>Allowing for the possibility of low-impact tasks being moved to post-implementation ensures development will retain focus on the critical path, reducing risk for both parties and thereby supporting best value.</p>	
---	---	----------	---	---	--

Call-Off Schedule 8 (Implementation Plan and Testing)

Crown Copyright 2019

The Milestones will be Achieved in accordance with this Schedule 8: (Implementation Plan and Testing)

For the purposes of Paragraph 6.1.2 the Delay Period Limit shall be 7 working days.

Table 2 - Resources and responsibilities

Key Features	Authority responsibilities	Wider Plan resources & responsibilities	Assumptions / dependencies
<p>1. <u>Preliminary activity</u></p> <ul style="list-style-type: none"> • Agree and refine the implementation plan. • Schedule updates from Contract Manager to the Authority. • Agree Satisfaction Certificate in relation to specification requirements which are already met. • Detailed assessment of Accessibility. 	<ul style="list-style-type: none"> • Agree implementation plan / specification. • Availability for initial meeting within one week of contract award. • Availability for weekly updates (these can be on-site, online or telephone meetings or email updates, at the Authority's choice). • Agree specification for Acceptance Tests. • Availability for initial Acceptance Tests. • Provision of Satisfaction Certificate. 	<ul style="list-style-type: none"> • Contract Manager – liaison with Authority; internal reporting and escalation. • Project Team – specifying Initial Tests, running Initial Tests. • Design / Marketing / IT – assess accessibility compliance. • Marketing – plan liaison with Milk Agents / LAs. • Welsh advisor – commence non-system aspects of translation work. 	<ul style="list-style-type: none"> • No major changes to implementation plan / specification. • No requirement to complete a GDS assessment or to fundamentally change the site design or code-base.

Call-Off Schedule 8 (Implementation Plan and Testing)

Crown Copyright 2019

2. <u>Evidence upload</u> <ul style="list-style-type: none">• Facility to upload evidence of attendance data, enabling settings to optionally	<ul style="list-style-type: none">• Agree feature design.• Agree specification for Acceptance Tests.	<ul style="list-style-type: none">• Contract Manager – liaison with Authority; internal reporting and escalation.	<ul style="list-style-type: none">• Specification remains stable.
---	---	---	---

Call-Off Schedule 8 (Implementation Plan and Testing)

Crown Copyright 2019

<p>familiarise themselves with this.</p> <ul style="list-style-type: none">• Mandatory upload of attendance and purchase evidence set to take effect from contract commencement.• Secure messaging functionality added to user accounts, supporting bulk messaging.	<ul style="list-style-type: none">• Availability for initial Acceptance Tests.• Provision of Satisfaction Certificate.	<ul style="list-style-type: none">• Project Team – feature design, feature development, test specification, running tests, follow-up.• Business Support – update internal procedures / documentation; update Customer Service staff.• Marketing – liaison with Milk Agents / LAs; user communications.• Customer Services – support users who are trying the optional upload facility prior to switching to mandatory uploads.	
--	---	---	--

Call-Off Schedule 8 (Implementation Plan and Testing)

Crown Copyright 2019

<p>3. <u>Improving management information</u></p> <ul style="list-style-type: none">• Provision of online dashboard and reporting suite for Authority users.• Access for authorized users to review audit logs.	<ul style="list-style-type: none">• Agree feature design and end-to-end process.• Agree specification.• Availability for Acceptance Tests.	<ul style="list-style-type: none">• Contract Manager – liaison with Authority; internal reporting and escalation.• Project Team – feature design, feature development, test specification, running tests, follow-up.	<ul style="list-style-type: none">• Specification remains stable; reporting requirements are as specified.• Online dashboard is not expected to display real-
--	--	---	--

	<ul style="list-style-type: none"> • Provision of Satisfaction Certificate. 	<ul style="list-style-type: none"> • Business Support – update internal procedures / documentation. 	<p>time information from external systems (e.g. phone / email stats).</p> <ul style="list-style-type: none"> • The hierarchy of permissions for Authority users will be simple (e.g. access to all reports and/or access to view audit logs).
<p>4. <u>First penetration test</u></p> <p>Penetration test following above development.</p>	<ul style="list-style-type: none"> • Review test report. • Provision of Satisfaction Certificate. 	<ul style="list-style-type: none"> • Contract Manager – liaison with Authority; internal reporting and escalation. • IT – arrange penetration test; review report; follow-up. 	<p>Dependent on completion of above core user-facing features.</p>
<p>5. <u>Audit of claims</u></p> <ul style="list-style-type: none"> • Facility to select 3% of claims for audit (using risk-based and randomised sampling) during each service period. • System-driven workflow including: admin checks; user communications; reclaiming overpayments from future claims. 	<ul style="list-style-type: none"> • Agree feature design and end-to-end process. • Agree that the Sponsor will accept incoming bank payments from users, quoting the NMRU number, if overpayments are not collected from future claims. 	<ul style="list-style-type: none"> • Contract Manager – liaison with Authority; internal reporting and escalation. • Project Team – feature design, feature development, test specification, running tests, follow-up. • Marketing – user testing; create system-driven user communications to support audits; create template user communications for direct interactions. 	<ul style="list-style-type: none"> • End-to-end process matches the tender proposal. • Specification remains stable. • Most overpayments are offset against future claims.

<ul style="list-style-type: none"> • Other fraud-related improvements. • Other changes to claim calculations. • Management information in relation to audits. 	<ul style="list-style-type: none"> • Agree system for the Sponsor to notify NMRU of incoming payments. • Agree specification for Acceptance Tests. • Availability for initial Acceptance Tests. • Provision of Satisfaction Certificate. 	<ul style="list-style-type: none"> • Finance – agree process for payments made to the Sponsor by users. • Business Support – update internal procedures / documentation; update Customer Service staff. 	<ul style="list-style-type: none"> • No requirement to audit historical claims.
<p>6. <u>Accessibility</u></p> <ul style="list-style-type: none"> • User interface changes as required. 	<ul style="list-style-type: none"> • Agree approach. • Agree specification for Acceptance Tests. • Availability for initial Acceptance Tests. • Provision of Satisfaction Certificate. 	<ul style="list-style-type: none"> • Contract Manager – liaison with Authority; internal reporting and escalation. • Project Team – feature design, feature development, test specification, running tests, follow-up. • Design – advising on changes required; providing mock-ups; involvement in user testing. • Marketing – user testing; user communications in relation to any significant changes in site appearance. • Business Support – update internal procedures / documentation. 	<ul style="list-style-type: none"> • Specification remains stable. • No related legislative change. • System changes will be limited to those which are necessary for the specified technology to function effectively and to meet WCAG AA requirements for end users.

<p>7. <u>Second penetration test</u></p> <p>Penetration test following above development.</p>	<ul style="list-style-type: none"> • Review test report. • Provision of Satisfaction Certificate. 	<ul style="list-style-type: none"> • Contract Manager – liaison with Authority; internal reporting and escalation. • IT – arrange penetration test; review report; follow-up. 	<p>Dependent on completion of above core user-facing features.</p>
<p>8. <u>Welsh Language Act</u></p> <ul style="list-style-type: none"> • Welsh option for paper forms / correspondence. • Welsh option for emails. • Welsh option on telephone helpline. • Welsh option on website. 	<ul style="list-style-type: none"> • Agree approach. • Agree specification for Acceptance Tests. • Availability for initial Acceptance Tests. • Provision of Satisfaction Certificate. 	<ul style="list-style-type: none"> • Contract Manager – liaison with Authority; internal reporting and escalation. • Welsh advisor – updating documentation; recording call greetings; providing Welsh translation for all text. • Project Team – feature design, feature development, test specification, running tests, follow-up. • Business Support – update internal procedures / documentation. • Customer Services – ensuring an equal service is provided to Welsh speakers. 	<ul style="list-style-type: none"> • Specification remains stable. • No related legislative change. • No requirement to accommodate local dialect.

<p>9. <u>GDPR improvements</u></p> <ul style="list-style-type: none"> • Subject access requests, right to be forgotten, right to rectification, right to restrict processing. • Automated deletion after retention period. • Data protection impact assessment. 	<ul style="list-style-type: none"> • Agree feature design. • Agree data protection impact assessment. • Agree specification for Acceptance Tests. • Availability for initial Acceptance Tests. • Provision of Satisfaction Certificate. 	<ul style="list-style-type: none"> • Contract Manager – liaison with Authority; internal reporting and escalation. • Data Protection Officer – advice; data protection impact assessment. • Project Team – feature design, feature development, test specification, running tests, follow-up. • Business Support – update internal procedures / documentation. 	<ul style="list-style-type: none"> • Specification remains stable. • No related legislative change.
<p>10. <u>Contract commencement – 1st August 2022</u></p> <p>In advance:</p> <ul style="list-style-type: none"> • Internal procedures updated. • Staff trained on changes. • Overflow staffing planned to manage queries relating to policy change. • Implement go-live support. 	<ul style="list-style-type: none"> • Advise on any policy issues arising. 	<ul style="list-style-type: none"> • Contract Manager – liaison with Authority; internal reporting and escalation. • IT – arrange and review penetration test. • Project Team – implement mandatory evidence upload. • Customer Services – implement overflow staffing. 	<ul style="list-style-type: none"> • No policy changes. • No significant lobbying by milk agents (for example, bulk emails instructing settings to phone the NMRU).

<p>11. <u>Post-implementation review</u> – 8^h August 2022</p> <p>In advance:</p> <ul style="list-style-type: none"> • Notify the Authority of any issues as they arise. • Notify the Authority of any preventative measures / rectification. 	<ul style="list-style-type: none"> • Availability for post-implementation review. • Advise on any policy issues arising. 	<ul style="list-style-type: none"> • Contract Manager – liaison with Authority; internal reporting and escalation. • Project Team – address any implementation issues arising. • Customer Services – monitor KPIs in real-time and implement overflow staffing. 	<ul style="list-style-type: none"> • No policy changes. • No changes in specification. • No significant lobbying by milk agents (for example, bulk emails instructing settings to phone the NMRU).
<p>12. <u>Post-implementation tasks</u></p> <ul style="list-style-type: none"> • Completion of any low-impact tasks which have been moved out of previous milestones to ensure focus remains on critical path. • Maintain go-live support as necessary. 	<ul style="list-style-type: none"> • Agree specification for Acceptance Tests. • Availability for initial Acceptance Tests. • Provision of Satisfaction Certificate. 	<ul style="list-style-type: none"> • Contract Manager – liaison with Authority; internal reporting and escalation. • Project Team – complete low-impact tasks, arrange testing and sign-off, address any post-implementation issues. • Customer Services – monitor KPIs in real-time and implement overflow staffing. 	<ul style="list-style-type: none"> • No changes in specification. • Agreement that low-impact tasks will be moved from previous milestones to the post-implementation milestone as necessary.

Part B - Testing

1. Definitions

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

"Component"	any constituent parts of the Deliverables;
"Material Test Issue"	a Test Issue of Severity Level 1 or Severity Level 2;
"Satisfaction Certificate"	a certificate materially in the form of the document contained in Annex 2 issued by the Buyer when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria;
"Severity Level"	the level of severity of a Test Issue, the criteria for which are described in Annex 1;
"Test Issue Management Log"	a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule;
"Test Issue Threshold"	in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan;
"Test Reports"	the reports to be produced by the Supplier setting out the results of Tests;
"Test Specification"	the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6.2 of this Schedule;
"Test Strategy"	a strategy for the conduct of Testing as described further in Paragraph 3.2 of this Schedule;
"Test Success Criteria"	in relation to a Test, the test success criteria for that Test as referred to in Paragraph 5 of this Schedule;

"Test Witness"

any person appointed by the Buyer pursuant to Paragraph 9 of this Schedule; and

"Testing Procedures"

the applicable testing procedures and Test Success Criteria set out in this Schedule.

2. How testing should work

- 2.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.
- 2.2 The Supplier shall not submit any Deliverable for Testing:
 - 2.2.1 unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;
 - 2.2.2 until the Buyer has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
 - 2.2.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
- 2.3 The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
- 2.4 Prior to the issue of a Satisfaction Certificate, the Buyer shall be entitled to review the relevant Test Reports and the Test Issue Management Log.

3. Planning for testing

- 3.1 The Supplier shall develop the final Test Strategy as soon as practicable after the Start Date but in any case no later than twenty (20) Working Days after the Start Date.
- 3.2 The final Test Strategy shall include:
 - 3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
 - 3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
 - 3.2.3 the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
 - 3.2.4 the procedure to be followed to sign off each Test;
 - 3.2.5 the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;

Call-Off Schedule 8: (Implementation Plan and Testing)

Crown Copyright 2019

- 3.2.6 the names and contact details of the Buyer and the Supplier's Test representatives;
- 3.2.7 a high level identification of the resources required for Testing including Buyer and/or third party involvement in the conduct of the Tests;
- 3.2.8 the technical environments required to support the Tests; and
- 3.2.9 the procedure for managing the configuration of the Test environments.

4. Preparing for Testing

- 4.1 The Supplier shall develop Test Plans and submit these for Approval as soon as practicable but in any case no later than twenty (20) Working Days prior to the start date for the relevant Testing as specified in the Implementation Plan.
- 4.2 Each Test Plan shall include as a minimum:
 - 4.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and
 - 4.2.2 a detailed procedure for the Tests to be carried out.
- 4.3 The Buyer shall not unreasonably withhold or delay its approval of the Test Plan provided that the Supplier shall implement any reasonable requirements of the Buyer in the Test Plan.

5. Passing Testing

- 5.1 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.

6. How Deliverables will be tested

- 6.1 Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days prior to the start of the relevant Testing (as specified in the Implementation Plan).
- 6.2 Each Test Specification shall include as a minimum:
 - 6.2.1 the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Buyer and the extent to which it is equivalent to live operational data;
 - 6.2.2 a plan to make the resources available for Testing;
 - 6.2.3 Test scripts;
 - 6.2.4 Test pre-requisites and the mechanism for measuring them; and

Call-Off Schedule 8: (Implementation Plan and Testing)

Crown Copyright 2019

6.2.5 expected Test results, including:

- (a) a mechanism to be used to capture and record Test results; and
- (b) a method to process the Test results to establish their content.

7. Performing the tests

- 7.1 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
- 7.2 The Supplier shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 9.3.
- 7.3 The Supplier shall notify the Buyer at least 10 Working Days in advance of the date, time and location of the relevant Tests and the Buyer shall ensure that the Test Witnesses attend the Tests.
- 7.4 The Buyer may raise and close Test Issues during the Test witnessing process.
- 7.5 The Supplier shall provide to the Buyer in relation to each Test:
 - 7.5.1 a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and
 - 7.5.2 the final Test Report within 5 Working Days of completion of Testing.
- 7.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
 - 7.6.1 an overview of the Testing conducted;
 - 7.6.2 identification of the relevant Test Success Criteria that have/have not been satisfied together with the Supplier's explanation of why any criteria have not been met;
 - 7.6.3 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;
 - 7.6.4 the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 8.1; and
 - 7.6.5 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
- 7.7 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 7.8 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Buyer shall be entitled to recover from

the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.

- 7.9 If the Supplier successfully completes the requisite Tests, the Buyer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Deliverables are implemented in accordance with this Contract.

8. Discovering Problems

- 8.1 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 8.2 The Supplier shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Supplier shall make the Test Issue Management Log available to the Buyer upon request.
- 8.3 The Buyer shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.

9. Test witnessing

- 9.1 The Buyer may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Buyer, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 9.2 The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
- 9.3 The Test Witnesses:
- 9.3.1 shall actively review the Test documentation;
 - 9.3.2 will attend and engage in the performance of the Tests on behalf of the Buyer so as to enable the Buyer to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
 - 9.3.3 shall not be involved in the execution of any Test;
 - 9.3.4 shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;

Call-Off Schedule 8: (Implementation Plan and Testing)

Crown Copyright 2019

- 9.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Buyer to assess whether the Tests have been Achieved;
- 9.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
- 9.4 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

10. Auditing the quality of the test

- 10.1 The Buyer or an agent or contractor appointed by the Buyer may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**") subject to the provisions set out in the agreed Quality Plan.
- 10.2 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 10.3 The Buyer will give the Supplier at least 5 Working Days' written notice of the Buyer's intention to undertake a Testing Quality Audit.
- 10.4 The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Buyer to enable it to carry out the Testing Quality Audit.
- 10.5 If the Testing Quality Audit gives the Buyer concern in respect of the Testing Procedures or any Test, the Buyer shall prepare a written report for the Supplier detailing its concerns and the Supplier shall, within a reasonable timeframe, respond in writing to the Buyer's report.
- 10.6 In the event of an inadequate response to the written report from the Supplier, the Buyer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Buyer.

11. Outcome of the testing

- 11.1 The Buyer will issue a Satisfaction Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.
- 11.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Buyer shall notify the Supplier and:
 - 11.2.1 the Buyer may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;
 - 11.2.2 the Buyer may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or
 - 11.2.3 where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Buyer's other

Call-Off Schedule 8: (Implementation Plan and Testing)

Crown Copyright 2019

rights and remedies, such failure shall constitute a material Default.

- 11.3 The Buyer shall be entitled, without prejudice to any other rights and remedies that it has under this Contract, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.
- 11.4 The Buyer shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:
 - 11.4.1 the issuing by the Buyer of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
 - 11.4.2 performance by the Supplier to the reasonable satisfaction of the Buyer of any other tasks identified in the Implementation Plan as associated with that Milestone.
- 11.5 The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of any Implementation Plan and Clause 4 (Pricing and payments).
- 11.6 If a Milestone is not Achieved, the Buyer shall promptly issue a report to the Supplier setting out the applicable Test Issues and any other reasons for the relevant Milestone not being Achieved.
- 11.7 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Buyer shall issue a Satisfaction Certificate.
- 11.8 If there is one or more Material Test Issue(s), the Buyer shall refuse to issue a Satisfaction Certificate and, without prejudice to the Buyer's other rights and remedies, such failure shall constitute a material Default.
- 11.9 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Buyer may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
 - 11.9.1 any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Buyer agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Buyer within 10 Working Days of receipt of the Buyer's report pursuant to Paragraph 10.5); and
 - 11.9.2 where the Buyer issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

12. Risk

12.1 The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:

12.1.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Buyer's requirements for that Deliverable or Milestone; or

12.1.2 affect the Buyer's right subsequently to reject all or any element of the Deliverables and/or any Milestone to which a Satisfaction Certificate relates.

Annex 1: Test Issues – Severity Levels

1. Severity 1 Error

- 1.1 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.

2. Severity 2 Error

- 2.1 This is an error for which, as reasonably determined by the Buyer, there is no practicable workaround available, and which:
 - 2.1.1 causes a Component to become unusable;
 - 2.1.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
 - 2.1.3 has an adverse impact on any other Component(s) or any other area of the Deliverables;

3. Severity 3 Error

- 3.1 This is an error which:
 - 3.1.1 causes a Component to become unusable;
 - 3.1.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
 - 3.1.3 has an impact on any other Component(s) or any other area of the Deliverables;

but for which, as reasonably determined by the Buyer, there is a practicable workaround available;

4. Severity 4 Error

- 4.1 This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Deliverables.

5. Severity 5 Error

- 5.1 This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Deliverables.

Annex 2: Satisfaction Certificate

To: [insert name of Supplier]

From: [insert name of Buyer]

[insert Date dd/mm/yyyy]

Dear Sirs,

Satisfaction Certificate

Deliverable/Milestone(s): [Insert relevant description of the agreed Deliverables/Milestones].

We refer to the agreement ("**Contract**") [insert Contract reference number] relating to the provision of the [insert description of the Deliverables] between the [insert Buyer name] ("**Buyer**") and [insert Supplier name] ("**Supplier**") dated [insert Start Date dd/mm/yyyy].

The definitions for any capitalised terms in this certificate are as set out in the Contract.

[We confirm that all the Deliverables relating to [insert relevant description of Deliverables/agreed Milestones and/or reference number(s) from the Implementation Plan] have been tested successfully in accordance with the Test Plan [or that a conditional Satisfaction Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria].

[OR]

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments)].

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Buyer]

Schedule 10 (Service Levels)

1. Definitions

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

"Critical Service Level Failure"	has the meaning given to it in the Award Form;
"Service Credits"	any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
"Service Credit Cap"	has the meaning given to it in the Award Form;
"Service Level Failure"	means a failure to meet the Service Level Performance Measure in respect of a Service Level;
"Service Level Performance Measure"	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and
"Service Level Threshold"	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule.
"Service Points"	are the number of points associated with performance against a Service Level which is below the target performance level.

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

- 2.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.
- 2.2 The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 2.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.

Schedule 10 (Service Levels)

Crown Copyright 2019

- 2.4 A Service Credit shall be the Buyer's exclusive financial remedy for a Service Level Failure except where:
 - 2.4.1 the Supplier has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or
 - 2.4.2 the Service Level Failure:
 - (a) exceeds the relevant Service Level Threshold;
 - (b) has arisen due to a Prohibited Act or wilful Default by the Supplier;
 - (c) results in the corruption or loss of any Government Data; and/or
 - (d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or
 - 2.4.3 the Buyer is otherwise entitled to or does terminate this Contract pursuant to Clause 10.4 of the Core Terms (Buyer Termination Rights).
- 2.5 Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:
 - 2.5.1 the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;
 - 2.5.2 the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and
 - 2.5.3 there is no change to the Service Credit Cap.

3. Critical Service Level Failure

On the occurrence of a Critical Service Level Failure:

- 3.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 3.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"),

provided that the operation of this paragraph 3 shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for material Default.

Part A: Service Levels and Service Credits

1. Service Levels

If the level of performance of the Supplier:

1.1 is likely to or fails to meet any Service Level Performance Measure; or

1.2 is likely to cause or causes a Critical Service Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;

1.2.2 instruct the Supplier to comply with the Rectification Plan Process;

1.2.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Buyer; and/or

1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

2. Service Credits

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

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

Annex A to Part A: Services Levels and Service Credits

No.	Service Levels				Service Points for each Service Period
	Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Weighting	
1	100% of validated claims to be issued to BACS for payment one working day, within the reporting Service Period	Reimbursement (Publishable Performance Information)	Target Performance Level: 100% Minor Failure: 97% – 99.9% Serious Failure: 95% - 96.9% Severe Failure: 90% - 94.9% Service Level Threshold: below 90%	75	0 1 2 3 4
2	3% of the number of all claims received each month will be subject to Post-Payment Validation, within the Service Period	Post Payment Validation (Publishable Performance Information)	Target Performance Level: 3% Minor Failure: 2.8 – 2.9% Serious Failure: 2.5% - 2.7% Severe Failure: 2.0% - 2.4% Service Level Threshold: below 2%	50	0 1 2 3 4
3	Portal to be available to new settings 99% of the time, except for downtime agreed with NHSBSA, within the Service Period.	Portal availability (Publishable Performance Information)	Target Performance Level: 99% Minor Failure: 98% – 98.9% Serious Failure: 97% - 97.9% Severe Failure: 95% - 96.9% Service Level Threshold: below 95%	25	0 1 2 3 4

Schedule 10 (Service Levels)
Crown Copyright 2019

Service Levels					Service Points for each Service Period
No.	Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Weighting	
4	100% of settings which have been inactive for 24 months to be de-registered from the service within 2 working days of the period of inactivity	Inactive accounts removal	Target Performance Level: 100% Minor Failure: 98% – 99.9% Serious Failure: 97% - 97.9% Severe Failure: 96% - 96.9% Service Level Threshold: below 96%	10	0 1 2 3 4
5	98% of e-mails are processed within 2 working days in the Service Period	Email processing	Target Performance Level: 98% Minor Failure: 96% – 97.9% Serious Failure: 94% - 95.9% Severe Failure: 90% - 93.9% Service Level Threshold: below 90%	10	0 1 2 3 4
6	The average speed of answer for calls does not exceed 120 seconds in the Service Period	Customer call wait time	Target Performance Level: 120 seconds or less Minor Failure: 121 seconds – 150 seconds Serious Failure: 151 seconds – 180 seconds Severe Failure: 181 seconds – 239 seconds Service Level Threshold: 240 seconds or more	10	0 1 2 3 4

Schedule 10 (Service Levels)
Crown Copyright 2019

	Service Levels				Service Points for each Service Period
No.	Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Weighting	
7	Number of complaints which do not receive a full response within 10 working days or be referred to the NHSBSA within 10 working days, as appropriate, within the Service Period.	Complaint handling	Target Performance Level: 0 Minor Failure: 1 Serious Failure: 2 Severe Failure: 3 Service Level Threshold: 4	10	0 1 2 3 4
8	Number of instances of unscheduled unavailability of the web portal not rectified within 5 hours within the Service Period	Portal downtime resolution	Target Performance Level: 0 Minor Failure: 1 Serious Failure: 2 Severe Failure: 3 Service Level Threshold: 4	10	0 1 2 3 4
9	Number of instances of unscheduled unavailability of the website not reported to the Buyer within 4 hours of the identification of an issue, with an action plan for resolution, within the Service Period	Website unavailability	Target Performance Level: 0 Minor Failure: 1 Serious Failure: 2 Severe Failure: 3 Service Level Threshold: 4	10	0 1 2 3 4

Service Levels					Service Points for each Service Period
No.	Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Weighting	
10	Number of work experience days offered to people in minority groups, reported per quarter.	Social Value (Equal Opportunity Theme)	Target Performance Level: 3 Approaching Target: 2 Requires Improvement: 1 Inadequate: 0	N/A	N/A

The Service Credits shall be calculated by reference to the number of Service Points accrued in any one Service Period.

For each Service Period:

(a) the Service Points accrued shall be converted to a percentage deduction from the Charges for the relevant Service Period on the basis of one point equating to a 0.11904762% (Service Credit Factor); and

(b) the total Service Credits applicable for the Service Period shall be calculated on the basis of the following formula:

$$WSP = SP \times W$$

Where:

- WSP** is the Weighted Service Points for each individual Service Level for the relevant Service Period;
- SP** is the individual Service Points that have accrued for each Service Level for the relevant Service Period; and
- W** is the weighting of each individual Service Level.

Worked Example:

Service Level 5 with performance of 90%

Schedule 10 (Service Levels)

Crown Copyright 2019

SP = 4 as the performance is below the Service Level Threshold

W = 10 as the Weighting is 10

Thus WSP = $4 \times 10 = 40$

The individual Service Credits applicable for the Service Period are calculated on the basis of the following formula:

$$SC = \Sigma WSP \times X \times SCC$$

Where:

- SC** is the total Service Credits for the relevant Service Period;
- ΣWSP** is the sum of the Weighted Service Points for all the individual Service Levels for the relevant Service Period;
- X** is Service Credit Factor and
- SCC** is the Service Credit Cap which is 100% the total Supplier Profit for the relevant Service Period (prior to deduction of applicable Service Credits)

Worked Example, based on Charges in the Service Period of £1,000 and a Supplier Profit Margin of 5%:

Service Level 5 with a performance of 90%

Supplier Profit for the Service Period of £50

$\Sigma WSP = 40$ (from example above)

X = Service Credit Factor = 0.11904762%

SCC = £50

Thus SC = $40 \times 0.11904762\% \times £50.00 = £2.38$

Part B: Performance Monitoring

1. Performance Monitoring and Performance Review

- 1.1 Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 1.2 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph **Error! Reference source not found.** of Part B of this Schedule, as set out in Annex A to this Part B, which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
 - 1.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 1.2.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 1.2.3 details of any Critical Service Level Failures;
 - 1.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 1.2.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
 - 1.2.6 such other details as the Buyer may reasonably require from time to time.
- 1.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
 - 1.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
 - 1.3.2 be attended by the Supplier's Representative and the Buyer's Representative; and
 - 1.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.

Schedule 10 (Service Levels)

Crown Copyright 2019

- 1.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.
- 1.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

2. Satisfaction Surveys

- 2.1 The Buyer may undertake Satisfaction Surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

Annex A to Part B: Performance Monitoring Reports

Report Title	Content	Format	Frequency
Registration and Claim Report	<ul style="list-style-type: none"> • Number of active registrations in total • Number of new online registrations • Number of new paper registrations • Number of milk portions accepted • Number of formula portions accepted • Number of online claims accepted • Number of paper claims accepted • Number of payments made to Childcare Settings • Number of payments made to Milk Agents • Number of payments made to Local Authorities • Number of payments made to Childcare Settings, Milk Agents and Local Authorities located in England • Number of payments made to Childcare Settings, Milk Agents and Local Authorities located in Wales • Value of payments made to Childcare Settings • Value of payments made to Milk Agents • Value of payments made to Local Authorities • Value of payments made to Childcare Settings, Milk Agents and Local Authorities located in England • Value of payments made to Childcare Settings, Milk Agents and Local Authorities located in Wales • Number of inactive accounts removed after 24 months of inactivity 	Excel	Monthly
Customer Service Report	<ul style="list-style-type: none"> • Number of phone calls offered • Number of phone calls answered • Number of phone calls unanswered • Percentage of phone calls answered • Average speed of answer • Number of emails received • Number of emails responded to • Average time to respond to emails • Number of complaints received • Number of complaints resolved • Time taken to respond to complaints • Number of complaints escalated to the Buyer • Time take to escalate complaints to the Buyer 	Excel	Monthly
Post Payment Validation Report	<ul style="list-style-type: none"> • Number of Post-Payment Validation investigations undertaken in total • Number of Post-Payment Validation investigations undertaken in the Service Period • Number of Post-Payment Validation investigations resolved with initial evidence • Number of Post-Payment Validation investigations not resolved with initial evidence • Number of Post-Payment Validation investigations resolved after contact from the Supplier • Number of Post-Payment Validation investigations not resolved after contact from the Supplier • Number of overpayments identified 	Excel	Monthly

Schedule 10 (Service Levels)

Crown Copyright 2019

	<ul style="list-style-type: none">• Value of overpayments identified• Number of payments recovered in total• Value of payments recovered in total• Number of payments recovered via one-off payment• Value of payments recovered via one-off payment• Number of payments recovered via repayment plan• Value of payments recovered via one-off repayment plan• Number of cases escalated to the Buyer's fraud team• Number of outstanding investigations on-going		
Service Level Report	<ul style="list-style-type: none">• Target Service Levels for the Service Period• Actual performance against Service Levels for the Service Period• Value of any Service Credits for the Service Period	Excel	Monthly

Schedule 11 (Continuous Improvement)

1. Supplier's Obligations

- 1.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
- 1.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 1.3 In addition to Paragraph 1.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
 - 1.3.1 identifying the emergence of relevant new and evolving technologies;
 - 1.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
 - 1.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
 - 1.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
- 1.4 The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Supplier to the Buyer for Approval within six (6) Months following the Start Date.
- 1.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.

Schedule 11 (Continuous Improvement)

Crown Copyright 2019

- 1.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 1.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer.
- 1.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 1.5:
 - 1.8.1 the Supplier shall use all reasonable endeavours to implement any agreed Deliverables in accordance with the Continuous Improvement Plan; and
 - 1.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 1.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in Paragraph 1.3.
- 1.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 1.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 1.12 At any time during the Contract Period of the Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

Schedule 12 (Benchmarking)

1. Definitions

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

"Benchmark Review"	a review of the Deliverables carried out in accordance with this Schedule to determine whether those Deliverables represent Good Value;
"Benchmarked Deliverables"	any Deliverables included within the scope of a Benchmark Review pursuant to this Schedule;
"Benchmarkers"	the person appointed by the Parties to carry out the Benchmark Review pursuant to this Schedule
"Comparable Rates"	the Charges for Comparable Deliverables;
"Comparable Deliverables"	deliverables that are identical or materially similar to the Benchmarked Deliverables (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar Deliverables exist in the market, the Supplier shall propose an approach for developing a comparable Deliverables benchmark;
"Comparison Group"	a sample group of organisations providing Comparable Deliverables which consists of organisations which are either of similar size to the Supplier or which are similarly structured in terms of their business and their service offering so as to be fair comparators with the Supplier or which, are best practice organisations;
"Equivalent Data"	data derived from an analysis of the Comparable Rates and/or the Comparable Deliverables (as applicable) provided by the Comparison Group;
"Good Value"	that the Benchmarked Rates are within the Upper Quartile; and
"Upper Quartile"	in respect of Benchmarked Rates, that based on an analysis of Equivalent Data, the Benchmarked Rates, as compared to the

range of prices for Comparable Deliverables, are within the top 25% in terms of best value for money for the recipients of Comparable Deliverables.

2. When you should use this Schedule

- 2.1 The Supplier acknowledges that the Buyer wishes to ensure that the Deliverables, represent value for money to the taxpayer throughout the Contract Period.
- 2.2 This Schedule sets out to ensure the Contract represents value for money throughout and that the Buyer may terminate the Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in Paragraph 3 of this Schedule.
- 2.3 Amounts payable under this Schedule shall not fall with the definition of a Cost.

3. Benchmarking

3.1 How benchmarking works

- 3.1.1 The Buyer may, by written notice to the Supplier, require a Benchmark Review of any or all of the Deliverables.
- 3.1.2 The Buyer shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Start Date or at intervals of less than twelve (12) Months after any previous Benchmark Review.
- 3.1.3 The purpose of a Benchmark Review will be to establish whether the Benchmarked Deliverables are, individually and/or as a whole, Good Value.
- 3.1.4 The Deliverables that are to be the Benchmarked Deliverables will be identified by the Buyer in writing.
- 3.1.5 Upon its request for a Benchmark Review the Buyer shall nominate a Benchmarker. The Supplier must approve the nomination within ten (10) Working Days unless the Supplier provides a reasonable explanation for rejecting the appointment. If the appointment is rejected then the Buyer may propose an alternative Benchmarker. If the Parties cannot agree the appointment within twenty (20) days of the initial request for Benchmark review then a Benchmarker shall be selected by the Chartered Institute of Financial Accountants.
- 3.1.6 The cost of a Benchmarker shall be borne by the Buyer (provided that each Party shall bear its own internal costs of the Benchmark Review) except where the Benchmark Review demonstrates that the Benchmarked Service and/or the Benchmarked Deliverables are not Good Value, in which case the Parties shall share the cost of the Benchmarker in such proportions as the Parties agree (acting reasonably). Invoices by

the Benchmarker shall be raised against the Supplier and the relevant portion shall be reimbursed by the Buyer.

3.2 Benchmarking Process

3.2.1 The Benchmarker shall produce and send to the Buyer, for Approval, a draft plan for the Benchmark Review which must include:

- (a) a proposed cost and timetable for the Benchmark Review;
- (b) a description of the benchmarking methodology to be used which must demonstrate that the methodology to be used is capable of fulfilling the benchmarking purpose; and
- (c) a description of how the Benchmarker will scope and identify the Comparison Group.

3.2.2 The Benchmarker, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking.

3.2.3 The Buyer must give notice in writing to the Supplier within ten (10) Working Days after receiving the draft plan, advising the Benchmarker and the Supplier whether it Approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan (which must be reasonable). If amendments are suggested then the Benchmarker must produce an amended draft plan and this Paragraph 3.2.3 shall apply to any amended draft plan.

3.2.4 Once both Parties have approved the draft plan then they will notify the Benchmarker. No Party may unreasonably withhold or delay its Approval of the draft plan.

3.2.5 Once it has received the Approval of the draft plan, the Benchmarker shall:

- (a) finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the Supplier's professional judgment using:
 - (i) market intelligence;
 - (ii) the Benchmarker's own data and experience;
 - (iii) relevant published information; and
 - (iv) pursuant to Paragraph 3.2.6 below, information from other suppliers or purchasers on Comparable Rates;
- (b) by applying the adjustment factors listed in Paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;
- (c) using the Equivalent Data, calculate the Upper Quartile;

Schedule 12 (Benchmarking)

Crown Copyright 2019

- (d) determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.
- 3.2.6 The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the Benchmarker in order to undertake the benchmarking. The Supplier agrees to use its reasonable endeavours to obtain information from other suppliers or purchasers on Comparable Rates.
- 3.2.7 In carrying out the benchmarking analysis the Benchmarker may have regard to the following matters when performing a comparative assessment of the Benchmarked Rates and the Comparable Rates in order to derive Equivalent Data:
 - (a) the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
 - (b) exchange rates;
 - (c) any other factors reasonably identified by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier's pricing to appear non-competitive.

3.3 Benchmarking Report

- 3.3.1 For the purposes of this Schedule "**Benchmarking Report**" shall mean the report produced by the Benchmarker following the Benchmark Review and as further described in this Schedule;
- 3.3.2 The Benchmarker shall prepare a Benchmarking Report and deliver it to the Buyer, at the time specified in the plan Approved pursuant to Paragraph 3.2.3, setting out its findings. Those findings shall be required to:
 - (a) include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Deliverables as a whole are, Good Value;
 - (b) if any of the Benchmarked Deliverables are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Deliverables as a whole Good Value; and
 - (c) include sufficient detail and transparency so that the Party requesting the Benchmarking can interpret and understand how the Supplier has calculated whether or not the Benchmarked Deliverables are, individually or as a whole, Good Value.
- 3.3.3 The Parties agree that any changes required to this Contract identified in the Benchmarking Report shall be implemented at the direction of the Buyer in accordance with Clause 24 (Changing the contract).

Schedule 13 (Contract Management)

1. Definitions

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

“Contract Manager”	the manager appointed in accordance with paragraph 2.1 of this Schedule;
"Operational Board"	the board established in accordance with paragraph 4.1 of this Schedule;

2. Contract Management

2.1 The Supplier and the Buyer shall each appoint a Contract Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.

2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.

2.3 Without prejudice to paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

3. Role of the Supplier Contract Manager

3.1 The Supplier Contract Manager shall be:

- 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
- 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;
- 3.1.3 able to cancel any delegation and recommence the position himself; and
- 3.1.4 replaced only after the Buyer has received notification of the proposed change.

3.2 The Buyer may provide revised instructions to the Supplier's Contract Manager in regards to the Contract and it will be the Supplier Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.

- 3.3 Receipt of communication from the Supplier Contract Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

4. Role of The Operational Board

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

5. Contract Risk Management

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.

Schedule 13 (Contract Management)

Crown Copyright 2019

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

Annex: Operational Boards

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

Authority members of Programme Board	Laura Heal – Contract Manager (Chair) Marie Bowater – Commercial Officer Karen Doncaster – Senior Commercial Manager (Optional) Hazel Simpson – Senior Service Delivery Manager Charlotte Beasor – Service Delivery Manager
Supplier members of Programme Board	Dani Morgan – Contract Manager [TBC]
Start date for Programme Board meetings	November 2022
Frequency of Programme Board meetings	Quarterly (Four Boards per Year)
Location of Programme Board meetings	Microsoft Teams / In Person

The Operational Board shall:

- (a) ensure that this Agreement is operated throughout the Term in a manner which optimises the value for money and operational benefit derived by the Buyer and the commercial benefit derived by the Supplier;
- (b) receive and review reports from the Performance Review Meetings and review reports on technology, service and other developments that offer potential for improving the benefit that either Party is receiving, in particular value for money;
- (c) provide senior level guidance, leadership and strategy for the overall delivery of the Services;
- (d) be the point of escalation from the Performance Review Meetings

Schedule 14 (Business Continuity and Disaster Recovery)

1. Definitions

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

"BCDR Plan"	has the meaning given to it in Paragraph 2.1 of this Schedule;
"Business Continuity Plan"	has the meaning given to it in Paragraph 2.2.2 of this Schedule;
"Disaster Recovery Deliverables"	the Deliverables embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
"Disaster Recovery Plan"	has the meaning given to it in Paragraph 2.2.3 of this Schedule;
"Disaster Recovery System"	the system embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
"Related Supplier"	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
"Review Report"	has the meaning given to it in Paragraph 6.3 of this Schedule; and
"Supplier's Proposals"	has the meaning given to it in Paragraph 6.3 of this Schedule;

2. BCDR Plan

- 2.1 At least ninety (90) Working Days prior to the Start Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a **"BCDR Plan"**), which shall detail the processes and arrangements that the Supplier shall follow to:
- 2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
- 2.1.2 the recovery of the Deliverables in the event of a Disaster

Schedule 14 (Business Continuity and Disaster Recovery)

Crown Copyright 2019

- 2.2 The BCDR Plan shall be divided into three sections:
- 2.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;
 - 2.2.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**"); and
 - 2.2.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**").
- 2.3 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

3. General Principles of the BCDR Plan (Section 1)

- 3.1 Section 1 of the BCDR Plan shall:
- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
 - 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
 - 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
 - 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
 - 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
 - 3.1.6 contain a risk analysis, including:
 - (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
 - (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
 - (c) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
 - (d) a business impact analysis of different anticipated failures or disruptions;

Schedule 14 (Business Continuity and Disaster Recovery)

Crown Copyright 2019

- 3.1.7 provide for documentation of processes, including business processes, and procedures;
 - 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
 - 3.1.9 identify the procedures for reverting to "normal service";
 - 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
 - 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and
 - 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
- 3.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
 - 3.2.4 it details a process for the management of disaster recovery testing.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators (PI's) or Service levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

4. Business Continuity (Section 2)

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
- 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.

Schedule 14 (Business Continuity and Disaster Recovery)

Crown Copyright 2019

- 4.2 The Business Continuity Plan shall:
- 4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
 - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
 - 4.2.3 specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

5. Disaster Recovery (Section 3)

- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
- 5.2.1 loss of access to the Buyer Premises;
 - 5.2.2 loss of utilities to the Buyer Premises;
 - 5.2.3 loss of the Supplier's helpdesk or CAFM system;
 - 5.2.4 loss of a Subcontractor;
 - 5.2.5 emergency notification and escalation process;
 - 5.2.6 contact lists;
 - 5.2.7 staff training and awareness;
 - 5.2.8 BCDR Plan testing;
 - 5.2.9 post implementation review process;
 - 5.2.10 any applicable Performance Indicators (PI's) with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
 - 5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;

5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and

5.2.13 testing and management arrangements.

6. Review and changing the BCDR Plan

6.1 The Supplier shall review the BCDR Plan:

6.1.1 on a regular basis and as a minimum once every six (6) Months;

6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and

6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total reasonable costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.

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

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

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

6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably

shown that the changes are required because of a material change to the risk profile of the Deliverables.

7. Testing the BCDR Plan

- 7.1 The Supplier shall test the BCDR Plan:
 - 7.1.1 regularly and in any event not less than once in every Contract Year;
 - 7.1.2 in the event of any major reconfiguration of the Deliverables
 - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.
- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
 - 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

8. Invoking the BCDR Plan

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

9. Circumstances beyond your control

- 9.1 The Supplier shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

Schedule 16 (Security)

1. Definitions

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

"Breach of Security"	<p>the occurrence of:</p> <ul style="list-style-type: none">a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/orb) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract, <p>in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 2.2;</p>
"Security Management Plan"	<p>the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time.</p>

2. Complying with security requirements and updates to them

- 2.1 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by the Buyer it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 2.2 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 2.3 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of

the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.

- 2.4 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

3. Security Standards

- 3.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
- 3.2.1 is in accordance with the Law and this Contract;
 - 3.2.2 as a minimum demonstrates Good Industry Practice;
 - 3.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
 - 3.2.4 where specified by the Buyer in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.
- 3.3 The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

4. Security Management Plan

4.1 Introduction

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

4.2 Content of the Security Management Plan

- 4.2.1 The Security Management Plan shall:
- a) comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
 - b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;

- c) detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- d) be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and
- g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

4.3 Development of the Security Management Plan

- 4.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 4.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is

not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.

4.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.

4.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.2 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.

4.4 Amendment of the Security Management Plan

4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:

- a) emerging changes in Good Industry Practice;
- b) any change or proposed change to the Deliverables and/or associated processes;
- c) where necessary in accordance with paragraph 2.2, any change to the Security Policy;
- d) any new perceived or changed security threats; and
- e) any reasonable change in requirements requested by the Buyer.

4.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation:

- a) suggested improvements to the effectiveness of the Security Management Plan;
- b) updates to the risk assessments; and
- c) suggested improvements in measuring the effectiveness of controls.

4.4.3 Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.

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

5. Security breach

- 5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

- 5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Supplier shall:

- 5.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:
- a) minimise the extent of actual or potential harm caused by any Breach of Security;
 - b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
 - c) prevent an equivalent breach in the future exploiting the same cause failure; and
 - d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.
- 5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

Schedule 18 (Supply Chain Visibility)

1. Definitions

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

"Contracts Finder"	the Government's publishing portal for public sector procurement opportunities;
"SME"	an enterprise falling within the category of micro, small and medium sized enterprises defined by section 382 and 465 of the Companies Act 2006 concerning the definition of micro, small and medium sized enterprises;
"Supply Chain Information Report Template"	the document at Annex 1 of this Schedule 18; and

2. Visibility of Sub-Contract Opportunities in the Supply Chain

2.1 The Supplier shall:

- 2.1.1 subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Deliverables above a minimum threshold of £25,000 that arise during the Contract Period;
- 2.1.2 within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor;
- 2.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;
- 2.1.4 provide reports on the information at Paragraph 2.1.3 to the Buyer in the format and frequency as reasonably specified by the Buyer; and
- 2.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

Schedule 18 (Supply Chain Visibility)

Crown Copyright 2019

- 2.2 Each advert referred to at Paragraph 2.1.1 of this Schedule 18 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 2.3 The obligation on the Supplier set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Effective Date.
- 2.4 Notwithstanding Paragraph 2.1, the Buyer may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

3. Visibility of Supply Chain Spend

- 3.1 In addition to any other management information requirements set out in the Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the “**SME Management Information Reports**”) to the Buyer which incorporates the data described in the Supply Chain Information Report Template which is:
 - (a) the total contract revenue received directly on the Contract;
 - (b) the total value of sub-contracted revenues under the Contract
(including revenues for non-SMEs/non-VCSEs); and
 - (c) the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Buyer from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraphs 3.1(a) –(c) and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Buyer issuing a replacement version. The Buyer agrees to give at least thirty (30) days’ notice in writing of any such change and shall specify the date from which it must be used.
- 3.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Buyer.

Annex 1

Supply Chain Information Report template



Schedule 19 (Cyber Essentials Scheme)

1. Definitions

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

"Cyber Essentials Scheme"	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at: https://www.gov.uk/government/publications/cyber-essentials-scheme-overview
"Cyber Essentials Basic Certificate"	the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;
"Cyber Essentials Certificate"	Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Framework Award Form
"Cyber Essential Scheme Data"	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and
"Cyber Essentials Plus Certificate"	the certification awarded on the basis of external testing by an independent certification body of the Supplier's cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

2. What Certification do you need

- 2.1 The Supplier shall provide evidence of compliance with Cyber Essentials to the Buyer prior to the start date of the Contract. Where the Supplier fails to comply with this Paragraph it shall be prohibited from commencing the provision of Deliverables under any Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 2.1.
- 2.2 Where the Supplier continues to Process Cyber Essentials Scheme Data during the Contract Period of the Contract the Supplier shall deliver to the Buyer evidence of continuing compliance with Cyber Essentials on each anniversary

Schedule 19 (Cyber Essential Scheme)

Crown Copyright 2019

of the first date of evidence of compliance provided by the Supplier under Paragraph 2.1.

2.3 Where the Supplier is due to Process Cyber Essentials Scheme Data after the Start date of the Contract but before the end of the Contract Period, the Supplier shall deliver to the Buyer evidence of:

2.3.1 compliance with Cyber Essentials before the Supplier Processes any such Cyber Essentials Scheme Data; and

2.3.2 evidence of continuing compliance with Cyber Essentials on each anniversary of the first date of evidence of compliance with Cyber Essentials provided by the Supplier under Paragraph 2.1.

2.4 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), the Buyer reserves the right to terminate this Contract for material Default.

2.5 The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Data contain provisions no less onerous on the Subcontractors than those imposed on the Supplier under this Contract in respect of the Cyber Essentials Scheme under Paragraph 2.1 of this Schedule.

2.6 This Schedule shall survive termination or expiry of this Contract.

Schedule 20 (Processing Data)

Status of the Controller

1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA. A Party may act as:
 - (a) “Controller” in respect of the other Party who is “Processor”;
 - (b) “Processor” in respect of the other Party who is “Controller”;
 - (c) “Joint Controller” with the other Party;
 - (d) “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

Where one Party is Controller and the other Party its Processor

2. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.
3. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
4. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
 - (a) a systematic description of the envisaged Processing and the purpose of the Processing;
 - (b) an assessment of the necessity and proportionality of the Processing in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
5. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
 - (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it

Schedule 20 (Processing Data)

Crown Copyright 2019

is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;

- (b) ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 14 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Personal Data Breach;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that :
 - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*);
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound,

Schedule 20 (Processing Data)

Crown Copyright 2019

- uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
 - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
6. Subject to paragraph 7 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Personal Data Breach.
7. The Processor's obligation to notify under paragraph 6 of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
8. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 6 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Personal Data Breach; and/or

Schedule 20 (Processing Data)

Crown Copyright 2019

- (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
9. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
 - (a) the Controller determines that the Processing is not occasional;
 - (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
 10. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
 11. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
 12. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
 - (a) notify the Controller in writing of the intended Subprocessor and Processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and
 - (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
 13. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
 14. The Buyer may, at any time on not less than 30 Working Days' notice, revise this Schedule 20 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
 15. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Buyer may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Where the Parties are Joint Controllers of Personal Data

16. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary

to comply with GDPR Article 26 based on the terms set out in Annex 2 to this Schedule 20 (*Processing Data*).

Independent Controllers of Personal Data

17. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
18. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
19. Where a Party has provided Personal Data to the other Party in accordance with paragraph 7 of this Schedule 20 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
20. The Parties shall be responsible for their own compliance with Articles 13 and 14 GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
21. The Parties shall only provide Personal Data to each other:
 - (a) to the extent necessary to perform their respective obligations under the Contract;
 - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the GDPR); and
 - (c) where it has recorded it in Annex 1 (*Processing Personal Data*).
22. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.
23. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 GDPR and shall make the record available to the other Party upon reasonable request.

Schedule 20 (Processing Data)

Crown Copyright 2019

24. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
- (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
 - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
 - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
25. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
- (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
 - (b) implement any measures necessary to restore the security of any compromised Personal Data;
 - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
26. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
27. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
28. Notwithstanding the general application of paragraphs 2 to 15 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory

Mid-tier contract

Project Version: v1.0

Model Version: v1.0

Schedule 20 (Processing Data)

Crown Copyright 2019

and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 16 to 27 of this Schedule 20.

Annex 1 - Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.

- 1.1 The contact details of the Buyer's Data Protection Officer are: **Chris Gooday** (nhsbsa.dataprotection@nhs.net)
- 1.2 The contact details of the Supplier's Data Protection Officer are: **[Insert Contact details]**
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Buyer is Controller and the Supplier is Processor</p> <ul style="list-style-type: none">• The Parties acknowledge that in accordance with paragraph 2 to paragraph 15 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data• The Supplier will process Childcare Setting, Milk Agent and Local Authority and correspondence information such as name, addresses and contact details for registration and bank details for Nursery Milk Scheme payments, and will receive financial invoices and similar information such as redacted child registers as part of the evidence upload to support claims. The rest of the information processed will be number and value related.• The Buyer will receive claim data on a monthly basis from the Supplier. This will be anonymized data comprised of numbers, percentages and payment values.• There will be instances where the Buyer's Loss and Fraud Prevention team will receive potential fraudulent claims from the Supplier to investigate. As part of any suspected fraud, the Buyer will be sent all information held relating to the subject of the enquiry. This information needs to be sent to prove or disprove the allegation and ensure a transparent investigation. The information will be details of the Childcare Setting, Milk Agent or Local Authority, details of who submitted claims, copies of financial invoices and similar information such as redacted child registers.

Schedule 20 (Processing Data)

Crown Copyright 2019

Duration of the Processing	Maximum four (4) years between 01 st August 2022 and 31 st July 2026.
Nature and purposes of the Processing	<p>The Nursery Milk Scheme entitles children under 5 years who attend approved day care facilities to receive 189ml (1/3 pint) of milk each day, free of charge.</p> <p>The Buyer / Controller is Directed by the Sponsor to operate the Nursery Milk Scheme and to facilitate the registration of and payments to childcare providers wishing to utilise the Scheme.</p> <p>The Buyer instructs the services of The Supplier / Processer to operate the scheme on its behalf which will involve the processing of personal data as described below.</p>
Type of Personal Data	<p>The Supplier will process the following personal data:</p> <ul style="list-style-type: none">- Names- Addresses- Contact Details- Bank Details and financial payment information- Personal details provided as part of a complaint.
Categories of Data Subject	<p>Claimants e.g:</p> <ul style="list-style-type: none">- Registered childminders- Registered day care providers- Persons providing care to children under 5 in schools or play centres.- Persons providing day care in a nursery or creche.- Milk Agents- Local Authorities
Plan for return and destruction of the data once the Processing is complete	At the end of the current contract all personal data required for the administration of the scheme held by the supplier must be transferred to the new supplier before the commencement of the new contract. Any personal data not required for transfer must be

Schedule 20 (Processing Data)

Crown Copyright 2019

UNLESS requirement under Union or Member State law to preserve that type of data	securely destroyed in accordance with BS EN 15713 standard for destruction of confidential materials.
---	--

Annex 2 - Joint Controller Agreement – Not Used

1. Joint Controller Status and Allocation of Responsibilities

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of paragraphs 2-15 of Schedule 20 (Where one Party is Controller and the other Party is Processor) and paragraphs 7-27 of Schedule 20 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.

1.2 The Parties agree that the [Supplier/Buyer]:

- (a) is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the GDPR regarding the exercise by Data Subjects of their rights under the GDPR;
- (b) shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
- (c) is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the GDPR;
- (d) is responsible for obtaining the informed consent of Data Subjects, in accordance with the GDPR, for Processing in connection with the Services where consent is the relevant legal basis for that Processing; and
- (e) shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the [Supplier's/Buyer's] privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).

1.3 Notwithstanding the terms of clause 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

2. Undertakings of both Parties

2.1 The Supplier and the Buyer each undertake that they shall:

- (a) report to the other Party every [x] months on:

Schedule 20 (Processing Data)

Crown Copyright 2019

- (i) the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
- (ii) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- (iii) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- (iv) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- (v) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

that it has received in relation to the subject matter of the Contract during that period;

- (b) notify each other immediately if it receives any request, complaint or communication made as referred to in clauses 2.1(a)(i) to (v);
- (c) provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in clauses 2.1(a)(iii) to (v) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- (d) not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, save where such disclosure or transfer is specifically authorised under the Contract or is required by Law). For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- (e) request from the Data Subject only the minimum information necessary to provide the Services and treat such extracted information as Confidential Information;
- (f) ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;

Schedule 20 (Processing Data)

Crown Copyright 2019

- (g) take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
 - (i) are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information
 - (ii) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so;
 - (iii) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
- (h) ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach having taken account of the:
 - (i) nature of the data to be protected;
 - (i) harm that might result from a Personal Data Breach;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (i) ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that the Supplier holds; and
- (i) ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach.

2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations

3. Data Protection Breach

3.1 Without prejudice to Clause 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of

Schedule 20 (Processing Data)

Crown Copyright 2019

any Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach, providing the Buyer and its advisors with:

(a) sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation;

(b) all reasonable assistance, including:

- (i) co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
- (ii) co-operation with the other Party including taking such reasonable steps as are directed by the Buyer to assist in the investigation, mitigation and remediation of a Personal Data Breach;
- (iii) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
- (iv) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in clause 3.2.

3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:

(a) the nature of the Personal Data Breach;

(b) the nature of Personal Data affected;

(c) the categories and number of Data Subjects concerned;

(d) the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;

(e) measures taken or proposed to be taken to address the Personal Data Breach; and

(f) describe the likely consequences of the Personal Data Breach.

4. Audit

4.1 The Supplier shall permit:

- (a) the Buyer, or a third-party auditor acting under the Buyer's direction, to conduct, at the Buyer's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or
- (b) the Buyer, or a third-party auditor acting under the Buyer's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 GDPR by the Supplier so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Services.

4.2 The Buyer may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with clause 4.1 in lieu of conducting such an audit, assessment or inspection.

5. Impact Assessments

5.1 The Parties shall:

- (a) provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and
- (b) maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 GDPR.

6. ICO Guidance

The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Buyer may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

7. Liabilities for Data Protection Breach

7.1 If financial penalties are imposed by the Information Commissioner on either the Buyer or the Supplier for a Personal Data Breach ("**Financial Penalties**") then the following shall occur:

- (a) if in the view of the Information Commissioner, the Buyer is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Buyer, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Buyer, then the Buyer shall be responsible for the payment of such Financial Penalties. In this case, the Buyer will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Supplier shall provide to the Buyer and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;
- (b) if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Buyer is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Buyer and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
- (c) if no view as to responsibility is expressed by the Information Commissioner, then the Buyer and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms (*Resolving disputes*).

7.2 If either the Buyer or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("**Court**") by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.

7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "**Claim Losses**"):

- (a) if the Buyer is responsible for the relevant Personal Data Breach, then the Buyer shall be responsible for the Claim Losses;
- (b) if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses: and
- (c) if responsibility for the relevant Personal Data Breach is unclear, then the Buyer and the Supplier shall be responsible for the Claim Losses equally.

7.4 Nothing in either clause 7.2 or clause 7.3 shall preclude the Buyer and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Buyer.

8. Termination

If the Supplier is in material Default under any of its obligations under this Annex 2 (*Joint Controller Agreement*), the Buyer shall be entitled to terminate the Contract by issuing a Termination Notice to the Supplier in accordance with Clause 10 of the Core Terms (*Ending the contract*).

9. Sub-Processing

10.1 In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

- (a) carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and
- (b) ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

10. Data Retention

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

Schedule 21 (Variation Form)

This form is to be used in order to change the Contract in accordance with Clause 24 of the Core Terms (Changing the Contract).

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

Schedule 21 (Variation Form)

Crown Copyright 2019

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by the Buyer.
2. Words and expressions used in this Variation shall have the meanings given to them in the Contract except where explicitly provided otherwise in writing. The rules of interpretation set out in the Contract apply to this Variation.
3. The Contract, including any previous Variations and the Schedules attached to the Contract shall remain effective and unaltered except as amended by this Variation.

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

Signature

Date

Name (in Capitals)

Address

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

Signature

Date

Name (in Capitals)

Address

Schedule 22 (Insurance Requirements)

1. The insurance you need to have

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

2. How to manage the Insurance

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
 - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
 - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
 - 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3. What happens if you aren’t insured

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.

- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Buyer may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

4. Evidence of Insurance you must provide

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

5. Making sure you are insured to the required amount

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

6. Cancelled Insurance

- 6.1 The Supplier shall notify the Buyer in writing at least thirty (30) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Buyer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

7. Insurance claims

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or the Contract for which it may be entitled to claim under any of the Insurances. In the event that the Buyer receives a claim relating to or arising out of the Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess,

Schedule 22 (Insurance Requirements)

Crown Copyright 2019

would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.

- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Buyer any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

ANNEX: REQUIRED INSURANCES

1. The Supplier shall hold the following insurance cover from the Start Date in accordance with this Schedule:
 - 1.1 public liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than five million pounds (£5,000,000); and
 - 1.2 employers' liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than five million pounds (£5,000,000).

Schedule 23 (Guarantee)

1. Definitions

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

"Guarantee" a deed of guarantee in favour of the Buyer in the form set out in the Annex to this Schedule; and

"Guarantor" the person acceptable to the Buyer to give a Guarantee;

2. Guarantee

- 2.1 Where the Buyer has notified the Supplier that the award of the Contract by the Buyer shall be conditional upon receipt of a valid Guarantee, then, on or prior to the execution of the Contract, as a condition for the award of that Contract, the Supplier shall deliver to the Buyer:

2.1.1 an executed Guarantee from a Guarantor; and

2.1.2 a certified copy extract of the board minutes and/or resolution of the Guarantor approving the execution of the Guarantee.

- 2.2 Where the Buyer has procured a Guarantee from the Supplier under Paragraph 2.1 above, the Buyer may terminate the Contract for material Default where:

2.2.1 the Guarantor withdraws the Guarantee for any reason whatsoever;

2.2.2 the Guarantor is in breach or anticipatory breach of the Guarantee;

2.2.3 an Insolvency Event occurs in respect of the Guarantor;

2.2.4 the Guarantee becomes invalid or unenforceable for any reason whatsoever; or

2.2.5 the Supplier fails to provide the documentation required by Paragraph 2.1 by the date so specified by the Buyer;

2.2.6 and in each case the Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Buyer.

Annex 1 – Form of Guarantee

[INSERT NAME OF THE GUARANTOR]

- AND -

[INSERT NAME OF THE BENEFICIARY]

DEED OF GUARANTEE

DEED OF GUARANTEE

THIS DEED OF GUARANTEE is made the day of 20[]

PROVIDED BY:

[Insert the name of the Guarantor] [a company incorporated in England and Wales] with number [insert company no.] whose registered office is at [insert details of the Guarantor's registered office here] [OR] [a company incorporated under the laws of [insert country], registered in [insert country] with number [insert number] at [insert place of registration], whose principal office is at [insert office details] ("**Guarantor**")

WHEREAS:

- (A) The Guarantor has agreed, in consideration of the Beneficiary entering into the Guaranteed Agreement with the Supplier, to guarantee all of the Supplier's obligations under the Guaranteed Agreement.
- (B) It is the intention of the Parties that this document be executed and take effect as a deed.

Now in consideration of the Beneficiary entering into the Guaranteed Agreement, the Guarantor hereby agrees for the benefit of the Beneficiary as follows:

1. DEFINITIONS AND INTERPRETATION

In this Deed of Guarantee:

- 1.1 unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms shall have the same meaning as they have for the purposes of the Guaranteed Agreement;
- 1.2 the words and phrases below shall have the following meanings:

[**Guidance Note:** Insert and/or settle Definitions, including from the following list

"Beneficiary(s)"	means all the Buyer(s) under a Contract [<i>insert name of the Buyer with whom the Supplier enters into the Contract</i>] and "Beneficiaries" shall be construed accordingly;
-------------------------	--

"Goods"	has the meaning given to it in the Contract;
----------------	--

"Guaranteed Agreement"	means the contract with Contract Reference [Insert contract reference number] for the Goods and/or Services dated on or about the date hereof made between the Beneficiary and the Supplier, including any Variations made thereto and any Schedules attached thereto ;
-------------------------------	--

"Guaranteed Obligations"	means all obligations and liabilities of the Supplier to the Beneficiary under the Guaranteed Agreement
---------------------------------	---

together with all obligations owed by the Supplier to the Beneficiary that are supplemental to, incurred under, ancillary to or calculated by reference to the Guaranteed Agreement;

"Services" has the meaning given to it in the Contract;

"Supplier" means [Insert the name, address and registration number of the Supplier as each appears in the Award Form].

- 1.3 references to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to the Guaranteed Agreement) are to be construed as references to this Deed of Guarantee, those provisions or that document or agreement in force for the time being and as amended, varied, restated, supplemented, substituted or novated from time to time;
- 1.4 unless the context otherwise requires, words importing the singular are to include the plural and vice versa;
- 1.5 references to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
- 1.6 the words "other" and "otherwise" are not to be construed as confining the meaning of any following words to the class of thing previously stated where a wider construction is possible;
- 1.7 unless the context otherwise requires, reference to a gender includes the other gender and the neuter;
- 1.8 unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
- 1.9 unless the context otherwise requires, any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
- 1.10 references to Clauses and Schedules are, unless otherwise provided, references to Clauses and Schedules to this Deed of Guarantee; and
- 1.11 references to liability are to include any liability whether actual, contingent, present or future.

2. GUARANTEE AND INDEMNITY

- 2.1 The Guarantor irrevocably and unconditionally guarantees and undertakes to the Beneficiary to procure that the Supplier duly and punctually performs all of the Guaranteed Obligations now or hereafter due, owing or incurred by the Supplier to the Beneficiary.

- 2.2 The Guarantor irrevocably and unconditionally undertakes upon demand to pay to the Beneficiary all monies and liabilities which are now or at any time hereafter shall have become payable by the Supplier to the Beneficiary under or in connection with the Guaranteed Agreement or in respect of the Guaranteed Obligations as if it were a primary obligor.

If at any time the Supplier shall fail to perform any of the Guaranteed Obligations, the Guarantor, as primary obligor, irrevocably and unconditionally undertakes to the Beneficiary that, upon first demand by the Beneficiary it shall, at the cost and expense of the Guarantor:

- 2.2.1 fully, punctually and specifically perform such Guaranteed Obligations as if it were itself a direct and primary obligor to the Beneficiary in respect of the Guaranteed Obligations and liable as if the Guaranteed Agreement had been entered into directly by the Guarantor and the Beneficiary; and
- 2.2.2 as a separate and independent obligation and liability, indemnify and keep the Beneficiary indemnified against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such Beneficiary may suffer, incur or sustain arising in any way whatsoever out of a failure by the Supplier to perform the Guaranteed Obligations save that, subject to the other provisions of this Deed of Guarantee, this shall not be construed as imposing greater obligations or liabilities on the Guarantor than are purported to be imposed on the Supplier under the Guaranteed Agreement.
- 2.3 As a separate and independent obligation and liability from its obligations and liabilities under Clauses 2.1 to 2.3 above, the Guarantor as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the Beneficiary indemnified on demand against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such Beneficiary may suffer or incur if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the Guarantor's liability shall be no greater than the Supplier's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

3. OBLIGATION TO ENTER INTO A NEW CONTRACT

If the Guaranteed Agreement is terminated for any reason, whether by the Beneficiary or the Supplier, or if the Guaranteed Agreement is disclaimed by a liquidator of the Supplier or the obligations of the Supplier are declared to be void or voidable for any reason, then the Guarantor will, at the request of the Beneficiary enter into a contract with the Beneficiary in terms mutatis mutandis the same as the Guaranteed Agreement and the obligations of the Guarantor under such

substitute agreement shall be the same as if the Guarantor had been original obligor under the Guaranteed Agreement or under an agreement entered into on the same terms and at the same time as the Guaranteed Agreement with the Beneficiary.

4. DEMANDS AND NOTICES

- 4.1 Any demand or notice served by the Beneficiary on the Guarantor under this Deed of Guarantee shall be in writing, addressed to:

[Insert Address of the Guarantor in England and Wales]

[Insert Facsimile Number]

For the Attention of [Insert details]

or such other address in England and Wales or facsimile number as the Guarantor has from time to time notified to the Beneficiary in writing in accordance with the terms of this Deed of Guarantee as being an address or facsimile number for the receipt of such demands or notices.

- 4.2 Any notice or demand served on the Guarantor or the Beneficiary under this Deed of Guarantee shall be deemed to have been served:

- 4.2.1 if delivered by hand, at the time of delivery; or
- 4.2.2 if posted, at 10.00 a.m. on the second Working Day after it was put into the post; or
- 4.2.3 if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any Working Day, and in any other case at 10.00 a.m. on the next Working Day.
- 4.3 In proving service of a notice or demand on the Guarantor or the Beneficiary it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.
- 4.4 Any notice purported to be served on the Beneficiary under this Deed of Guarantee shall only be valid when received in writing by the Beneficiary.

5. BENEFICIARY'S PROTECTIONS

- 5.1 The Guarantor shall not be discharged or released from this Deed of Guarantee by any arrangement made between the Supplier and the Beneficiary (whether or not such arrangement is made with or without the assent of the Guarantor) or by any amendment to or termination of the Guaranteed Agreement or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the Beneficiary in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the Guarantor) or by the Beneficiary doing (or omitting to do) any other matter or thing which but for this provision might exonerate the Guarantor.

- 5.2 This Deed of Guarantee shall be a continuing security for the Guaranteed Obligations and accordingly:
- 5.2.1 it shall not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the Supplier of the Guaranteed Obligations or by any omission or delay on the part of the Beneficiary in exercising its rights under this Deed of Guarantee;
- 5.2.2 it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Supplier, the Beneficiary, the Guarantor or any other person;
- 5.2.3 if, for any reason, any of the Guaranteed Obligations shall prove to have been or shall become void or unenforceable against the Supplier for any reason whatsoever, the Guarantor shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor in respect thereof; and
- 5.2.4 the rights of the Beneficiary against the Guarantor under this Deed of Guarantee are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Beneficiary.
- 5.3 The Beneficiary shall be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the breach or non performance by the Supplier of any Guaranteed Obligation shall not preclude the Beneficiary from making a further demand in respect of the same or some other default in respect of the same Guaranteed Obligation.
- 5.4 The Beneficiary shall not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to obtain judgment against the Supplier or the Guarantor or any third party in any court, or to make or file any claim in a bankruptcy or liquidation of the Supplier or any third party, or to take any action whatsoever against the Supplier or the Guarantor or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the Beneficiary in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the Guarantor hereunder.
- 5.5 The Beneficiary's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Beneficiary deems expedient.
- 5.6 Any waiver by the Beneficiary of any terms of this Deed of Guarantee, or of any Guaranteed Obligations shall only be effective if given in writing

and then only for the purpose and upon the terms and conditions, if any, on which it is given.

- 5.7 Any release, discharge or settlement between the Guarantor and the Beneficiary shall be conditional upon no security, disposition or payment to the Beneficiary by the Guarantor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Beneficiary shall be entitled to enforce this Deed of Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The Beneficiary shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Beneficiary from the Guarantor for such period as the Beneficiary may determine.
- 5.8 The Guarantor shall afford any auditor of the Beneficiary appointed under the Guaranteed Agreement access to such records and accounts at the Guarantor's premises and/or provide such records and accounts or copies of the same, as may be required and agreed with any of the Beneficiary's auditors from time to time, in order that the Auditor may identify or investigate any circumstances which may impact upon the financial stability of the Guarantor.

6. GUARANTOR INTENT

Without prejudice to the generality of Clause 5 (Beneficiary's protections), the Guarantor expressly confirms that it intends that this Deed of Guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Agreement and any associated fees, costs and/or expenses.

7. RIGHTS OF SUBROGATION

- 7.1 The Guarantor shall, at any time when there is any default in the performance of any of the Guaranteed Obligations by the Supplier and/or any default by the Guarantor in the performance of any of its obligations under this Deed of Guarantee, exercise any rights it may have:

- 7.1.1 of subrogation and indemnity;
- 7.1.2 to take the benefit of, share in or enforce any security or other guarantee or indemnity for the Supplier's obligations; and
- 7.1.3 to prove in the liquidation or insolvency of the Supplier,

only in accordance with the Beneficiary's written instructions and shall hold any amount recovered as a result of the exercise of such rights on trust for the Beneficiary and pay the same to the Beneficiary on first demand. The Guarantor hereby acknowledges that it has not taken any security from the Supplier and agrees not to do so until Beneficiary receives all moneys payable hereunder and will hold any security taken in breach of this Clause on trust for the Beneficiary.

8. DEFERRAL OF RIGHTS

- 8.1 Until all amounts which may be or become payable by the Supplier under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not:
- 8.1.1 exercise any rights it may have to be indemnified by the Supplier;
 - 8.1.2 claim any contribution from any other guarantor of the Supplier's obligations under the Guaranteed Agreement;
 - 8.1.3 take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiary under the Guaranteed Agreement or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Agreement;
 - 8.1.4 demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the Supplier; or
 - 8.1.5 claim any set-off or counterclaim against the Supplier;
- 8.2 If the Guarantor receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so received and any benefit derived directly or indirectly by the Guarantor therefrom shall be held on trust for the Beneficiary and applied in or towards discharge of its obligations to the Beneficiary under this Deed of Guarantee.

9. REPRESENTATIONS AND WARRANTIES

- 9.1 The Guarantor hereby represents and warrants to the Beneficiary that:
- 9.1.1 the Guarantor is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;
 - 9.1.2 the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee;
 - 9.1.3 the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee including, without limitation entry into and performance of a contract pursuant to Clause 3, have been duly

authorised by all necessary corporate action and do not contravene or conflict with:

- 9.1.3.1 the Guarantor's memorandum and articles of association or other equivalent constitutional documents;
- 9.1.3.2 any existing law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is subject; or
- 9.1.3.3 the terms of any agreement or other document to which the Guarantor is a Party or which is binding upon it or any of its assets;
- 9.1.4 all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed of Guarantee, and to make this Deed of Guarantee admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and
- 9.1.5 this Deed of Guarantee is the legal, valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

10. PAYMENTS AND SET-OFF

- 10.1 All sums payable by the Guarantor under this Deed of Guarantee shall be paid without any set-off, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the Guarantor will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.
- 10.2 The Guarantor shall pay interest on any amount due under this Deed of Guarantee at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- 10.3 The Guarantor will reimburse the Beneficiary for all legal and other costs (including VAT) incurred by the Beneficiary in connection with the enforcement of this Deed of Guarantee.

11. GUARANTOR'S ACKNOWLEDGEMENT

The Guarantor warrants, acknowledges and confirms to the Beneficiary that it has not entered into this Deed of Guarantee in reliance upon, nor has it been induced to enter into this Deed of Guarantee by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed of Guarantee.

12. ASSIGNMENT

- 12.1 The Beneficiary shall be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the

Guarantor being required and any such assignment or transfer shall not release the Guarantor from its liability under this Guarantee.

- 12.2 The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed of Guarantee.

13. SEVERANCE

If any provision of this Deed of Guarantee is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

14. THIRD PARTY RIGHTS

Other than the Beneficiary, a person who is not a Party to this Deed of Guarantee shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

15. SURVIVAL

This Deed of Guarantee shall survive termination or expiry of the Guaranteed Agreement.

16. GOVERNING LAW

- 16.1 This Deed of Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.
- 16.2 The Guarantor irrevocably agrees for the benefit of the Beneficiary that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.
- 16.3 Nothing contained in this Clause shall limit the rights of the Beneficiary to take proceedings against the Guarantor in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).
- 16.4 The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.

[Guidance Note: Include the above provision when dealing with the appointment of English process agent by a non English incorporated Guarantor]

Schedule 23 (Guarantee)

Crown Copyright 2019

- 16.5 [The Guarantor hereby irrevocably designates, appoints and empowers [the Supplier] [a suitable alternative to be agreed if the Supplier's registered office is not in England or Wales] either at its registered office or on facsimile number [insert fax no.] from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the Beneficiary in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

EXECUTED as a DEED by

[Insert name of the Guarantor] acting by [Insert/print names]

Director

Director/Secretary

Schedule 24 (Financial Difficulties)

1. Definitions

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

"Credit Rating Threshold"	the minimum credit rating level for the Monitored Company as set out in Annex 2 and
"Financial Distress Event"	<p>the occurrence or one or more of the following events:</p> <ul style="list-style-type: none">a) the credit rating of the Monitored Company dropping below the applicable Credit Rating Threshold;b) the Monitored Company issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects;c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Monitored Party;d) Monitored Company committing a material breach of covenant to its lenders;e) a Key Subcontractor (where applicable) notifying the Buyer that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute; orf) any of the following:<ul style="list-style-type: none">i) commencement of any litigation against the Monitored Company with respect to financial indebtedness or obligations under a contract;ii) non-payment by the Monitored Company of any financial indebtedness;

- iii) any financial indebtedness of the Monitored Company becoming due as a result of an event of default; or
- iv) the cancellation or suspension of any financial indebtedness in respect of the Monitored Company

in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance of any Contract and delivery of the Deliverables in accordance with any Contract;

"Financial Distress Service Continuity Plan"	a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with the Contract in the event that a Financial Distress Event occurs;
"Monitored Company"	Supplier the Guarantor or any Key Subcontractor; and
"Rating Agencies"	the rating agencies listed in Annex 1.

2. When this Schedule applies

2.1 The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the Monitored Companies and the consequences of a change to that financial standing.

2.2 The terms of this Schedule shall survive:
under the Contract until the termination or expiry of the Contract.

3. What happens when your credit rating changes

3.1 The Supplier warrants and represents to the Buyer that as at the Start Date the long term credit ratings issued for the Monitored Companies by each of the Rating Agencies are as set out in Annex 2.

3.2 The Supplier shall promptly (and in any event within five (5) Working Days) notify the Buyer in writing if there is any downgrade in the credit rating issued by any Rating Agency for a Monitored Company.

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

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

where:

- A is the value at the relevant date of all cash in hand and at the bank of the Monitored Company;
- B is the value of all marketable securities held by the Supplier the Monitored Company determined using closing prices on the Working Day preceding the relevant date;
- C is the value at the relevant date of all account receivables of the Monitored Company; and
- D is the value at the relevant date of the current liabilities of the Monitored Company.

3.4 The Supplier shall:

- 3.4.1 regularly monitor the credit ratings of each Monitored Company with the Rating Agencies; and
- 3.4.2 promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.

3.5 For the purposes of determining whether a Financial Distress Event has occurred the credit rating of the Monitored Company shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have rated the Monitored Company at or below the applicable Credit Rating Threshold.

4. What happens if there is a financial distress event

4.1 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if the Buyer becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Buyer shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.

4.2 In the event that a Financial Distress Event arises due to a Key Subcontractor notifying the Buyer that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, the Buyer shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier ten (10) Working Days to:

- 4.2.1 rectify such late or non-payment; or

4.2.2 demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.

4.3 The Supplier shall and shall procure that the other Monitored Companies shall:

4.3.1 at the request of the Buyer meet the Buyer as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of the Contract and delivery of the Deliverables in accordance the Contract; and

4.3.2 where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3.1) that the Financial Distress Event could impact on the continued performance of the Contract and delivery of the Deliverables in accordance with the Contract:

- (a) submit to the Buyer for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event); and
- (b) provide such financial information relating to the Monitored Company as the Buyer may reasonably require.

4.4 If the Buyer does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Buyer within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is Approved by the Buyer or referred to the Dispute Resolution Procedure.

4.5 If the Buyer considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not remedy the relevant Financial Distress Event, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.

4.6 Following Approval of the Financial Distress Service Continuity Plan by the Buyer, the Supplier shall:

4.6.1 on a regular basis (which shall not be less than Monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance the Contract and delivery of the Deliverables in accordance with the Contract;

- 4.6.2 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 4.6.1, submit an updated Financial Distress Service Continuity Plan to the Buyer for its Approval, and the provisions of Paragraphs 4.5 and 4.6 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and
- 4.6.3 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

4.7 Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Buyer and subject to the agreement of the Parties, the Supplier may be relieved of its obligations under Paragraph 4.6.

5. When the Buyer can terminate for financial distress

5.1 The Buyer shall be entitled to terminate this Contract for material Default if:

- 5.1.1 the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 3.4;
- 5.1.2 the Buyer and the Supplier fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 4.3 to 4.5; and/or
- 5.1.3 the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 4.6.3.

6. What happens If your credit rating is still good

6.1 Without prejudice to the Supplier's obligations and the Buyer's rights and remedies under Paragraph 5, if, following the occurrence of a Financial Distress Event, the Rating Agencies review and report subsequently that the credit ratings do not drop below the relevant Credit Rating Threshold, then:

- 6.1.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
- 6.1.2 the Buyer shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.3.2(b).

ANNEX 1: RATING AGENCIES

Dun and Bradstreet

ANNEX 2: CREDIT RATINGS & CREDIT RATING THRESHOLDS

Part 1: Current Rating

Entity	Credit rating (long term)	Credit Rating Threshold
Supplier	Dun and Bradstreet Credit Rating Level 1	Dun and Bradstreet Risk Indicator Rating 2
Guarantor	TBC if called upon	
[Key Subcontractor]	[TBC]	

Schedule 25 (Rectification Plan)

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

Schedule 25 (Rectification Plan)
Crown Copyright 2019

Steps taken to prevent recurrence of Default	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	
Signed by the Supplier:		Date:	
Review of Rectification Plan Buyer			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for rejection (if applicable)	[add reasons]		
Signed by Buyer		Date:	

Schedule 26 (Corporate Social Responsibility)

1. What we expect from our Suppliers

- 1.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf)

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

2. Equality and Accessibility

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

2.1.1 eliminate discrimination, harassment or victimisation of any kind; and

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

3. Modern Slavery, Child Labour and Inhumane Treatment

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

3.1 The Supplier:

- 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
- 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;
- 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world.

Schedule 26 (Corporate Social Responsibility)

Crown Copyright 2019

- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offenses anywhere around the world.
- 3.1.6 shall have and maintain throughout the term of the Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;
- 3.1.8 shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to the Buyer and Modern Slavery Helpline.

4. Income Security

4.1 The Supplier shall:

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

- 4.1.5 record all disciplinary measures taken against Supplier Staff;
and
- 4.1.6 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

5. Working Hours

5.1 The Supplier shall:

- 5.1.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;
- 5.1.2 that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;
- 5.1.3 ensure that use of overtime used responsibly, taking into account:
 - (a) the extent;
 - (b) frequency; and
 - (c) hours worked;

by individuals and by the Supplier Staff as a whole;

- 5.2 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.
- 5.3 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:
 - 5.3.1 this is allowed by national law;
 - 5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;
appropriate safeguards are taken to protect the workers' health and safety; and
 - 5.3.3 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.
- 5.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

6. Sustainability

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

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

Schedule 27 (Key Subcontractors)

1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under the Contract to the Key Subcontractors set out in the Award Form.
- 1.2 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of the Buyer and the Supplier shall, at the time of requesting such consent, provide the Buyer with the information detailed in Paragraph 1.4. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Award Form. The Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
 - 1.2.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
 - 1.2.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - 1.2.3 the proposed Key Subcontractor employs unfit persons.
- 1.3 The Supplier shall provide the Buyer with the following information in respect of the proposed Key Subcontractor:
 - 1.3.1 the proposed Key Subcontractor's name, registered office and company registration number;
 - 1.3.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
 - 1.3.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
 - 1.3.4 the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Contract Period; and
 - 1.3.5 (where applicable) Credit Rating Threshold (as defined in Schedule 24 (Financial Distress)) of the Key Subcontractor.
- 1.4 If requested by the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.3, the Supplier shall also provide:
 - 1.4.1 a copy of the proposed Key Sub-Contract; and
 - 1.4.2 any further information reasonably requested by the Buyer.

Schedule 27 (Key Subcontractors)

Crown Copyright 2019

- 1.5 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
 - 1.5.1 provisions which will enable the Supplier to discharge its obligations under the Contract;
 - 1.5.2 a right under CRTPA for the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Buyer;
 - 1.5.3 a provision enabling the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
 - 1.5.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Buyer;
 - 1.5.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the Contract in respect of:
 - (a) the data protection requirements set out in Clause 14 (Data protection);
 - (b) the FOIA and other access request requirements set out in Clause 16 (When you can share information);
 - (c) the obligation not to embarrass the Buyer or otherwise bring the Buyer into disrepute;
 - (d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
 - (e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
 - 1.5.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Buyer under Clauses 10.4 (When the Buyer can end this contract) and 10.5 (What happens if the contract ends) of this Contract; and
 - 1.5.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Buyer.

Schedule 28 (ICT Services)

1. Definitions

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

"Buyer Property"	the property, other than real property and IPR, including the Buyer System, any equipment issued or made available to the Supplier by the Buyer in connection with this Contract;
"Buyer Software"	any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Deliverables;
"Buyer System"	the Buyer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Buyer or the Supplier in connection with this Contract which is owned by or licensed to the Buyer by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Deliverables;
"Commercial off the shelf Software" or "COTS Software"	non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms;
"Defect"	any of the following: <ul style="list-style-type: none">a) any error, damage or defect in the manufacturing of a Deliverable; orb) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; orc) any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant

	Deliverable from passing any Test required under this Contract; or
	d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract;
"Emergency Maintenance"	ad hoc and unplanned maintenance provided by the Supplier where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault;
"ICT Environment"	the Buyer System and the Supplier System;
"Licensed Software"	all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Buyer for the purposes of or pursuant to this Contract, including any COTS Software;
"Maintenance Schedule"	has the meaning given to it in paragraph 8 of this Schedule;
"Malicious Software"	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
"New Release"	an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;
"Open Source Software"	computer software that has its source code made available subject to an open-source licence under which the owner of the copyright

	and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge;
"Operating Environment"	<p>means the Buyer System and any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:</p> <ul style="list-style-type: none">a) the Deliverables are (or are to be) provided; orb) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; orc) where any part of the Supplier System is situated;
"Permitted Maintenance"	has the meaning given to it in paragraph 8.2 of this Schedule;
"Quality Plans"	has the meaning given to it in paragraph 6.1 of this Schedule;
"Sites"	has the meaning given to it in Schedule 1 (Definitions), and for the purposes of this Schedule shall also include any premises from, to or at which physical interface with the Buyer System takes place;
"Software"	Specially Written Software COTS Software and non-COTS Supplier and third party Software;
"Software Supporting Materials"	has the meaning given to it in paragraph 9.1 of this Schedule;
"Source Code"	computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
"Specially Written Software"	any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-Contractor or other third

party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR;

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

2. When this Schedule should be used

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

3. Buyer due diligence requirements

- 3.1. The Supplier shall satisfy itself of all relevant details, including but not limited to, details relating to the following;
- 3.1.1. suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Start Date) future Operating Environment;
 - 3.1.2. operating processes and procedures and the working methods of the Buyer;
 - 3.1.3. ownership, functionality, capacity, condition and suitability for use in the provision of the Deliverables of the Buyer Assets; and
 - 3.1.4. existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the Supplier will require the benefit of for the provision of the Deliverables.
- 3.2. The Supplier confirms that it has advised the Buyer in writing of:
- 3.2.1. each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;
 - 3.2.2. the actions needed to remedy each such unsuitable aspect; and
 - 3.2.3. a timetable for and the costs of those actions.

4. Licensed software warranty

4.1. The Supplier represents and warrants that:

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

5. Provision of ICT Services

5.1. The Supplier shall:

- 5.1.1. ensure that the release of any new COTS Software in which the Supplier owns the IPR, or upgrade to any Software in which the Supplier owns the IPR complies with the interface requirements of the Buyer and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Buyer three (3) Months before the release of any new COTS Software or Upgrade;
- 5.1.2. ensure that all Software including upgrades, updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
- 5.1.3. ensure that the Supplier System will be free of all encumbrances;
- 5.1.4. ensure that the Deliverables are fully compatible with any Buyer Software, Buyer System, or otherwise used by the Supplier in connection with this Contract;
- 5.1.5. minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Deliverables.

6. Standards and Quality Requirements

- 6.1. The Supplier shall develop, in the timescales specified in the Award Form, quality plans that ensure that all aspects of the Deliverables are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").
- 6.2. The Supplier shall seek Approval from the Buyer (not be unreasonably withheld or delayed) of the Quality Plans before implementing them.

Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Deliverables are provided to the standard required by this Contract.

- 6.3. Following the approval of the Quality Plans, the Supplier shall provide all Deliverables in accordance with the Quality Plans.
- 6.4. The Supplier shall ensure that the Supplier Personnel shall at all times during the Contract Period:
 - 6.4.1. be appropriately experienced, qualified and trained to supply the Deliverables in accordance with this Contract;
 - 6.4.2. apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Deliverables; and
 - 6.4.3. obey all lawful instructions and reasonable directions of the Buyer (including, if so required by the Buyer, the ICT Policy) and provide the Deliverables to the reasonable satisfaction of the Buyer.

7. ICT Audit

- 7.1. The Supplier shall allow any auditor access to the Supplier premises to:
 - 7.1.1. inspect the ICT Environment and the wider service delivery environment (or any part of them);
 - 7.1.2. review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
 - 7.1.3. review the Supplier's quality management systems including all relevant Quality Plans.

8. Maintenance of the ICT Environment

- 8.1. If specified by the Buyer in the Award Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance Schedule**") and make it available to the Buyer for Approval in accordance with the timetable and instructions specified by the Buyer.
- 8.2. Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.
- 8.3. The Supplier shall give as much notice as is reasonably practicable to the Buyer prior to carrying out any Emergency Maintenance.
- 8.4. The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Deliverables.

9. Intellectual Property Rights in ICT

9.1. Assignments granted by the Supplier: Specially Written Software

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

9.1.1.1. the Documentation, Source Code and the Object Code of the Specially Written Software; and

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

9.1.2. The Supplier shall:

9.1.2.1. inform the Buyer of all Specially Written Software or New IPRs that are a modification, customisation, configuration or enhancement to any COTS Software;

9.1.2.2. deliver to the Buyer the Specially Written Software and any computer program elements of the New IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven (7) days of completion or, if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone and shall provide updates of them promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Buyer and the Buyer shall become the owner of such media upon receipt; and

9.1.2.3. without prejudice to paragraph 9.1.2.2, provide full details to the Buyer of any of the Supplier's Existing IPRs or Third Party IPRs which are embedded or which are an integral part of the Specially Written Software or New IPR and the Supplier hereby grants to the Buyer and shall procure that any relevant third party licensor shall grant to the Buyer a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit such Supplier's Existing IPRs and Third Party IPRs to the extent that it is necessary to enable the Buyer to obtain the full benefits of ownership of the Specially Written Software and New IPRs.

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

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

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

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

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

9.2.3. Where the Buyer Approves the use of third party Software that is not COTS Software the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Buyer on terms at least equivalent to those set out in Paragraph 9.2.2. If the Supplier cannot obtain such a licence for the Buyer it shall:

9.2.3.1. notify the Buyer in writing giving details of what licence terms can be obtained and whether there are alternative software providers which the Supplier could seek to use; and

9.2.3.2. only use such third party IPR as referred to at paragraph 9.2.3.1 if the Buyer Approves the terms of the licence from the relevant third party.

9.2.4. Where the Supplier is unable to provide a licence to the Supplier's Existing IPR in accordance with Paragraph 9.2.2 above, it must meet the requirement by making use of COTS Software or Specially Written Software.

9.2.5. The Supplier may terminate a licence granted under paragraph 9.2.1 by giving at least thirty (30) days' notice in writing if there is an Authority Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.

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

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

9.4. Buyer's right to assign/novate licences

- 9.4.1. The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to paragraph 9.2 (to:
 - 9.4.1.1. a Central Government Body; or
 - 9.4.1.2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.
- 9.4.2. If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licences granted in paragraph 9.2.

9.5. Licence granted by the Buyer

- 9.5.1. The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Buyer Software and the Specially Written Software solely to the extent necessary for providing the Deliverables in accordance with this Contract, including the right to grant sub-licences to Sub-Contractors provided that any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 15 (Confidentiality).

9.6. Open Source Publication

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

9.6.1.1. suitable for publication by the Buyer as Open Source; and

9.6.1.2. based on Open Standards (where applicable),

and the Buyer may, at its sole discretion, publish the same as Open Source.

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

9.6.2.1. are suitable for release as Open Source and that the Supplier has used reasonable endeavours when developing the same to ensure that publication by the Buyer will not enable a third party to use them in any way which could reasonably be foreseen to compromise the operation, running or security of the Specially Written Software, New IPRs or the Buyer System;

9.6.2.2. have been developed using reasonable endeavours to ensure that their publication by the Buyer shall not cause any harm or damage to any party using them;

9.6.2.3. do not contain any material which would bring the Buyer into disrepute;

9.6.2.4. can be published as Open Source without breaching the rights of any third party;

9.6.2.5. will be supplied in a format suitable for publication as Open Source ("**the Open Source Publication Material**") no later than the date notified by the Buyer to the Supplier; and

9.6.2.6. do not contain any Malicious Software.

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

9.6.3.1. as soon as reasonably practicable, provide written details of the nature of the IPRs and items or Deliverables based on IPRs which are to be excluded from Open Source publication; and

9.6.3.2. include in the written details and information about the impact that inclusion of such IPRs or Deliverables based on

such IPRs, will have on any other Specially Written Software and/or New IPRs and the Buyer's ability to publish such other items or Deliverables as Open Source.

9.7. Malicious Software

- 9.7.1. The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.
- 9.7.2. If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.
- 9.7.3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of paragraph 9.7.2 shall be borne by the Parties as follows:
 - 9.7.3.1. by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and
 - 9.7.3.2. by the Buyer, if the Malicious Software originates from the Buyer Software or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

Schedule 29 (Key Supplier Staff)

- 1.1 The Annex 1 to this Schedule lists the key roles (“**Key Roles**”) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date (“**Key Staff**”).
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
 - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
 - 1.4.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
 - 1.4.3 the person’s employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
 - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
 - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
 - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff’s employment contract, this will mean at least three (3) Months’ notice;
 - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and

- 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.
- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

Annex 1- Key Roles

Key Role	Key Staff	Contact Details
Director	Alison Chalmers	alison.chalmers@widerplan.com
Account manager	Danielle Morgan	dani.morgan@widerplan.com
Project manager	Melanie Roberts	melanie.roberts@widerplan.com

Schedule 30 (Exit Management)

1. Definitions

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

"Exclusive Assets"	Supplier Assets used exclusively by the Supplier or a Key Subcontractor in the provision of the Deliverables;
"Exit Information"	has the meaning given to it in Paragraph 3.1 of this Schedule;
"Exit Manager"	the person appointed by each Party to manage their respective obligations under this Schedule;
"Net Book Value"	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
"Non-Exclusive Assets"	those Supplier Assets used by the Supplier or a Key Subcontractor in connection with the Deliverables but which are also used by the Supplier or Key Subcontractor for other purposes;
"Registers"	the register and configuration database referred to in Paragraph 2.2 of this Schedule;
"Replacement Goods"	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Replacement Services"	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Termination Assistance"	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer

	pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	has the meaning given to it in Paragraph 5.1 of this Schedule;
"Termination Assistance Period"	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;
"Transferable Assets"	Exclusive Assets which are capable of legal transfer to the Buyer;
"Transferable Contracts"	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	has the meaning given to it in Paragraph 8.2.1 of this Schedule;
"Transferring Contracts"	has the meaning given to it in Paragraph 8.2.3 of this Schedule.

2. Supplier must always be prepared for contract exit

2.1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.

2.2 During the Contract Period, the Supplier shall promptly:

- 2.2.1 create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
- 2.2.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables

("Registers").

2.3 The Supplier shall:

- 2.3.1 ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and

2.3.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

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

3. Assisting re-competition for Deliverables

3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").

3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.

3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).

3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

4. Exit Plan

4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer an Exit Plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer.

4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

Schedule 30 (Exit Management)

Crown Copyright 2019

4.3 The Exit Plan shall set out, as a minimum:

- 4.3.1 a detailed description of both the transfer and cessation processes, including a timetable;
- 4.3.2 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
- 4.3.3 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
- 4.3.4 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
- 4.3.5 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
- 4.3.6 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
- 4.3.7 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
- 4.3.8 proposals for the disposal of any redundant Deliverables and materials;
- 4.3.9 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
- 4.3.10 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.

4.4 The Supplier shall:

- 4.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
 - (a) every twelve (12) months throughout the Contract Period; and
 - (b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
 - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
 - (d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and

4.4.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.

4.5 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.

4.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

5. Termination Assistance

5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

5.1.1 the nature of the Termination Assistance required; and

5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the date that the Supplier ceases to provide the Deliverables.

5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the Termination Assistance Notice period provided that such extension shall not extend for more than six (6) Months beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier of such this extension no later than twenty (20) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.

5.3 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

6. Termination Assistance Period

6.1 Throughout the Termination Assistance Period the Supplier shall:

6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;

6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of

Schedule 30 (Exit Management)

Crown Copyright 2019

responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;

- 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
 - 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI's) or Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
 - 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer;
 - 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

7. Obligations when the contract is terminated

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
- 7.2.1 vacate any Buyer Premises;
 - 7.2.2 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;
 - 7.2.3 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:
 - (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
 - (b) such members of the Supplier Staff as have been involved in the design, development and provision of

the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

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

8. Assets, Sub-contracts and Software

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

- 8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
- 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

8.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Buyer shall notify the Supplier setting out:

- 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
- 8.2.2 which, if any, of:
 - (a) the Exclusive Assets that are not Transferable Assets; and
 - (b) the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and

- 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"),

in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.

8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.

Schedule 30 (Exit Management)

Crown Copyright 2019

- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
- 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 8.7 The Buyer shall:
- 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
- 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
- 8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 19 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

9. No charges

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

10. Dividing the bills

10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;

10.1.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.