

Award Form  
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# 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.

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| <b>1. Buyer</b>    | <p>Ministry of Justice (the Buyer).</p> <p>Its principal office for this Contract is at:<br/>5 Wellington Place, Leeds, LS1 4AP United Kingdom</p>   |
| <b>2. Supplier</b> | <p>Name: LINEV Systems UK Ltd<br/>Address: Unit 1 Cross Channel Business Park, Mount Pleasant,<br/>Ramsgate, Kent, England,<br/>CT12 4AU<br/>Registration number: 05809452</p>   |
| <b>3. Contract</b> | <p>This Contract between the Buyer and the Supplier is for the supply of Deliverables.</p> <p>This opportunity is advertised in the Contract Notice in the Find a Tender Notice reference: 2024/S 000-015162 Published 13 May 2024, 2:45pm</p> <p>REF : ITT_8899 - The supply of Torso Body Scanners from an Original Equipment Manufacturer</p> |

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|--|--|
| <b>4. Contract reference</b>   | (Prj_11373)<br><br>[Redacted]<br>Commercial Manager<br>5 Wellington Place<br>Leeds LS1<br>4AP  |
| <b>5. Deliverables</b>   | See Schedule 2 (Specification) for further details.  |
| <b>6. Start Date</b>   | 17 <sup>th</sup> March 2025  |
| <b>7. End Date</b>   | 17 <sup>th</sup> March 2040  |
| <b>8. Extension Period</b>   | N/A  |
| <b>9. Incorporated Terms</b><br><br>(together these documents form the 'the Contract') | <p>The following documents are incorporated into the Contract. Where numbers are missing we are not using these Schedules. If the documents conflict, the following order of precedence applies:</p> <ol style="list-style-type: none"> <li>1. This Award Form</li> <li>2. Any Special Terms (see <b>Section 10 Special Terms</b> in this Award Form)</li> <li>3. Core Terms (version 1.0)</li> <li>4. Schedule 1 (Definitions)</li> <li>5. Schedule 20 (Processing Data)</li> <li>6. The following Schedules (in equal order of precedence): <ul style="list-style-type: none"> <li>• Schedule 2 (Specification)</li> <li>• Schedule 3 (Charges)</li> <li>• Schedule 4 (Tender)</li> <li>• Schedule 5 (Commercially Sensitive Information)</li> <li>• Schedule 6 (Transparency Reports)</li> <li>• Schedule 8 (Implementation Plan &amp; Testing)</li> <li>• Schedule 9 (Installation Works)</li> <li>• Schedule 10 (Service Levels)</li> </ul> </li> </ol> |

- Schedule 11 (Continuous Improvement)
- Schedule 12 (Benchmarking)
- Schedule 13 (Contract Management)
- Schedule 14 (Business Continuity and Disaster Recovery)
- Schedule 16 (Security)
- Schedule 17 (Service Recipients)
- Schedule 18 (Supply Chain Visibility)
- Schedule 19 (Cyber Essentials Scheme)
- Schedule 20 (Processing Data)
- Schedule 21 (Variation Form)
- Schedule 22 (Insurance Requirements)
- Schedule 24 (Financial Difficulties)
- Schedule 25 (Rectification Plan)
- Schedule 27 (Key Subcontractors)
- Schedule 28 (ICT Services)
- Schedule 29 (Key Supplier Staff)
- Schedule 30 (Exit Management)
- Schedule 32 (Background Checks)
- Schedule 36 (For the Secretary of State for Prisons)
- Schedule 26 (Corporate Social Responsibility)
- 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

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| <b>10. Special Terms</b>                      | <b>Special Term 1 – Non-exclusivity</b><br><br>1.1 The Supplier acknowledges that:  |
|   | <p>(a) the Buyer is not obliged to purchase any Goods or Services from the Supplier under this Contract;</p> <p>(b) the Buyer makes no representation as to the number, type, or value of Goods or Services, that it may purchase, from the Supplier under this Contract; and</p> <p>(c) the Supplier cannot prevent the Buyer from purchasing from any third party any Good or Services, that are the same or similar to the Goods or Services referred to in this Contract.’</p> <p>(d) For the avoidance of doubt the duration of the Warranty on a system is as defined in Section 8.8.and it commences at the earlier of commissioning or 6 weeks after the MoJ is informed that the system is ready for delivery.</p> |
| <b>11. Buyer’s Environmental Policy</b>       | Available online at:<br><a href="https://www.gov.uk/guidance/measuring-and-reporting-environmental-impactsguidance-for-businesses">https://www.gov.uk/guidance/measuring-and-reporting-environmental-impactsguidance-for-businesses</a>   |
| <b>12. Buyer’s Security Policy</b>            | As set out in Schedule 16 and Schedule 36   |
| <b>13. Social Value Commitment</b>            | The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, that it will comply with the social value commitments in Schedule 4 (Tender)]   |
| <b>14. Commercially Sensitive Information</b> | As set out in Schedule 5  |
| <b>15. Charges</b>                            | As set out in in Schedule 3 (Charges).<br>Indexation does apply to this contract.   |
| <b>16. Reimbursable expenses</b>              | Recoverable as set out in the expenses policy in Schedule 3 (Charges)   |
| <b>17. Payment method</b>                     | As set out in Schedule 3 (Charges)  |

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| <b>18. Service Levels</b> | Service Credits will accrue in accordance with Schedule 10 (Service Levels)<br>The Service Credit Cap is: as set out in Schedule 10 (Service Levels) The Service Period is as set out in Schedule 10 (Service Levels) |
| <b>19. Insurance</b>      | As set out in Annex of Schedule 22 (Insurance Requirements).  |

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| <b>20. Liability</b>                              | 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 £10 million or 150% of the Estimated Yearly Charges. |
| <b>21. Cyber Essentials Certification</b>         | Cyber Essentials Scheme Plus Certificate (or equivalent). Details in Schedule 19 (Cyber Essentials Scheme)  |
| <b>22. Progress Meetings and Progress Reports</b> | The Supplier shall attend Progress Meetings with the Buyer every quarter or as agreed within Schedule 13 Contract Management. The Supplier shall provide the Buyer with Progress Reports as agreed as part of Schedule 6 (Transparency Reports).              |
| <b>23. Guarantee</b>                              | N/A   |
| <b>24. Supplier Contract Manager</b>              | [Redacted]  |
| <b>25. Supplier Authorised Representative</b>     | [Redacted]  |

|     |   |            |
|-----|---|------------|
| 26. | <b>Supplier Compliance Officer</b>      | [Redacted] |
| 27. | <b>Supplier Data Protection Officer</b> | [Redacted] |
| 28. | <b>Supplier Marketing Contact</b>       | [Redacted] |
| 29. | <b>Key Subcontractors</b>               | [Redacted] |
| 30. | <b>Buyer Authorised Representative</b>  | [Redacted] |

| For and on behalf of the Supplier: |            | For and on behalf of the Buyer: |            |
|------------------------------------|------------|---------------------------------|------------|
| Signature:                         | [Redacted] | Signature:                      | [Redacted] |
| Name:                              | [Redacted] | Name:                           | [Redacted] |

|       |            |       |            |
|-------|------------|-------|------------|
| Role: | [Redacted] | Role: | [Redacted] |
| Date: | 12/03/2025 | Date: | 13/03/2025 |

# 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 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.

## 3.4 Optional Goods and Services

3.4.1 The Buyer may require the Supplier to provide any or all of the Optional Services at any time by giving notice to the Supplier in writing. The Supplier acknowledges that the Buyer is not obliged to take any Optional Services from the Supplier and that nothing shall prevent the Buyer from receiving services that are the same as or similar to the Optional Services from any third party.

3.4.2 If a request for a Variation is submitted by either party, the Supplier shall, as part of the Impact Assessment provided by the Supplier in relation to such Variation request, provide details of the impact (if any) that the proposed Variation will have on the relevant Optional Services.

3.4.3 Following receipt of the Buyer's notice pursuant to clause 3.4.2 above:

- (a) the Parties shall document the inclusion of the relevant Optional Services within the Services in accordance with the Variation Procedure, modified to reflect the fact that the terms and conditions on which the Supplier shall provide the relevant Optional Services have already been agreed;
- (b) the Supplier shall implement and Test the relevant Optional Services in accordance with the reasonable instructions of the Buyer;
- (c) any additional charges for the Optional Services shall be incorporated in the Charges as specified in Schedule 3 (Charges); and
- (d) the Supplier shall, from the date agreed with the Buyer, provide the relevant Optional Services to meet or exceed the applicable Service Levels.

## 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 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 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
- demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause
- 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
- 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.

**8.8 WARRANTY AND GUARANTEES**

**Warranty Period**

8.8.1 Subject to paragraph 8.8.2 below, the Supplier warrants that all Goods will function without error and/or interruption in accordance with the requirements of Schedule 2 for a minimum of 24 months after the date of commissioning (or 6 weeks from the Buyer being informed a Unit is ready for installation/commissioning if the Buyer delays this happening). In the event of any failure(s), damage, or issue(s) with any Goods which occurs in the first 24 months and leaves any of the Goods unable to function without error and/or interruption in accordance with the requirements of Schedule 2 ("Failing Goods"), and such failure, damage, and/or issue is not caused directly by the Buyer's use of Goods in contravention of the Supplier's reasonable instructions, the Supplier shall, in addition to any of the rights of the Buyer under Schedule 10 (Service Levels), repair and/or replace the Failing Part (at the Buyer's reasonable discretion) promptly and free of charge (for the avoidance of doubt, no labour charges, parts charges, or other fees and/or expensive may be charged to the Buyer). The Supplier shall provide to the Buyer its standard manufacturers' fully inclusive warranty for the Goods to the extent such warranty exceeds the requirements of this clause 8.8.1 and shall provide the details of such warranty in writing promptly after the Start Date.

8.8.2 The Supplier warrants that all X-Ray Generators and Detectors shall function without error and/or interruption with the requirements of Schedule 2 for a minimum of 5 years after the date of commissioning (or 6 weeks from the Buyer being informed a Unit is ready for installation/commissioning if the Buyer delays this happening). In the event of any failure(s), damage, or issue(s) with any X-Ray Generator and/or Detector which occurs in the first 5 years and leaves the X-Ray Generator and/or Detector unable to function without error and/or interruption in accordance with

the requirements of Schedule 2 (“Failing Part”), and such failure, damage, and/or issue is not caused directly by the Buyer’s use of such XRay Generator and/or Detector in contravention of the Supplier’s reasonable instructions, the Supplier shall, in addition to any of the rights of the Buyer under Schedule 10 (Service Levels), repair and/or replace the Failing Part (at the Buyer’s reasonable discretion) promptly and free of charge (for the avoidance of doubt, no labour charges, parts charges, or other fees and/or expensive may be charged to the Buyer). The Supplier shall provide to the Buyer its standard manufacturers’ fully inclusive warranty for the X-Ray Generators and Detectors to the extent such warranty exceeds the requirements of this clause 8.8.2 and shall provide the details of such warranty in writing promptly after the Start Date.

8.8.3 The Warranty for each Unit shall take effect from the point of complete installation of the Unit following successful commissioning without fault and meeting the Technical Goods Specification (or 6 weeks from the Buyer being informed a Unit is ready for installation/commissioning if the Buyer delays this happening)..

8.8.4 The Supplier shall ensure the Warranty covers all labour, parts and travel in connection to a warranty design and component failure claim.

8.8.5 The Supplier shall ensure the Buyer Warranty shall not be void for Buyer-appointed third party trained repair or maintenance representatives.

8.8.6 For the avoidance of doubt, where the Supplier’s standard Warranty conditions exceed any or all of the Buyer’s requirements as detailed in 8.8.1. to 8.8.6, the Buyer reserves the right to accept in writing those elements of the Supplier’s Warranty, over and above the requirements in 8.8.1. to 8.8.6.

## 9. Intellectual Property Rights (IPRs)

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

- receive and use the Deliverables; and
- make use of the deliverables provided by a Replacement Supplier (including for the avoidance of doubt, but not limited to, permitting any Replacement Supplier to repair, maintain and/or Service the Goods).

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

## 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 defined in the Award Form by giving the Supplier no less than 3 Months' written notice before the Contract expires.

### 10.3 Ending the contract without a reason

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

## 10.4 When the Buyer can end the Contract

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

- there's a Supplier Insolvency Event
- there's a Default that is not corrected in line with an accepted Rectification Plan
- the Buyer rejects a Rectification Plan or the Supplier does not provide it within 10 days of the request
- 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
- there's a Variation to the Contract which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes)
- The Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded
- the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations
- the Supplier 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
- 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
- may request that the Supplier provides a revised Rectification Plan within 5 Working Days

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

## 10.5 What happens if the contract ends

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

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

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

10.5.3 Accumulated rights of the Parties are not affected.

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

10.5.5 The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.

10.5.6 The Supplier must, at no cost to the Buyer, co-operate fully in the handover and 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 30 days of the date of the Reminder Notice.

10.6.2 If a Supplier terminates the Contract under Clause 10.6.1:

- the Buyer must promptly pay all outstanding Charges incurred to the Supplier
- the Buyer 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 £10 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, 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 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 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.
- 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:

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|-------------------------|--|
| <b>"Achieve"</b>        | in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " <b>Achieved</b> ", " <b>Achieving</b> " and " <b>Achievement</b> " shall be construed accordingly;  |
| <b>"Affected Party"</b> | the party seeking to claim relief in respect of a Force Majeure Event;   |
| <b>"Affiliates"</b>     | in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;   |
| <b>"Annex"</b>          | extra information which supports a Schedule;   |
| <b>"Approval"</b>       | the prior written consent of the Buyer and " <b>Approve</b> " and " <b>Approved</b> " shall be construed accordingly;  |
| <b>"Audit"</b>          | the Buyer's right to: <ul style="list-style-type: none"> <li>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);</li> <li>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;</li> <li>c) verify the Open Book Data;</li> <li>d) verify the Supplier's and each Subcontractor's compliance with the applicable Law;</li> <li>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;</li> </ul> |

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|                      | <p>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;</p> <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> |
| <b>"Auditor"</b>     | <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>  |
| <b>"Buyer Cause"</b> | 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 subjectmatter of the Contract and in respect of which the Buyer is liable to the Supplier;   |
| <b>"BACS"</b>        | the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;   |
| <b>"Beneficiary"</b> | a Party having (or claiming to have) the benefit of an indemnity under this Contract;  |

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| <b>"Buyer Assets"</b>                       | the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;   |
| <b>"Buyer Authorised Representative"</b>    | the representative appointed by the Buyer from time to time in relation to the Contract initially identified in the Award Form;   |
| <b>"Buyer Premises"</b>                     | premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);  |
| <b>"Contract"</b>                           | the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;   |
| <b>"Contract Period"</b>                    | the Contract Period in respect of the Contract;   |
| <b>"Central Government Body"</b>            | 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:<br><br>a) Government Department;<br>b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);<br>c) Non-Ministerial Department; or<br>d) Executive Agency; |
| <b>"Change in Law"</b>                      | 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;  |
| <b>"Change of Control"</b>                  | a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;  |
| <b>"Charges"</b>                            | 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;   |
| <b>"Claim"</b>                              | any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;   |
| <b>"Commercially Sensitive Information"</b> | 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   |



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

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| <b>"Costs"</b> | <p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <ul style="list-style-type: none"> <li>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"> <li>i) base salary paid to the Supplier Staff; ii) employer's National Insurance contributions; iii) pension contributions; iv) car allowances;</li> <li>v) any other contractual employment benefits;</li> <li>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</li> <li>ix) reasonable recruitment costs, as agreed with the Buyer;</li> </ul> </li> <li>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;</li> <li>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</li> <li>d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables;</li> </ul> <p>but excluding:</p> <ul style="list-style-type: none"> <li>a) Overhead;</li> <li>b) financing or similar costs;</li> <li>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;</li> </ul> |
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|  | <p>d) taxation;</p> <p>e) fines and penalties;</p> <p>f) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and</p> <p>g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</p>   |
| <b>"Crown Body"</b>                        | the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including, 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;  |
| <b>"CRTPA"</b>                             | the Contract Rights of Third Parties Act 1999;   |
| <b>"Data Protection Impact Assessment"</b> | an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;  |
| <b>"Data Protection Legislation"</b>       | (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the 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;   |
| <b>"Data Protection Officer"</b>           | has the meaning given to it in the GDPR;   |
| <b>"Data Subject"</b>                      | has the meaning given to it in the GDPR  |
| <b>"Data Subject Access Request"</b>       | a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;  |
| <b>"Deductions"</b>                        | all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under the Contract;   |
| <b>"Default"</b>                           | any breach of the obligations of the Supplier (including abandonment of the Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of the Contract and in respect of which the Supplier is liable to the Buyer; |
| <b>"Delay Payments"</b>                    | the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;   |

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| <b>"Deliverables"</b>                 | Goods and/or Services that may be ordered under the Contract including the Documentation;  |
| <b>"Delivery"</b>                     | delivery of the relevant Deliverable or Milestone in accordance with the terms of the Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. <b>"Deliver"</b> and <b>"Delivered"</b> shall be construed accordingly;   |
| <b>"Disaster"</b>                     | 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 <b>"Disaster Period"</b> );   |
| <b>"Disclosing Party"</b>             | the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential);   |
| <b>"Dispute"</b>                      | 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;  |
| <b>"Dispute Resolution Procedure"</b> | the dispute resolution procedure set out in Clause 34 (Resolving disputes);  |
| <b>"Documentation"</b>                | <p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under the Contract as:</p> <ul style="list-style-type: none"> <li>a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</li> <li>b) is required by the Supplier in order to provide the Deliverables; and/or</li> <li>c) has been or shall be generated for the purpose of providing the Deliverables;</li> </ul> |

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| <b>"DOTAS"</b>                     | the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions; |
| <b>"Due Diligence Information"</b> | any information supplied to the Supplier by or on behalf of the Buyer prior to the Start Date;   |
| <b>"Effective Date"</b>            | the date on which the final Party has signed the Contract;   |
| <b>"EIR"</b>                       | the Environmental Information Regulations 2004;  |
| <b>"Employment Regulations"</b>    | the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;   |
| <b>"End Date"</b>                  | the earlier of:<br>a) the Expiry Date (as extended by any Extension Period exercised by the Buyer under Clause 10.2); or<br>b) if the Contract is terminated before the date specified in (a) above, the date of termination of the Contract;  |
| <b>"Environmental Policy"</b>      | to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;  |
| <b>"Estimated Year 1 Charges"</b>  | the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;   |
| <b>"Estimated Yearly Charges"</b>  | means for the purposes of calculating each Party's annual liability under clause 11.2 :<br>i) in the first Contract Year, the Estimated Year 1 Charges; or<br>ii) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or<br><br>iii) after the end of the Contract, the Charges paid or payable in the last Contract Year during the Contract Period;   |

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| <b>"Equality and Human Rights Commission"</b> | the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;   |
| <b>"Existing IPR"</b>                         | 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);  |
| <b>"Expiry Date"</b>                          | the date of the end of the Contract as stated in the Award Form;  |
| <b>"Extension Period"</b>                     | 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;   |
| <b>"FOIA"</b>                                 | 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;   |
| <b>"Force Majeure Event"</b>                  | <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"> <li>a) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;</li> <li>b) acts of a Crown Body, local government or regulatory bodies;</li> <li>c) fire, flood or any disaster; or</li> <li>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"> <li>i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;</li> <li>ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and</li> <li>iii) any failure of delay caused by a lack of funds;</li> </ul> </li> </ul> |
| <b>"Force Majeure Notice"</b>                 | a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;  |
| <b>"Award Form"</b>                           | the document outlining the Incorporated Terms and crucial information required for the Contract, to be executed by the Supplier and the Buyer;  |

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| <b>" Incorporated Terms"</b>         | the contractual terms applicable to the Contract specified in the Award Form;   |
| <b>" Special Terms"</b>              | any additional terms and conditions specified in the Award Form incorporated into the Contract;   |
| <b>" Tender Response"</b>            | the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);   |
| <b>"GDPR"</b>                        | the General Data Protection Regulation (Regulation (EU) 2016/679)   |
| <b>"General Anti-Abuse Rule"</b>     | a) the legislation in Part 5 of the Finance Act 2013 and; and<br>b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;   |
| <b>"General Change in Law"</b>       | a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;   |
| <b>"Goods"</b>                       | goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;   |
| <b>"Good Industry Practice"</b>      | standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;   |
| <b>"Government"</b>                  | the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;   |
| <b>"Government Data"</b>             | the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which:<br><br>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; |
| <b>"Government Procurement Card"</b> | the Government's preferred method of purchasing and payment for low value goods or services<br><a href="https://www.gov.uk/government/publications/governmentprocurement-card--2">https://www.gov.uk/government/publications/governmentprocurement-card--2</a> ;  |

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| <b>"Guarantor"</b>               | the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;   |
| <b>"Halifax Abuse Principle"</b> | the principle explained in the CJEU Case C-255/02 Halifax and others;   |
| <b>"HMRC"</b>                    | Her Majesty's Revenue and Customs;  |
| <b>"ICT Policy"</b>              | the Buyer's policy in respect of information and communications technology, referred to in the Award Form, which is in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;   |
| <b>"Impact Assessment"</b>       | <p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <ul style="list-style-type: none"> <li>a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract;</li> <li>b) details of the cost of implementing the proposed Variation;</li> <li>c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</li> <li>d) a timetable for the implementation, together with any proposals for the testing of the Variation; and</li> <li>e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;</li> </ul> |
| <b>"Implementation Plan"</b>     | the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;   |
| <b>"Indemnifier"</b>             | a Party from whom an indemnity is sought under this Contract;   |
| <b>"Independent Control"</b>     | where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and <b>"Independent Controller"</b> shall be construed accordingly;   |
| <b>"Indexation"</b>              | the adjustment of an amount or sum in accordance with the Award Form;   |
| <b>"Information"</b>             | has the meaning given under section 84 of the Freedom of Information Act 2000;  |



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

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| <b>"Intellectual Property Rights" or "IPR"</b> | <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> |
| <b>"Invoicing Address"</b>                     | the address to which the Supplier shall Invoice the Buyer as specified in the Award Form;  |
| <b>"IPR Claim"</b>                             | any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under the Contract;   |
| <b>"IR35"</b>                                  | <p>the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at:</p> <p><a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a>;</p>   |
| <b>"Joint Controller Agreement"</b>            | 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> );   |
| <b>"Joint Controllers"</b>                     | where two or more Controllers jointly determine the purposes and means of Processing;  |
| <b>"Key Personnel"</b>                         | the individuals (if any) identified as such in the Award Form;   |
| <b>"Key Sub-Contract"</b>                      | each Sub-Contract with a Key Subcontractor;  |
| <b>"Key Subcontractor"</b>                     | <p>any Subcontractor:</p> <p>a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or</p>   |

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|                            | <p>b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</p> <p>c) with a Sub-Contract with the Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Contract, and the Supplier shall list all such Key Subcontractors in section 29 of the Award Form;</p> |
| <b>"Know-How"</b>          | 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;   |
| <b>"Law"</b>               | 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;   |
| <b>"Lead Time(s)"</b>      | means the maximum period of time permitted for the Supplier in the provision of the Goods and Services as described in Schedule 2 (Specification) which will form the basis of the Service Levels and Key Performance Indicators of the Contract and shall be cascaded to any Sub-Contractors who are also to perform or deliver the Goods and Services  |
| <b>"LED"</b>               | Law Enforcement Directive (Directive (EU) 2016/680)  |
| <b>"Losses"</b>            | all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and <b>"Loss"</b> shall be interpreted accordingly;   |
| <b>"Lots"</b>              | the number of lots specified in Schedule 2 (Specification), if applicable;   |
| <b>"Marketing Contact"</b> | shall be the person identified in the Award Form;  |
| <b>"Milestone"</b>         | an event or task described in the Implementation Plan;   |
| <b>"Milestone Date"</b>    | the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;   |
| <b>"Month"</b>             | a calendar month and <b>"Monthly"</b> shall be interpreted accordingly;  |

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| <b>"National Insurance"</b>               | contributions required by the National Insurance Contributions Regulations 2012 (SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;  |
| <b>"New IPR"</b>                          | <p>a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Contract and updates and amendments of these items including (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; but shall not include the Supplier's Existing IPR;</p>  |
| <b>"Occasion of Tax Non – Compliance"</b> | <p>where:</p> <p>a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>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> <p>b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;</p> |
| <b>"Open Book Data"</b>                   | <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> <p>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;</p> <p>b) operating expenditure relating to the provision of the Deliverables including an analysis showing:</p>   |

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|  | <ul style="list-style-type: none"> <li>i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;</li> <li>ii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade;</li> <li>iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and</li> <li>iv) Reimbursable Expenses, if allowed under the Award Form; c) Overheads;</li> <li>d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;</li> <li>e) the Supplier Profit achieved over the Contract Period and on an annual basis;</li> <li>f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;</li> <li>g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and</li> <li>h) the actual Costs profile for each Service Period;</li> </ul> |
| <b>"Optional Services"</b>               | as per Schedule 2, Section 14.   |
| <b>"Original Equipment Manufacturer"</b> | means the manufacturer of the Goods including Spares, consumables and accessories who holds the Intellectual Property for the Goods.   |
| <b>"Overhead"</b>                        | 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";  |
| <b>"Parliament"</b>                      | takes its natural meaning as interpreted within by Law;  |
| <b>"Party"</b>                           | the Buyer or the Supplier and <b>"Parties"</b> shall mean both of them where the context permits;  |
| <b>"Personal Data"</b>                   | has the meaning given to it in the GDPR;   |

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| <b>“Personal Data Breach”</b>  | has the meaning given to it in the GDPR;  |
| <b>“Planned Preventative Maintenance Services” (or “Planned Preventative Maintenance (PPM)”)</b> | pre-planned scheduled maintenance in line with MoJ SFG20 Maintenance Schedules and as detailed within Schedule 2, Section 12.2.   |
| <b>"Prescribed Person"</b>   | 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: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;   |
| <b>"Progress Meeting"</b>  | a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;   |
| <b>"Progress Meeting Frequency"</b>  | the frequency at which the Supplier shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Award Form;  |
| <b>“Progress Report”</b>   | a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;   |
| <b>“Progress Report Frequency”</b>   | the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Award Form;  |
| <b>“Prohibited Acts”</b>   | <p>a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>i) induce that person to perform improperly a relevant function or activity; or</li> <li>ii) reward that person for improper performance of a relevant function or activity;</li> </ul> <p>b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract; or</p> <p>c) committing any offence:</p> <ul style="list-style-type: none"> <li>i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> </ul> |

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|                                     | <ul style="list-style-type: none"> <li>ii) under legislation or common law concerning fraudulent acts; or</li> <li>iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or</li> <li>d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</li> </ul>   |
| <b>"Protective Measures"</b>        | <p>technical and organisational measures which must take account of:</p> <ul style="list-style-type: none"> <li>a) the nature of the data to be protected</li> <li>b) harm that might result from Data Loss Event;</li> <li>c) state of technological development</li> <li>d) the cost of implementing any measures</li> </ul> <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> |
| <b>"Recall"</b>                     | a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;  |
| <b>"Recipient Party"</b>            | the Party which receives or obtains directly or indirectly Confidential Information;   |
| <b>"Rectification Plan"</b>         | <p>the Supplier's plan (or revised plan) to rectify it's breach using the template in Schedule 25 (Rectification Plan Template) which shall include:</p> <ul style="list-style-type: none"> <li>a) full details of the Default that has occurred, including a root cause analysis;</li> <li>b) the actual or anticipated effect of the Default; and</li> <li>c) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable);</li> </ul>   |
| <b>"Rectification Plan Process"</b> | the process set out in Clause 10.4.2 to 10.4.4 (Rectification Plan Process);   |
| <b>"Regulations"</b>                | the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);   |

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| <b>"Reimbursable Expenses"</b>                | <p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <p>a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and</p> <p>b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</p> |
| <b>"the Buyer's Confidential Information"</b> | <p>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);</p> <p>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> <p>information derived from any of the above;</p>  |
| <b>"Relevant Requirements"</b>                | all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;  |
| <b>"Relevant Tax Authority"</b>               | HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;   |
| <b>"Reminder Notice"</b>                      | a notice sent in accordance with Clause 10.6 given by the Supplier to the Buyer providing notification that payment has not been received on time;   |
| <b>"Replacement Deliverables"</b>             | any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables , whether those goods are provided by the Buyer internally and/or by any third party;   |
| <b>"Replacement Subcontractor"</b>            | a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);   |



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

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| <b>"Sites"</b>                  | any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:<br>a) the Deliverables are (or are to be) provided; or<br>b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;<br>c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided) |
| <b>"SME"</b>                    | an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;   |
| <b>"Spares"</b>                 | means components of the Units as set out in Schedule 2 (Pricing) or as notified.  |
| <b>"Special Terms"</b>          | any additional Clauses set out in the Award Form which shall form part of the respective Contract;  |
| <b>"Specific Change in Law"</b> | a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;  |
| <b>"Specification"</b>          | the specification set out in Schedule 2 (Specification), as may, in relation to the Contract, be supplemented by the Award Form;  |
| <b>"Standards"</b>              | any:<br>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;<br>b) standards detailed in the specification in Schedule 2 (Specification);<br>c) standards detailed by the Buyer in the Award Form or agreed between the Parties from time to time;<br>d) relevant Government codes of practice and guidance applicable from time to time;   |

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| <b>"Start Date"</b>                          | the date specified on the Award Form;   |
| <b>"Storage Media"</b>                       | the part of any device that is capable of storing and retrieving data;  |
| <b>"Sub-Contract"</b>                        | any contract or agreement (or proposed contract or agreement), other than a Contract, pursuant to which a third party: a)<br>provides the Deliverables (or any part of them);<br>b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or<br>c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);   |
| <b>"Subcontractor"</b>                       | any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;   |
| <b>"Subprocessor"</b>                        | any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;   |
| <b>"Supplier"</b>                            | the person, firm or company identified in the Award Form;   |
| <b>"Supplier Assets"</b>                     | all assets and rights used by the Supplier to provide the Deliverables in accordance with the Contract but excluding the Buyer Assets;  |
| <b>"Supplier Authorised Representative"</b>  | the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;   |
| <b>"Supplier's Confidential Information"</b> | 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;<br>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;   |
| <b>"Supplier's Contract Manager"</b>         | the person identified in the Award Form appointed by the Supplier to oversee the operation of the Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;  |

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| <b>"Supplier Equipment"</b>                       | the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;                                   |
| <b>"Supplier Non-Performance"</b>                 | where the Supplier has failed to: <ul style="list-style-type: none"> <li>a) Achieve a Milestone by its Milestone Date;</li> <li>b) provide the Goods and/or Services in accordance with the Service Levels ; and/or</li> <li>c) comply with an obligation under the Contract;</li> </ul> |
| <b>"Supplier Profit"</b>                          | in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of the Contract for the relevant period;  |
| <b>"Supplier Profit Margin"</b>                   | in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;         |
| <b>"Supplier Staff"</b>                           | all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under the Contract;   |
| <b>"Supply Chain Information Report Template"</b> | the document at Annex 1 of Schedule 18 Supply Chain Visibility;  |
| <b>"Supporting Documentation"</b>                 | sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Contract detailed in the information are properly payable;   |
| <b>"Termination Notice"</b>                       | a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate the Contract on a specified date and setting out the grounds for termination;                                     |
| <b>"Test Issue"</b>                               | any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in the Contract;   |
| <b>"Test Plan"</b>                                | a plan: <ul style="list-style-type: none"> <li>a) for the Testing of the Deliverables; and</li> <li>b) setting out other agreed criteria related to the achievement of Milestones;</li> </ul>  |

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| <b>"Tests and Testing"</b>               | any tests required to be carried out pursuant to the Contract as set out in the Test Plan or elsewhere in the Contract and <b>"Tested"</b> shall be construed accordingly;  |
| <b>"Third Party IPR"</b>                 | Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;   |
| <b>"Transferring Supplier Employees"</b> | those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;  |
| <b>"Transparency Information"</b>        | the Transparency Reports and the content of the Contract, including any changes to this Contract agreed from time to time, except for –<br><ul style="list-style-type: none"> <li>(i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and</li> <li>(ii) Commercially Sensitive Information;</li> </ul>   |
| <b>"Transparency Reports"</b>            | the information relating to the Deliverables and performance pursuant to the Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);  |
| <b>"Unit(s)"</b>                         | means an X-Ray Torso Security Scanner   |
| <b>"Variation"</b>                       | has the meaning given to it in Clause 24 (Changing the contract);   |
| <b>"Variation Form"</b>                  | the form set out in Schedule 21 (Variation Form);   |
| <b>"Variation Procedure"</b>             | the procedure set out in Clause 24 (Changing the contract);   |
| <b>"VAT"</b>                             | value added tax in accordance with the provisions of the Value Added Tax Act 1994;  |
| <b>"VCSE"</b>                            | a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;   |
| <b>"Worker"</b>                          | any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables; and |
| <b>"Working Day"</b>                     | any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.   |

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| <b>"Work Day"</b>   | 7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;  |
| <b>"Work Hours"</b> | the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks; |

## SCHEDULE 2 – SPECIFICATION

### 1. SCHEDULE 2 DEFINITIONS

| Term                                 | Definition  |
|--------------------------------------|---|
| Accessories                          | Additional Goods that the Authority may order over the Term of the Agreement  |
| Authority Contract Manager           | The Authority's commercial Contract Manager responsible and authorised to act on behalf of the Authority for matters relating but not limited to: contract interpretation, governance, dispute resolution and change control  |
| Authority Project Lead               | An Authority member of staff who will lead on single or multiple site surveys and/or commissioning processes, co-ordinating activities and information from across the Authority estate   |
| Commissioning Report                 | A report produced by the Supplier, or their Sub-Contractor, which includes at minimum:<br>a) radiological survey of both environmental scatter exposure on the highest output setting of the Good<br>b) dose radiation readings on each setting of the machine accessible by the operator   |
| Commissioning                        | The installation, configuration and testing of the Goods into live service to the standards and outputs as set out in the Technical Specification and Technical Performance Specification contained in Schedule 2   |
| Counter Terrorism Check (CTC)        | Counter Terrorist Check (CTC) is carried out if an individual is working in proximity to public figures or requires access to the Authority's High Security Premises  |
| High Security Premises               | Closed sites which for prisons are characterised by prisoners whose escape would be highly dangerous to the public or national security (also referred to as Category A prisons).   |
| Inco-Terms Delivered Duty Paid (DDP) | means that the Supplier fulfils their obligation to deliver when the Goods have been made available at the named place in the country of importation. The Supplier has to bear the risks and costs, including duties, taxes and other charges of delivering the Goods thereto, cleared for importation.   |
| Lead Time(s)                         | Means the maximum period of time permitted for the Supplier in the provision of the Goods and Services as described in Schedule 2 (Specification) which will form the basis of the Service Levels and Key Performance Indicators of the Contract and shall be cascaded to any Sub-Contractors who are also to perform or deliver the Goods and Services |
| Local Point of Contact               | means the nominated point of contact on a local site, including deputies or other personnel as communicated to the Supplier, at the Site who will inform the Supplier of any information or arrangements specific to the locality and will coordinate with Site personnel any relevant activities within the Site                                       |
| Micro Sieverts                       | A unit of measurement of the ionising radiation dose and is a measure of the health effect of low levels of ionizing radiation on the human body  |

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| Order   | purchase of the Goods, based on a written quotation following a survey, and only confirmed through communication by the Authority of an official Purchase Order Form   |
| Original Equipment Manufacturer (OEM)   | Means the manufacturer of the Goods including Spares, consumables and accessories who holds the Intellectual Property for the Goods.   |
| Participating Authority / Authorities   | A Contracting Authority with access to this Contract Agreement as named in the Official Journal of the European Union Contract Notice and as listed in the Request for Proposal document (RFP).  |
| Planned Preventative Maintenance Services (or “Planned Preventative Maintenance (PPM)”) ) | Pre-planned scheduled maintenance in line with MoJ SFG20 Maintenance Schedules   |
| Product Code  | Unique Supplier reference identifying an individual Goods, accessories, Spares and accessories which is consistent throughout the Term of the Contract.  |
| Project Delivery  | means a project, formal (with project governance and methodologies based on the principles of Prince2® or similar) or informal, for the surveying, installation or commissioning of single or multiple Sites.  |
| Purchase Order Form   | A formal commercial agreement, communicated electronically by the Authority or an agent acting on its behalf, to the Supplier confirming Goods, Services, and quantities at the agreed pricing.  |
| Quotation Survey  | A survey at an Authority Site, provided free of charge, and including activities as set out in Schedule 2 (Specification).   |
| Radiation Protection Advisor  | A company, appointed by the Authority independent of the Contract, providing inspection of Goods at Sites to ensure compliance with the Ionising Radiation Regulations 2017 (IRR17). As governed by the Health & Safety Executive and in compliance with the Ionising Radiations Regulations 2017 (IRR17). |
| Service Level Agreement or Service Levels   | Has reference to all Lead Times and performance levels as set out in the Agreement with particular reference to Schedule 2 (Specification) and Schedule 10   |
| Site  | shall have the same meaning as Premises. For the Authority this will typically refer to His Majesty’s Prison however other locations may be identified at the discretion of the Authority as notified from time to time.   |
| Site Implementation Plan  | A plan, per Site or for multiple Sites, which details the key dates, milestones, critical activities and any dependencies necessary to achieve the commissioning into operation of the Goods.  |
| Spares  | Means components of the Goods as set out in Schedule 3 (Charges) or as notified.   |
| Standard Service Plan   | The Suppliers Planned Preventative Maintenance and Reactive Maintenance services in compliance with the minimum and maximum requirements as set out in Schedule 2.   |
| Substitute Items  | Means alternative Goods, accessories or Spares as to those which form part of the Contract Agreement, only permissible with the express written permission of the Authority Contract Manager.  |
| Technical Goods Specification   | Means the minimum technical requirements that the Goods must comply with as defined in Appendix A.   |
| Technical Performance Specification   | Means the minimum technical performance or output of the Goods as defined in Test Specification document   |



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| Warranty | Describes the conditions under, and period during, which the producer or vendor will repair, replace, or other compensate for, the defective item without cost to the buyer or user. |
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## **2. INTRODUCTION**

### **2.1 Introduction**

This Schedule 2 (Specification) constitutes the specification requirements for the supply and maintenance of torso only X-ray body scanners.

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### **1.2 Purpose**

- 1.2.1 The information contained within this document forms the basis of the criteria against which the Suppliers performance will be measured in conjunction with the entire Contract during the Term.

## **2 SCOPE OF REQUIREMENTS**

### **2.1 Provision of Goods & Services**

- 2.1.1 This Authority specification relates to the national supply, installation and support Services for security x-ray body scanners (torso only) within the Authority's agency, HM Prison and Probation Service in England & Wales, and other Participating Authorities.
- 2.1.2 The Authority may, over the life of the Contract, identify other in scope personnel / personal screening Goods and Accessories for either addition or removal from the Contract. This will be either in writing from the Authority Contract Manger or by formal Change Control (F4 and Schedule 21).
- 2.1.3 Each Participating Authority to the Contract assumes responsibility for its own purchases, settlements and service management from the Contract / Call Off Agreement with no liability to the Contract Owner (Authority).
- 2.1.4 Any disputes shall be dealt with under English Law, except where specifically specified in any Call Off Agreement.
- 2.1.5 Payment for Goods and Services shall be made into a UK Banking account in UK Pounds Stirling, except where specifically specified in any Call Off Agreement.

2.1.6 All Goods to be supplied from outside the United Kingdom under Incoterms 2010 Delivered Duty Paid (DDP)

## **2.2 Technical Specification**

2.2.1 The Technical Goods Specification can be found attached at **Appendix A**

2.2.2 For reference a non-exhaustive list of Services included in this specification includes:

- (a) survey
- (b) quotation (if additional work required)
- (c) supply of Goods
- (d) installation
- (e) commissioning
- (f) Operator training
- (g) reactive and preventative maintenance
- (h) upgrades, overhaul and integration of the Goods
- (i) technical support (j) disposal / trade In

## **2.3 Exclusivity and Demands**

2.3.1 The demand for orders of Goods and Services will be identified through business need on an ad-hoc basis by Authority or Participating Authority Sites.

2.3.2 The Supplier shall be required at all times to fulfil orders for Goods & Services placed by the Authority / Participating Authority within the agreed Lead-Times contained within the Contract Agreement and/or Call-Off contract or on a programme defined before the placement of any order.

2.3.3 The Supplier is obligated to ensure that contingency arrangements are in place for alternative supply of Goods & Services should the Supplier find they are unable to meet the supply and maintenance requirements of the Contract within the relevant Lead-Times. Where a Sub-Contractor is used, the Supplier is obliged to ensure the Goods & Services provided by that Sub-Contractor meet the Authority's requirements under this Contract.

## **3. DEMAND CALL OFF**

3.1 Call-Off will be by means of the transmission of an official Purchase Order Form following either the acceptance of a compliant quotation (against specific or bespoke needs) or against the Schedule 3 (Charges).

## **4. GOODS STANDARDS, REGULATORY & LEGISLATIVE COMPLIANCE**

#### **4.1 X-Ray Standards**

4.1.1 The Supplier shall ensure that all x-ray Goods, including tools, and Services provided meet all pertinent British Standards, European Norms for sales in to the United Kingdom. Including:

(a) ANSI N43.17 2009 standard in relation to Radiation Safety for Personnel Security Screening Systems Using X-Ray or Gamma Radiation. (b) Regulation 32 of the Ionising radiations regulations 2017

#### **4.2 CE Marking**

4.2.1 All Goods provided shall carry where required a Conformity European (CE) marking (or any alternative version of this that may result from legislative changes such as, but not limited to Brexit) and undergone CE Assessment conforming to relevant European Standards.

4.2.2 If requested by the Authority the Supplier shall issue the Authority with a full copy of the master product file including: Declaration of Conformity certificates, Health & Safety Test certificates and technical product file for examination and archive purposes.

#### **4.3 Legislation**

4.3.1 All Goods & Services (including Supplier Systems) shall be compliant with pertinent, current and as amended UK Legislation, including but not limited to:

- (a) The Ionising Radiations Regulations 2017 (IRR17)
- (b) Consumer Rights Act 2015 (as amended)
- (c) The Supply of Machinery (Safety) Regulations 2008 (as amended) (d) The Low Voltage Electrical Equipment (Safety) Regulations 1989 (e) Health & Safety at Work Act 1974, Section 6, (as amended).
- (f) Electrical Equipment (Safety) Regulations (1994, as amended),
- (g) Electromagnetic Compatibility Regulations (1992, as amended)
- (h) Restriction of the Use of Certain Hazardous Substances (RoHS) in Electrical and
- (i) Electronic Equipment (EEE) Directive ([2011/65/EU](#)) (as amended) (j) IEEE Wiring Regulations Latest Editions.

### **5. DURABILITY & QUALITY OF GOODS**

#### **5.1 Manufactured Goods**

5.1.1 All Goods supplied shall be supplied new, unless requested and agreed in writing by the Authority Contract Manager or the Participating Authority Contract Manager in relation to a Call-Off.

5.1.1 All components which make up the Goods supplied shall have a track record of performance and reliability without fault of at least 12 months in actual deployment with a minimum designed expected operational life of 10 years based on 2,600 hours use per annum.

5.1.2 No prototypes or non-production / concept models are accepted without the Authority's Contract Manager approval.

5.1.3 Any known issues relating to durability and safety of components or Goods shall be notified to the Authority prior to purchase and throughout the operational life of the Goods. Non-declaration of known faults or durability issues at the point of purchase by the Supplier shall result in liability for repair and compensation to the Authority, by the Supplier, at the Supplier's expense.

5.1.4 Where any durability or safety issue is assigned to a manufacturer's design or material deficiency. The Supplier shall underwrite the repair during the operational life of the Goods.

5.1.5 All Goods supplied shall be in current production and no obsolescent Goods to be supplied without the written express permission of the Authority Contract Manager.

5.1.6 All Goods models shall be supplied with an OEM maintenance schedules for regular and periodic maintenance.

## **5.2 Accessories**

5.2.1 Accessories supplied shall be robust and meet the tasks and demands of the environment and not wear unnecessarily and meet performance specification durability.

## **6 INSPECTION OF GOODS**

### **6.1 Inspection**

6.1.1 The Supplier shall afford such reasonable access as is required to allow the Authority or Participating Authorities to inspect any part of or the finished Goods or the availability of Spares at the Supplier's premises or any premises where the Supplier may store or hold Goods or Spares that may be provided to the Authority.

## **7 SPARES PROVISION**

### **7.1 Spares Support**

- 7.1.1 Spares for any Goods shall be made available for a minimum of 10 years from the purchase of the Goods. The Supplier shall notify the Authority of any plans to cease the production of any Spares. The Authority shall upon notification by the Supplier be given opportunity to purchase Spares prior to the last batch production runs.
- 7.1.2 Spares shall be made available to the Authority or its nominated third-party representative direct from the Supplier (or OEM) without any detriment to agreed Lead-Times or costs.
- 7.1.3 Spares shall be kept in the UK for first time fix with large Spare parts with contingency stock being made available by airfreight in less than 48 Hours. Spares shall be carried by engineers attending Sites with the exception of large items such as generators, detector arrays. The Supplier shall be required, on request by the Authority, to evidence first time fix rates in line with required Service Levels and inventory holding at base and on vehicles.

## **8 WARRANTY AND GUARANTEES**

### **8.1 Warranty Period**

- 8.1.1 All Goods will be provided with a minimum of 24 months (60 months for Generators and Detectors) manufacturers' fully inclusive Warranty to cover design, material and component failure for mechanical and electrical items.
- 8.1.2 All x-ray generators and detectors shall be provided with a minimum of 5 years manufacturers fully inclusive Warranty to cover design, material and component failure in a prison environment.
- 8.1.3 Warranty shall take effect from the point of complete installation of the Goods following successful commissioning without fault and meeting the Technical Goods Specification and effectiveness as set out in the Technical Performance Specification (or 6 weeks from the Buyer being informed a Unit is ready for installation/commissioning if the Buyer delays this happening).
- 8.1.4 Warranty will cover all labour, parts and travel in connection to a warranty design and component failure claim.
- 8.1.5 The Warranty for Spares shall be for a minimum of 24 months with exception of generators and detectors which shall be 5 years from the point of payment made by the Authority.
- 8.1.6 Where required by the Authority the Warranty shall not be void for Authority appointed third party trained repair or maintenance representatives.

## **9 TECHNICAL PRODUCT REFRESHMENT (VARIATION)**

### **9.1 Goods**

9.1.1 Any changes to the supply or variants to the minimum requirements demanded (as set out in the Technical Goods Specification and Technical Performance Specification) will require written approval from the Authority Contract Manager prior to supply. The Authority or Purchasing Authority then has the right to then accept or reject those changes without further liability to the Authority.

9.1.2 The Authority may, at its discretion request to add or remove similar product lines or product groups (Goods and Accessories) over the life of the Contract. The Authority shall notify the Supplier in writing of its acceptance of any proposal made and may require a Change Control form to be completed (F4 and Schedule 21).

## **10 SUB CONTRACTING**

### **10.1 Sub-Contracting Approvals**

10.1.1 The use of any Sub-Contractor for the provision of the Services must be approved in writing by the Authority Contract Manager before the Supplier makes any formal agreement or arrangement to use that Sub-Contractor or invites any SubContractor's personnel to the Premises.

10.1.2 Even where the use of a Sub-Contractor has been approved by the Authority, the Supplier shall remain wholly responsible for the conduct and performance of that Sub-Contractor whilst he is involved in the provision of the Services on the Supplier's behalf.

10.1.3 The Supplier shall be responsible for ensuring that any Sub-Contractor is aware of the security and working restrictions in a prison environment (as set in the contract)

10.1.4 Full demonstration of pertinent qualifications and training of Sub-Contractor staff on OEM Goods and Equipment must be submitted prior to any use of any SubContractors.

10.1.5 The Supplier shall ensure that a formal performance Service Level Agreement is in place with the Sub-Contractor which reflects the Specification where the SubContractor is to perform Services on behalf of the Supplier. The Supplier will ensure that the performance of the Sub-Contractor is measured and, on request by the Authority, provide a report of the Sub-Contractor's performance to those Service Levels.

10.1.6 Where a Sub-Contractor is not performing in compliance with this Specification or to specified Service Levels, the Authority has the right to request a new SubContractor is appointed as a matter of priority. Failure to agree to this request may result in formal Dispute Resolution procedures being undertaken by the Authority.

## **11 PRISON SECURITY & RESTRICTIONS**

### **11.1 Security Clearance**

11.1.1 Any Supplier staff or Sub-Contractors entering prison Sites will be required to obtain and maintain UK security clearance to carry out installation and maintenance Services for the duration of the contract. This shall be set at Enhanced Level 2 and Counter Terrorism Check (CTC).

11.1.2 The Supplier shall ensure that their installation and support staff complete and submit their security vetting forms and present them in person at a prison Site in England or Wales to verify their identification within 2 weeks of request, by the Authority, at the commencement of the contract. Participating Authorities will be responsible for confirming their own requirements relating to security clearance and Lead Times.

11.1.3 Where a person fails security clearance the Supplier or Sub-Contractor shall make available the resource to carry out the Services and submit additional personnel forms in line with the above Lead Times or this may result in termination of the contract.

11.1.4 It is the responsibility of the Supplier to ensure that there is an adequate number of cleared personnel with business contingency for absence and holiday period to respond to Lead Times under this contract at all times.

### **11.2 Photographic Identification**

11.2.1 All Supplier or Sub-Contractor staff will be required to carry and present official photographic identification to enter a prison or other related HMPS sites.

### **11.3 Site Conduct**

11.3.1 The Supplier shall comply with any local security, health and safety, delivery restrictions and requirements.

## **12 PRE-ORDER & ORDER PLACEMENT**

### **12.1 Quotation Survey**

- 12.1.1 The Supplier / Sub-Contractor will be required upon written request to attend a Site free of charge (UK Only) to carry out a Quotation Survey to ensure that the Goods can be installed in the desired location and advise on any access, handling, floor loading or pre-installation requirements.
- 12.1.2 The Supplier / Sub-Contractor shall make the Site aware of the footprint of the Goods, including any further exclusion zones whilst the Goods is in operation, to ensure that the Site are fully aware of the gross total footprint needed to accommodate the Goods and its safe operation.
- 12.1.3 If a Quotation Survey is requested by the Authority the Supplier / Sub-Contractor shall contact the relevant Local Point of Contact to arrange access to the Site and provide the details of the Supplier personnel to attend Site and any other requested information as the Local Point of Contact may require. The Supplier / SubContractor shall ensure that the Supplier personnel is briefed in the security requirements.
- 12.1.4 If any Quotation Survey requires Equipment or tools to be brought on Site the Supplier / Sub-Contractor shall provide details, including but not limited to a full list of the Equipment and/or tools with serial numbers where applicable. These details shall be provided to the Local Point of Contact (or any member of the Authority's staff who may be authorised to request this information). This information will be provided prior to the Quotation Survey occurring.

## **12.2 Quotation Submission**

- 12.2.1 The Supplier shall further to the Quotation Survey, submit a complete electronic quotation via email to the Local Point of Contact, or other nominated Authority personnel as identified at the time, in line with the Schedule 3 (Charges). The quotation must include Lead Times for delivery and installation, not exceeding those as stated in the Specification, and a basic drawing of the location and activities needed to enable installation (including what enabling works are required to commission the Goods into operation), so that Sites are clear of what is needed and the agreed location where the Goods are to be installed.
- 12.2.2 Quotations shall be broken down at component level including any Goods, Accessories and any Services (including delivery and installation) to be performed.

## **12.3 Placement of Orders**

- 12.3.1 Any Order placed by the Authority or Participating Authorities shall be confirmed through the issuing of a Purchase Order Form with a unique Purchase Order



number, emailed direct to the Supplier, and will be based on the Quotation Survey and the Goods pricing as contained in Schedule 3 (Charges).

12.3.2 The Supplier shall not make any provision for Supply of Goods outside the purchasing process as described in 12.3.1, unless agreed and confirmed in writing by the Authority's or Participating Authorities Contract Manager for that Call-Off.

12.3.3 Planned Preventative Maintenance (PPM) Services for the Goods, following the expiration of the initial 12 month included PPM, shall be subject to the issuing of a subsequent Purchase Order Form being raised by a Site. Order for Reactive Maintenance repair, falling outside of Warranty, or the supply of Spares will be subject to the issuing of a separate Purchase Order Form, per event. Alternatively, the Authority or Participating Authorities may issue a blanket Purchase Order for each financial year covering all Goods located across Sites; this to be confirmed in writing by the Authority.

## **12.4 Mobilisation**

12.4.1 Upon the receipt of an official Purchase Order Form the Supplier's representative shall contact the Local Point of Contact at Site or an Authority Project Lead to arrange attendance and, if required, attend a Site pre-installation meeting.

12.4.2 The Supplier may also be required to attend a pre-installation meeting to organise access, health & safety induction, submission of risk assessments and method statements, security restrictions and potentially arrange security clearance dependant on the local Site requirements. The Supplier is required to proactively confirm the requirements for each Site prior to submitting any quotation.

12.4.3 For small items that just require delivery without specific handling Equipment, please contact the Local Point of Contact at Site for a delivery slot and or gate opening times.

12.4.4 Where Project Delivery is required the Supplier / Sub-Contractor shall produce and agree a project plan with the Local Point of Contract at Site and/or the Authority Project Lead.

## **12.5 Lead-Times**

12.5.1 Goods supply Lead-Times are subject to defined Lead-Times and in accordance with this Contract.

| Ref | Requirement reference | Requirement | Lead time |
|-----|-----------------------|-------------|-----------|
|-----|-----------------------|-------------|-----------|

|   |        |   |                         |
|---|--------|---|-------------------------|
| A | 7.1.3  | Availability of large Spare parts, specifically generators and detector arrays  | 48 Hours                |
| B | 11.1.2 | Submission of Supplier personnel vetting forms to the Authority from point of request   | 2 weeks                 |
| C | 13.5.2 | Visible quality discrepancies after equipment has been installed  | 5 Working Days          |
| D | 13.5.2 | Visible quality discrepancies reported prior to installation  | Final Installation Date |
| E | 13.5.3 | The Supplier shall contact the Authority to discuss quality discrepancy remedy  | 3 Days                  |
| F | 15.2.1 | Maximum time to arrange an engineer visit (except weekends and UK Bank Holidays) where Goods operation is impacted or there are Health and Safety issues            | 24 Hours                |
| G | 15.2.1 | Maximum time to attend Site (with first time fix, except weekends and UK Bank Holidays) where Goods operation is impacted or there are Health and Safety issues     | 48 Hours                |
| H | 15.2.1 | Maximum time to arrange an engineer visit (except weekends and UK Bank Holidays) where the Goods remains safe to operate and the performance is not affected        | 24 Hours                |
| I | 15.2.1 | Maximum time to attend Site (with first time fix, except weekends and UK Bank Holidays) where the Goods remains safe to operate and the performance is not affected | 120 Hours               |
| J | 15.7.2 | Asset Register made available to the Authority  | 48 hours                |

## 13 DELIVERY SPECIFICS

### 13.1 Deliveries

13.1.1 Deliveries shall be shipped to the address detailed in the Purchase Order Form, unless any other arrangements are agreed in advance between the Supplier and the Authority in writing.

13.1.2 Costs associated with delivery shall be listed as a separate item on a quote or invoice and delivered on Inco-Terms Delivered Duty Paid (DDP).

13.1.3 The Supplier shall be responsible for the fulfilment of delivery requirements for the Goods to Site(s) as specified. The Authority personnel at Site, or the Authority Project Manager, shall provide delivery details at the time of placing an Order.

13.1.4 In delivering the Goods, the Supplier shall:

- (a) Ensure that appropriate vehicles are used on each occasion;
- (b) Ensure that their delivery vehicles comply with any dimensions and restrictions communicated by the Authority in writing, in the Purchase Order Form or by separate documentation and any delivery restrictions within the vicinity of the location;
- (c) Ensure that any handling Equipment is on the vehicle unless where a forklift is required. The Supplier may request use of an Authority forklift and the Authority will confirm availability if there is one present on Site;
- (d) Ensure, where appropriate, that Goods are supplied on pallets to aid removal from a vehicle.

13.1.5 The Supplier / Sub-Contractor recognises that, due to the strict operational restrictions involved in the prison environment, it is imperative that all deliveries are made within the timeslots that have been agreed. Authority personnel shall confirm the best delivery times for each Site during mobilisation. Deliveries shall not, except by prior arrangement and confirmed in writing, be accepted by the Authority outside of agreed timeslots. If the Authority rejects any deliveries, the Supplier/ Sub-Contractor shall be informed by the Authority of a suitable time for the Goods to be re-delivered free of charge.

13.1.6 There shall be no additional charge for site demurrage, where a Supplier / SubContractor has not arranged a timeslot for delivery.

13.1.8 The Supplier shall contact the Site where the Goods are to be delivered at least 24 hours prior to the day of delivery to confirm the estimated time of arrival of the delivery vehicle.

## **13.2 Delivery Advice Note**

13.2.1 Each delivery consignment shall contain a delivery note and shall be attached to the Goods order. This shall contain relevant information to identify and audit the relevant delivery which, as a minimum, shall include:

- (a) The Authority or Participating Authorities Purchase Order number
- (b) Delivery address

- (c) Customer account number (as assigned by the Supplier)
- (d) Line product detail including pack size and quantity
- (e) Number of cartons in consignment
- (f) Identification of any outstanding Goods, Spare or Accessories not delivered on order

### **13.3 Substitute Items**

- 13.3.1 Substitute Items shall not be used without expressed permission of the Authority Contract Manager. No agreements made locally by Sites to accept substitute items will be valid and the Authority must be notified of any stock outs during the life of the Contract and have the option to cancel an order.
- 13.3.2 In the event of an agreed Substitute Item being dispatched and the Product Code, line description or price is different, then the Supplier shall advise the Site to cancel the order and re-submit the Purchase Order Form under the new Product Code, line description and price to facilitate electronic invoice matching.
- 13.3.3 Where agreed and approved by the Authority Contract Manager, Substitute Items for contract Goods shall be supplied at the same specification and contract price. Where such a Good(s) is of lower value, the Authority expects to benefit from the reduction in price, as reflected in the Supplier's quote and invoice.
- 13.3.4 The Authority will not accept part delivery on Goods to facilitate an installation and has the right to charge the Supplier for any losses incurred as a result of their delays.

### **13.4 Delivery Discrepancies**

- 13.4.1 In the event that the Authority or Participating Authority experiences a delivery discrepancy (i.e. full order not fulfilled) with a delivered consignment, this shall be communicated to the Supplier by telephone or email, identifying the original purchase order number and Site location as reference. The Supplier shall investigate the matter and re-supply the Goods.
- 13.4.2 Where the Supplier claims delivery has taken place, the Authority shall require a legible proof of delivery to ascertain a delivery has been made in the event of a dispute.
- 13.4.3 Where the Supplier and Authority are in dispute, this shall be escalated to the Authority's Contract Manager for discussion with the Supplier's Contract Manager.
- 13.4.4 The Supplier shall be liable for the cost of collection and re-delivery for discrepancies.

### **13.5 Quality Discrepancies**

13.5.1 Where the Goods supplied do not meet the requirements in this Schedule, with specific reference to Technical Goods Specification and Technical Performance Specification, in this Contract, the Authority shall notify the Supplier in writing, detailing the quality concerns (i.e. damaged Goods, Goods do not meet the quality requirements).

13.5.2 Visible quality discrepancies, timelines and targets based on when the issue is raised, prior to or after the installation.

13.5.3 Within 3 days of the Suppliers receipt of the quality discrepancy, the Supplier shall contact the Authority to discuss remedy. Where the Supplier agrees the Goods do not meet the required standard of quality, the Supplier shall replace the Goods in question at their own expense.

13.5.4 Where the Supplier and Authority cannot agree an appropriate solution to those quality issues as described in 13.5.1, the issue shall be escalated to the Authority's Contract Manager and Supplier Contract Manager for resolution. Should this process not remedy the situation the Contract Dispute Resolution procedure will be followed.

## **13.6 Returns Liability**

13.6.1 In the event that Goods are to be returned to the Supplier, then the following applies:

- (a) Where the Goods do not meet the required quality or where the Goods do not meet the requirements stated within the Contract or Purchase Order Form, the Goods shall be collected by the Supplier and re-delivered at their own expense.
- (b) Where an incorrect Order has been placed for small stock consumable items the Supplier shall agree a return subject to a re-stocking charge and carriage costs.

## **14. INSTALLATION SPECIFICS**

### **14.1 Pre-Site Actions (Installations)**

14.1.1 The Supplier / Sub-Contractor shall be required as part of an installation or Project Delivery process to contact a Site prior to any work being carried out following the placement of an order to agree and attend a pre-installation meeting on Site and produce any risk assessments where requested and to arrange logistics and delivery of the installation. These cost to be included within the installation costs.

### **14.2 Site Conditions**

14.2.1 The Supplier / Sub-Contractor shall take in to consideration local working conditions, including but not limited to:

- (a) The need to be escorted at all times within a prison and the need to work in separate parts or areas of a prison which will necessitate escorts to be present at both locations. Careful coordination with prisons will be required to ensure that escorts are available for multiple work faces.
- (b) Restrictions within prison premises on the availability and use of personal communication devices (for example mobile phones, or other devices which include Bluetooth connections) and any IT Equipment (such as laptop computers) which enables wireless connection to the internet or mobile phone networks. Where this Equipment is required as part of installation or testing, authorisation for each piece of Equipment will be required in advance of the visit to ensure that use/conveyance is lawful
- (c) Working times will be subject to local regimes and approval must be sought with consideration of prisons operational and escort staff availability, anticipated to be confirmed by the Local Point of Contact.
- (d) Typically, working hours may be limited to approximately 5 hours per day. Within these core hours, limitations will arise subject to the individual Site's regime and work times will need to remain flexible to adapt to evolving circumstances. This may result in available work hours being limited on occasion, potentially at short notice, due to operational disruption. The Supplier should be aware of and be adaptable to these conditions and check with Site for any local variations.

### **14.3 Site Implementation Plan**

14.3.1 The Supplier shall provide and maintain a current and detailed Site Implementation Plan (on a Gantt chart or equivalent), which reflects the key dates, milestones, critical activities and any dependencies necessary to achieve the commissioning into operation of the Goods, including installation, testing and commissioning against the agreed dates and agreed Lead-Times. The Supplier's Site Implementation Plan will, as a minimum, identify the following activities:

- (a) Key dates associated with the availability of Goods, components, software tooling;
- (b) Delivery;
- (c) Installation;
- (d) Commissioning;
- (e) Training;
- (f) Acceptance testing and handover;

### **14.4 Installation Responsibilities**

14.4.1 In conjunction with the responsibilities of the Contract the Supplier shall:

- (a) Undertake all Services associated with the installation of the Goods, in liaison with, and to the approval of, the Site including any agreed cabling within the onSite cable route; Note that, for the avoidance of doubt, the Supplier shall not be liable for installing power outlets or or any structural work required.
- (b) Be responsible for making good any damage or disruption to Authority Premises or assets caused the Supplier, and for all activity associated with opening and closing of the cable routes and for leaving the route in a condition acceptable to the Authority's Project Lead and at no cost to the purchaser;
- (c) Ensure that any exposed cabling in reach of prisoners is contained within steel security conduit or secured covertly;
- (d) Ensure that all exposed fixings for conduit are security fixings;
- (e) Be responsible for providing all installation materials necessary to commission the Goods.
- (f) Ensure compliance with the CDM regulations (If applicable);
- (g) Liaise with the Authority's nominated on-Site Project Manager, who will do all that is reasonably required by the Supplier to enable the Supplier to effect any work requirements, and will do all that is reasonably required by the Supplier to enable the Goods to be installed and the Services to be supplied;
- (h) Provide the Local Point of Contact, the Authority Project Lead or their representative with daily progress updates and requirements for access for the following day.

## **14.5 Commissioning**

- 14.5.1 The Supplier shall be responsible for fully commissioning the Goods to ensure that it is fully operational (in compliance with the Technical Goods Specification and effective to the levels set out in the Technical Performance Specification) and tested to meet health & safety requirements without fault and where required set up for the Goods intended use prior to formal handover to the Authority.
- 14.5.2 The Suppliers / Sub-Contractor shall produce a Commissioning Report that shall include a radiological survey of the environmental scatter exposure and include dose radiation readings. A copy of the Commissioning Report shall be provided to the individual Site and a copy sent to a nominated Authority personnel or an Authority central, shared email address for retention and audit purposes.
- 14.5.3 The Supplier shall follow the same radiation measurement procedure as the Radiation Protection Advisor for dose and scatter measurement. A copy of the instruction may be made available to the Supplier on request.
- 14.5.4 Where commissioning tests are carried out, the Supplier / Sub-Contractor shall specify details of both the dosimeter and phantom used along with a description of the testing process for dose and environmental scatter measurement.

14.5.5 Dose measurements on all reports shall include a table of conversions to Micro Sieverts ( $\mu\text{Sv}$ ) and Micro Sieverts Hour ( $\mu\text{Sv/h}$ ).

## **14.6 Training**

14.6.1 Where required, the Supplier / Sub-Contractor is responsible for providing operator training in respect of controls and safe use. This shall be included in the commissioning process and included in the installation costs. Thereafter any future operator training is chargeable at the prevailing rate within Schedule 3 (Charges) . Image interpretation training is not currently required and shall be provided by the Authority.

## **14.7 Goods Handover Documentation**

14.7.1 Prior to the Supplier / Sub-Contractor handing over the Goods to the Authority, the Supplier / Sub-Contractor shall provide documentation to allow the Authority to manage and support the Goods, this includes, but shall not be limited to:

- a) Operating manuals in an electronic format written in English
- b) Goods configuration information
- c) Test and acceptance documentation (including relevant H&S compliance declarations)
- d) Preventative Service Maintenance schedules and tasks including:
  - i. First service level - Customer capable servicing duties.
  - ii. Second service level - Third party maintainer / repair tasks.
  - iii. Third service level - Original Equipment Manufacturer tasks for specialist and/or non-serviceable components.

## **15. SERVICE & MAINTENANCE**

### **15.1 Planned Preventive Maintenance**

15.1.1 All Goods shall be supported with a free fully inclusive minimum 12 months parts and labour maintenance contract including a maximum of two preventive maintenance visits as part of the initial purchase unit price. This shall include all labour, travel, consumables and Spare parts required in conjunction with the warranty and preventive maintenance package.

15.1.2 Service and preventative maintenance work to be carried out in accordance with the OEM maintenance schedule and tasks (the Supplier's "Standard Service Plan")



15.1.3 All Spares supplied shall be OEM parts, unless agreed upfront in writing by the Authority Contract Manager and shall be of equal or better quality and not affect the safety of the operation nor invalidate any Goods warranties.

15.1.4 All consumables, service and preventive maintenance Spare parts shall be included within the service cost or clearly identified as extras on any quotation and purchase, as part of the whole life cost submission at tender stage.

15.1.5 The Supplier shall have full access to quality diagnosis and radiation calibration Equipment including OEM engineering codes for hardware and software maintenance. Dosimeters shall be of sufficient quality to accurately read radiation dose and annual calibration certificated shall be provided upon request to the Authority.

15.1.6 The Supplier shall measure both environmental scatter and dose radiation as part of any maintenance or service visit and produce the results to the Authority and make this available for inspection at any time.

## 15.2 Reactive maintenance

15.2.1 Reactive ad-hoc maintenance Service Levels shall be based on a response level of malfunction detailed below:

| Situation             | Situation   | Service Levels   |
|-----------------------|---|--|
| Critical Failure      | Where Goods operation is impacted or there are Health & Safety issues       | Maximum time to arrange an engineer visit (except weekends and UK Bank Holidays)<br><br>24 hours (1 day)                         |
|                       |   | Maximum time to attend Site (with first time fix)<br><br>(except weekends and UK Bank Holidays)<br><br>48 hours (2 working Days) |
| Non- Critical Failure | Where the Goods remains safe to operate and the performance is not affected | Maximum time to arrange an engineer visit (except weekends and UK Bank Holidays)<br><br>24 hours (1 day)                         |

|  |  |  |
|--|--|--|
|  |  | <p>Maximum time to attend Site (with first time fix)</p> <p>(except weekends and UK Bank Holidays)</p> <p>120 hours (5 days)</p> |
|--|--|--|

15.2.2 Reactive ad-hoc maintenance call out & labour costs to be calculated in accordance with Schedule 3 (Charges).

### 15.3 General provisions

15.3.1 All visits shall be accompanied with a job sheet where a copy shall be left on Site and supplied electronically to the Authorities Contract Manager upon request.

15.3.2 The Supplier shall ensure that UK engineers carry Spares on vehicles with the exception of large items such as generators or detectors / screens to enable first time fix on Site.

15.3.3 Where replenishment Spares are held overseas this shall be shipped air freight to meet Lead Times on an express service of 48 hours.

15.3.4 The Suppliers / Sub-Contractor shall make Spares inventory available for inspection by the Authority at any time. Inspection by the Authority, or a nominated third-party audit supplier acting on its behalf, will be unannounced.

15.3.5 The Authority makes provisions within the Contract to novate some or all future maintenance services to its nominated Authority maintenance provider under this Contract by following the formal Change Control process (F4 and Schedule 21).

15.3.6 There shall be no detriment to Spares pricing under a Planned Preventative Standard Service Plan whether supplied direct to the Authority or to a third party who may be nominated by the Authority in future. The Authority shall not be liable for follow up visit costs where the Supplier has not facilitated engineers van stock holding.

15.3.7 The novation of the specification, service provision, service levels and pricing shall be subject to the terms of the current Contract and supporting schedules unless agreed by both parties as part of the Change Control process (F4 and Schedule 21).

### 15.4 Upgrades, overhaul and Goods integration

15.4.1 The Supplier shall be required to perform upgrades, overhaul and Goods integration that do not form part of their initial supply and installation, subject to quotation acceptance by the Authority.

15.4.2 The Goods shall have the future capability and make provision for remote LAN WAN access through the RJ45 Ethernet port where agreed within Sites (this may not be possible in UK prisons at the current time).

15.4.3 The Supplier shall be able to provide an interface for the purpose of networking machines to manage subject dose across multiple Sites on the Authority's network.

## **15.5 Software upgrades**

15.5.1 The Supplier shall be required to upgrade any software (inclusive of Authority, Supplier and Third-Party Software) patches, fix software bugs to either correct or improve the operation or stability of the Goods, as part of any maintenance visit.

15.5.2 For upgrades and new software version releases (inclusive of Authority, Supplier and Third-Party Software) the Supplier shall notify the Authority of any revision and apply any software upgrades as part of maintenance activities free of charge, unless this is a commercial version release as a separate purchased product.

15.5.3 The Supplier will be required to carry out free software modification to database fields / labels to meet the requirements of the prison environment.

15.5.4 New software functionality (outside of that as set out in Annex A – Technical Goods Specification) may be introduced in two ways:

- a) Authority request to the Supplier
- b) Supplier innovation proposal (in keeping with clause F1 of the Contract)

15.5.5 Where a request or proposal is made the Supplier will be required to submit a proposal which details the functionality or performance changes, the benefits to the Authority, development time required and any costs, including day rates for development and testing if chargeable. Minor software enhancements to the existing functionality specified are excluded from this process.

15.5.6 The Authority will review any proposal, whether in response to an Authority request or as part of Supplier innovation, and has the sole discretion as to accept, clarify or reject the proposal. Should the proposal be accepted the Authority Contract Manager will confirm this in writing and it will be formalised through the Change Control process (F4 and Schedule 21).

## **15.6 Site attendance**

15.6.1 The Supplier / Sub-Contractor shall be required to attend Site for fault diagnostics. The Supplier is advised that remote access via wireless or hard wired remote communication access is not currently permitted. Callout charges shall be calculated in accordance with Schedule 3 Charges

## **15.7 Asset reports**

15.7.1 The Supplier shall be required to maintain an electronic asset register of Goods supplied to the Authority which shall include the following information ("the Asset Register"):

- (a) Date of purchase.
- (b) Model purchased.
- (c) Commissioning Report including Goods settings and dose readings.
- (d) Service records (if carried out by the Supplier).
- (e) Warranty record. (f) Repair records (if carried out by the Supplier).

15.7.2 These records or the full Asset Register are to be made available to the Authority at any time, free of charge, within 48 hours of request for the service life of the Goods.

## **TECHNICAL & CUSTOMER SUPPORT**

### **15.8 Customer support**

15.8.1 The Supplier shall provide Contract Management support to the Authority and Participating Authority Contract Manager(s) as a means of managing the Contract and any Call-Off and as an escalation point.

15.8.2 The Supplier shall provide frontline technical support via a UK telephone number and email support in English language direct to the end users free of charge between Monday - Friday GMT 9am to 5pm GMT to allow the following Services:

- Expedite orders.
- Report delivery discrepancies.
- Report faulty or damaged goods.
- Request delivery proof of delivery.
- Arrange service, engineers visit, warranty claim(s).
- Technical advice for Goods operation or issue.

## **16. USED GOODS DISPOSAL, SALE, TRADE IN**

### **16.1 Unserviceable Goods Disposal**

16.1.1 The Supplier / Sub-Contractor may be required upon request to dispose of unserviceable Goods in line with waste regulations, in cases where there is no residual value to the Goods.

16.1.2 Where there is a residual scrap value, this should be offset against any disposal costs and any difference returned to the Authority through a service credit note or offset against any purchase price of new Goods and detailed as such in a quotation.

### **16.2 Serviceable Goods Disposal**

16.2.1 Where Goods are serviceable and an attributable market or open competition value can be established via independent trade bodies or open tender, then a sale or trade-in may be agreed, where Goods are sold as seen and monies must be paid prior to collection or deducted from any new Goods cost. These trade-in credits are to be clearly identified on any quotation and invoice submission.

16.2.2 Any revenue generated by the sale of Goods shall be returned to the asset owner at the time of the sale transaction.

16.2.3 Suppliers shall pay market value for any Goods purchased.

## **Appendix A – Technical Specification Security X-ray Torso Body Scanners**

### **A1 Hardware Output Requirements**

|          | <b>Function</b>   | <b>Output</b>   |
|----------|---|---|
| <b>1</b> | Single generator (view), low-dose transmission X-ray body scanner | Single generator (view) low-dose transmission X-ray body scanner for targeted torso scanning    |
| <b>2</b> | Generator position/orientation                                    | Generator to be positioned at torso height with horizontal beam aimed at the torso/abdomen area |

|    |  |   |
|----|--|---|
| 3  | Scan time                              | To be set at maximum 11 seconds on one power setting. (Supplier must have the ability to change scan time at a later date if required by the Authority. The prison operator <b>must not</b> be able to do this).  |
| 4  | Dose exposure single scan setting      | To be set at a maximum 6 microSieverts (µSv) per scan. (Supplier must have the ability to change the dosage level, to increase or decrease, if required by the Authority up to an absolute maximum of 10 micro-Sieverts (µSv) per scan. The prison operator <b>must not</b> be able to do this) |
| 5  | Torso scanning range from platform.    | Minimum 40cm to 160 cm range from platform  |
| 6  | Maximum weight                         | 1000 kg, excluding radiological housing   |
| 7  | Conveyor loading                       | 300kg max.  |
| 8  | Total footprint/dimensions / size      | No greater than 2400 mm (h)×2500 mm (l)×2500 mm(w)  |
| 9  | Electrical requirements                | 230v 110v 1 phase 50hz-60hz with surge protection with UK three core wiring and square three pin UK plug  |
| 10 | Construction                           | Frame construction of rigid high-grade steel and any appendages supported/ reinforced to minimise potential movement of generators or detector alignment. Material technical data sheets to be supplied in English  |
| 11 | Base fixing                            | Secured base to be fixed/bolted to sub floor to maximise stability and minimise vibrations/movement   |
| 12 | Audible and visual alarm when scanning | Alarm sounding / visible when X-ray generator is on   |
| 13 | Emergency stop button                  | Emergency stop buttons present on console and machine, not readily accessible to prisoner   |
| 14 | Remote access ports                    | Remote access port RJ45 ethernet port to enable LAN/WAN remote image transmission access and remote diagnostics and software fix, if required by the Authority.   |

|           |   |   |
|-----------|---|---|
| <b>15</b> | Additional hardware ports               | Accessible hardware port VGA or DVI, and USB minimum  |
| <b>16</b> | Visual displays                         | High resolution commercial grade 24-26 inch vertical High-Definition widescreen display required.<br>Optional touch screen High-Definition widescreen display   |
| <b>17</b> | Interface control                       | <ul style="list-style-type: none"> <li>i Operator controls with up to 25m umbilical connection</li> <li>ii QWERTY Keyboard</li> <li>iii USB Optical Mouse</li> <li>iv 1x Display as specified.</li> <li>v USB Hub</li> </ul> OR: <ul style="list-style-type: none"> <li>i Freestanding kiosk unit, with up to 25m umbilical connection</li> <li>ii QWERTY Keyboard</li> <li>iii USB Optical Mouse</li> <li>iv 1x Display as specified.</li> </ul> USB Hub |
| <b>19</b> | Operational temp range                  | Temperature range 15 degrees Celsius to 40 degrees Celsius and high humidity environments up to 90%   |
| <b>20</b> | Start-up time                           | Cold overnight start up time of < 5 minutes.  |
| <b>21</b> | User language control/user instructions | English language controls. English language user manual to be provided with the machine.  |
| <b>22</b> | Cordon area                             | Supply and install non-slip floor markings (black and yellow floor tape) to designate safe area   |
| <b>23</b> | Installation                            | All parts to be able to fit through a 30inch standard doorway for final installation in the designated location.  |

## A2 Software / Functionality Output Requirements

|          | Function  | Output                                   |
|----------|-----------|--|
| <b>1</b> | Operation | Intuitive graphical user interface (GUI) |

|   |                               |   |
|---|-------------------------------|---|
| 2 | Software licences             | The Goods shall operate without the cost of ongoing, periodic licences.   |
| 3 | Image presentation            | Produce high resolution still images of torso original image, with clear definition of digestive systems, organs and foreign objects  |
| 4 | Image evaluation & storage    | i Original image ii Zoom in / out iii Brightness manipulation + and - iv Positive and negative image flip v Pseudo colour filter vi Edge/emboss enhancement vii 3D function   |
| 6 | System management             | Unit to be password protected with restricted separate access for User and Administrator roles. Automatic lock function after 5 mins if scanner is not used. (Supplier must have the ability to change the timing if required by the Authority. The operator <b>must not</b> be able to do this). |
| 7 | Scan information requirements | Prisoner surname, prisoner number and justification details to be entered prior to scan taking place.<br><br>Must include the following information:<br><br>“Before scan ensure NOMIS has been checked:<br><br>The prisoner has not exceeded 700 µSv limit per calendar year                      |

|  | Function | Output |
|--|----------|--------|
|--|----------|--------|



|    |   |   |
|----|---|---|
|    |   | <p>There is no DO NOT SCAN alert.</p> <p>Has the body scan process been explained? YES / NO</p> <p>Has the Information Notice been made available to the prisoner? YES / NO</p> <p>Indicate under which basis you are conducting the scan:</p> <ul style="list-style-type: none"> <li>- Reasonable suspicion</li> <li>-Intelligence”</li> </ul> <p>The supplier must have the ability to revise the text if required by the Authority. The prison operator <b>must not</b> be able to do this).</p> |
| 8  | Dose reading and calculation software or inbuilt dosimeter              | Ability to calculate accumulated dose per person  |
| 9  | User software / database  | <p>Database library to be created and retrieved: by individual user-name, prisoner number and by the name of the operator. Data to include:</p> <ul style="list-style-type: none"> <li>(a) individual images, time, date of scan</li> <li>(b) images to be available to all users</li> </ul>  |
| 10 | Image storage & retention   | Image to be stored on minimum 1 TB hard drive file name stamp with min capacity of min 1,000 images and exportable to USB   |
| 11 | Image export format options (either)                                    | Minimum one of either BMP, TIFF, PNG, JPEG. Lossless formats preferred  |
| 12 | Annotate image as positive, inconclusive or negative prior to next scan | Ability to annotate/record image as positive, inconclusive, or negative.  |
| 13 | Deletion of images  | Standard users must not be able to delete images.   |

## Appendix B Maintenance Schedule & Tasks

### Overview:

LSUK COMPASS SMART TR support tasks include

#### **Planned Preventative Maintenance (PPM)**

Requirement is 2 PPM per year

Nominally every 6 months (+/- 4 weeks) from previous PPM)

#### **Reactive Maintenance (RM)**

In line with contractual terms

This document summarises the objectives of each support task and the organisation of each type of support.

Note that the organisation, tracking and reporting of the support tasks, including the allocation of a LSUK Service Engineer is done using the LSUK's Job Logic platform. This means that all relevant data is stored in a single location and this data is used to provide the Support Reports to the MoJ measuring performance against the relevant Key Performance Indicators (KPIs).

As required under the Ionising Radiation Regulations (IRR17) the LSUK Service Engineer will take over responsibility for the radiation performance on arrival at the Body Scanner and will return it to the Authority prior to departure.

### 1. **Planned Preventative Maintenance (PPM) Service for LSUK Torso Body Scanner**

1.1 The aim of the PPM Program is to maintain the performance of the Torso Body Scanners by cleaning, adjusting, calibrating, testing and where necessary, replacing perished or defective parts. All this work where possible, is carried out on site by trained RPS certified Service Engineers who will undertake the PPM service on the equipment carrying out the following work procedure, following all UK/EU legislation and health and safety regulations:-

- a Visually inspect equipment both externally and internally and calibrate. b Test the machine and ensure it is in satisfactory working order.
- c Rectify any faults traced in the above tests, including replacing perished or defective parts.
- d Routine service procedure i.e. cleaning and calibrating. e Perform radiation leakage checks.
- f Finally machines are put through the test procedure again to ensure that any faults have been rectified, this should be carried out in the presence of a member of the customer's staff.
- g Engineer's reports showing checks and work undertaken will be submitted before leaving site, after work is carried out.

## **XRTS - Schedule 3 (Charges)**

- h Engineers will update the Authority's log book with work done and any radiation leakage checks performed during each service visit.
- 1.2 The preventative planned maintenance program will be carried out by LSUK's trained Service Engineers.
- 1.3 All planned service visits will be arranged by the Technical Manager.
- 1.4 The Technical Manager will liaise with the Authority in order to obtain any necessary security passes and permits required.

### **2. Reactive Maintenance Service (RM) for Security Body Scanner**

- 2.1 The Support Team will provide Reactive Maintenance (RM) via telephone as 1<sup>st</sup> line support.

Contact details are as follows:

[Redacted]

- 2.2 For 2<sup>nd</sup> line the Support Team will provide Remote Access diagnostics maintenance, if allowed by the relevant Authority. This will be delivered same day as reported fault.
- 2.3 If the Service Engineer is unable to rectify by 2<sup>nd</sup> line support or Remote Access is not possible then the allocated Service engineer shall agree with the relevant Authority whether it is a Critical Fault or a Non-Critical Fault and agree the next stage of arranging 3<sup>rd</sup> line support as stated in section 2.4 below.
- 2.4 For 3<sup>rd</sup> line support the response on-site time will be in line with the response times defined in Clause 15.2. Note that, if there are problems in getting the installation to agree that the allocated Service Engineer can have access in a timescale compatible with the RM response times this should be reported to the Authority as response times are a KPI. The RM visits will be arranged by the LSUK Technical Manager or their nominated person.

[Redacted]

### **3. Documentation**

The form shown in Annex A will be used to record the information related to action taken on the Body Scanner.

**Appendix A – LSUK PPM**

[Redacted]

## 3 (Charges)

### **How Charges are calculated**

The Charges:

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

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.

### **The pricing mechanisms**

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

### **Events that allow the Supplier to change the Charges**

Subject to the below, the Charges can also be varied (and Annex 1 will be updated accordingly) due to:

a Specific Change in Law in accordance with Clause 24; a review in accordance with insurance requirements in Clause 13; a request from the Supplier, which it can make at any time, to decrease the

Charges; and indexation, where the Award Form states that a particular Charge or any component is “subject to Indexation” in which event Paragraph 4 below shall apply.

### **When the Charges are linked to inflation**

The Supplier shall not be entitled to increase the Charges until the third year of the contract (i.e. the first two years will be at the bid prices).

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

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

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

## **XRTS - Schedule 3 (Charges)**

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

The applicable Indexation adjustment shall be measured by changes in the relevant published index for that Contract Year. The amount, sum or rate at a point in time will then be adjusted by application of the following formula:

$$AMI = (AMU \times \text{Index } N / \text{Index}(N-1))$$

Where:

|            |  |
|------------|--|
| AMI        | is the indexed amount, sum or rate for the relevant Contract Year;   |
| AMU        | is the unindexed amount, sum or rate for the relevant Contract Year. This shall be the amount, sum or rate at the commencement of the relevant Contract Year (which shall be inclusive of all indexation uplifts up to and including Contract Year (N-1)); |
| Index N    | is the value of the index published for the month three months prior to the date at which indexation is being applied; and   |
| Index(N-1) | for all indexation review dates other than the First Indexation Review Date, is the value of the index published for the month three months prior to the date of the commencement of the Contract Year (N-1)..   |

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

## **2. INVOICING COMPLIANCE**

2.1 The Supplier shall ensure each invoice contains at minimum each of the following (and no invoice which does not contain each of the following shall be considered valid):

2.1.1 a unique identification number (invoice number); 2.1.2

the Supplier's name, address and contact information;

2.1.3 the name and address of the department/agency in the Buyer with which the Supplier is working; 2.1.4 a clear description of the services,

or goods being invoiced for; 2.1.5 the date the goods or service were provided; 2.1.6 the date of the invoice;

2.1.7 the full price and the applicable Volume Discount (as defined in Paragraph 5

### **XRTS - Schedule 3 (Charges)**

- below) if any;
- 2.1.8 the amount being charged; 2.1.9 any deductions against Supplier profit due to application of Service Credits in accordance with Schedule 10 (Service Levels); 2.1.10 VAT amount if applicable; 2.1.11 the total amount owed; 2.1.12 the correct purchase order number as supplied by the Buyer; 2.1.13 reference number of any Variation which sets out approved additional and/or exceptional; and
- 2.1.14 the amount of the invoice in British Pounds sterling or any other currency which is approved by the Buyer from time to time.
- 2.2 The Supplier shall submit each invoice electronically to the nominated e-mail address as provided by the Buyer and shall ensure all electronic communications containing any invoice(s) adhere to the following requirements: 2.2.1 each email size must not exceed 4Mb.
- 2.2.2 no more than one invoice may be contained in any single file attachment (PDF), (for the avoidance of doubt, multiple invoices may be attached as separate files); and
- 2.2.3 any supporting information (including but not limited to backing data) must be contained within the invoice PDF file.
- 2.3 Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge. The Supplier shall, if so requested by the Authority, provide to the Authority such information as may reasonably be required by the Authority as to the amount of Value Added Tax chargeable on the value of the Services and payable by the Authority to the Supplier in addition to the Charges.
- 2.4 Any overpayments by the Buyer to the Supplier shall be a sum of money recoverable from the Supplier by the Buyer for the purposes of and in accordance with the Contract, and the Supplier shall promptly notify the Buyer of any overpayments by the Buyer.
- 2.5 Unless otherwise agreed between the Buyer and the Supplier or stated in the Buyer Contract, payment will be made by Bankers Automated Clearing Service (BACS) or by such a method as the Parties shall agree in writing.
- 2.6 Disputed invoices not resolved within 20 Working Days shall be referred for determination in accordance with the Dispute Resolution Procedure.
- 2.7 Unless otherwise Approved, invoices must:
- 2.7.1 not contain any lines for items which are not on the purchase order submitted by the Buyer to the Supplier; and
- 2.7.2 replicate, as far as possible, the structure of and the information contained in the Purchase Order Number in respect of the number of lines, line descriptions, price and quantity.

## **XRTS - Schedule 3 (Charges)**

2.8 If required by the Authority, the Supplier shall promptly on request: 2.8.1 register and comply with any reasonable e-Marketplace solution adopted for invoicing and procurement catalogues by the Authority; and

2.8.2 submit a structured electronic invoice in an Electronic Data Interchange or XML formats., and compliance with this Paragraph 2.8 shall not relieve the Supplier of its obligations to invoice in accordance with the rest of this Paragraph 2.

### **3. FINAL TOTAL MONTHLY CHARGES**

The final Charges in respect of all Services provided by the Supplier in the Month immediately prior to the termination or expiry of the Contract shall not be invoiced by the Supplier to the Buyer until the Supplier has produced and the Buyer has agreed the final Monthly Service Report in respect of the performance in the final Month.

### **4. NO MINIMUM VOLUME PURCHASES**

4.1 The Buyer shall be under no obligation to purchase any of the Goods and/or Services during the Contract Period. If the Buyer wishes to purchase the Goods and/or Services during the Contract Period, the Parties shall follow the process set out in Paragraph 11 (Placement of Orders) of Schedule 2 (Specification).

### **5. VOLUME DISCOUNTS**

5.1 The Supplier shall offer to the Buyer volume purchase discounts at the rates set out in Annex 1 below ("**Volume Discount**"). Where the Buyer raises a purchase order to purchase Units, the Supplier shall apply the applicable Volume Discount to the Charges and shall invoice the Buyer at the discounted rate.

5.2 Supplier will produce a report as and when requested by the buyer that details the savings made by the application of Volume Discounts.

5.3 If at any time the Supplier and/or Buyer becomes aware that the Supplier has failed to apply the Volume Discount correctly and the Buyer has been overcharged, the Supplier shall provide a credit against next invoice or if this relates to final purchase order the supplier will provide a direct refund.

### **6. INTERNATIONAL TRADE TARIFFS**

All prices under this Contract are inclusive of all duties, tariffs, and other costs associated with the supply and delivery of the Goods and/or Services. The Supplier shall not be entitled during the Contract Period to increase its pricing in response to, and/or to include any increasing costs which apply (or may apply) as a result of or due to any duties and/or tariffs.

### **7. EXPENSES**

The Supplier shall be entitled to recover reimbursable expenses where / if applicable, in accordance with the Travel and Subsistence Policy set out in Annex 3 to this Schedule.

## **XRTS - Schedule 3 (Charges)**

Where Travel and Subsistence costs are included within the pricing of Goods and Services, this is detailed within this Schedule 3 (Charges), Schedule 2 (Specification), or any other relevant contract documentation section.

### **8. FAULT RATES**

#### **8.1 Forecast Unit Fault Rate**

The forecast frequency of expected break down / failure of units, shown as an annual percentage (the Forecast Unit Fault Rate) is provided within Appendix 2 to Annex 2 of this Schedule 3 (Charges), providing the Forecast Unit Fault Rate per year (years 1-10 / by age) to provide such information for the duration of the 10 year life expectancy of the Units.

**Example:**

|   |            |
|---|------------|
| <b>Number of Units at risk (operational within the Buyer's estate):</b> | <b>100</b> |
| <b>Number of recorded fault incidents with the annual period:</b>       | <b>5</b>   |
| <b>Forecast Unit Fault Rate (for year in question):</b>                 | <b>5%</b>  |

#### **8.2 Unit Fault Rate Variance Report – Reporting and Obligation**

A Forecast Unit Fault Rate Variance Report shall be provided annually no later than 30-days following the contract commencement date anniversary, to detail the volume of units at risk per month, by age, with recorded fault incidents noted by month. An annual average Unit Fault Rate (by age) shall be provided.

A variance between the reported annual Unit Fault Rate and the Forecast Unit Fault Rate (as detailed within Appendix 2, Annex 2) for the year in question shall be provided (separated by age as required).

Where the Unit Fault Rate Variance as noted above is greater than 10 percentage points (see example below), the Supplier shall provide a cost comparison summary to compare actual repair costs for the period to the repair costs which would have prevailed should the Forecast Unit Fault Rate been delivered. Details of the report shall be discussed and agreed with the Buyer within 30 days of the issue of the report, with both parties acting reasonably. The Supplier shall reimburse the Buyer for the increased cost variance value within 30 days of the report being agreed by way of issuing a credit note or by financial reimbursement with such method to be instructed by the Buyer.

**Example:**

|  |                     |
|--|---------------------|
| <b>Forecast Unit Fault Rate (average by age segment):</b>          | <b>5%</b>           |
| <b>Actual / reported Unit Fault Rate (average by age segment):</b> | <b>6%</b>           |
| <b>Reported Percentage Difference:</b>                             | <b>1% point</b>     |
| <b>Percentage Variance <math>((6-5)/5 \times 100)\%</math></b>     | <b>20% Variance</b> |

#### **8.3 Forecast Parts Fault Rates**



### **XRTS - Schedule 3 (Charges)**

The frequency of expected break down / failure of individual spare parts, shown as an annual percentage (the Forecast Parts Fault Rates) is provided within Appendix 3 to Annex 2 of this Schedule 3 (Charges), providing the Parts Fault Rates per year (years 1-10 / by age) to provide such information for the duration of the 10 year life expectancy of the Units.

This information is provided for information purposes.

**Example:**

|   |            |
|---|------------|
| <b>Number of Units at risk (operational within the Buyer's estate):</b>                   | <b>100</b> |
| <b>Number of recorded fault incidents for a particular part within the annual period:</b> | <b>3</b>   |
| <b>Part Fault Rate:</b>   | <b>3%</b>  |

## **Annex 1: Rates and Prices – Purchase of New Equipment**

### **X-Ray Body Scanner Equipment (Units)**

[Redacted]



### **3. Goods Decommissioning**

[Redacted]

### **ANNEX 3: Travel and Subsistence Policy**

Travel and Subsistence policy is attached on the e-portal attachments package.

## Schedule 4 (Tender)

REDACTED

## Schedule 5 (Commercially Sensitive Information)

### 9. What is the Commercially Sensitive Information?

- 9.1 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.
- 9.2 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).
- 9.3 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:

[Redacted]

## Schedule 6 (Transparency Reports)

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-updateto-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in the Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft

## Schedule 6 (Transparency Reports)

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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.
- 1.5 From time to time the Buyer may at its discretion request the Supplier to provide a summary report ("**Report Request**") setting out information in respect of FOIA, with details of the specific requirements to be provided at the time of the request. The Report Request shall contain instructions as to the specific information required by the Buyer. The Supplier shall provide such reports in promptly (and in any event no later than the deadline stipulated within the request) and in compliance with the Report Request and this Schedule 6.

## Annex A: List of Transparency Reports

| Title       | Content  | Format   | Frequency   |
|-------------|--|--|---|
| FOI reports | any information which is required in accordance with the provisions of the FOIA, which shall be determined by the Buyer. Specific requirements shall be set out in the Report Request. | Same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which the Buyer shall issue to the Supplier. | As notified by the Buyer to the Supplier from time to time. |

| Implementation Reports                     |   |                     |                  |                       |
|--|---|---------------------|------------------|-----------------------|
| Management Report Title                    | Report Description  | Frequency of Report | Format of Report | Audience              |
| Units (X Ray Torso Scanner) Go Live Report | <p>Progress report of implementation of Units and their readiness for go live. The report should provide detail of any anticipated issues, resolution plans and timescales.</p> <p>The report should include (but not be limited to):</p> <ul style="list-style-type: none"> <li>Total number of Units that are operational</li> <li>Any changes to the agreed Implementation Plan</li> <li>Milestones successfully met in accordance with the Implementation Plan, and Milestones missed.</li> <li>Spares availability</li> <li>Buyer personnel user training</li> </ul> | Monthly             | Excel            | Contract Review Board |

### Finance reports

**Schedule 6 (Transparency Reports)**

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| Management Report Title   | Report Description  | Frequency of Report   | Format of Report  | Audience              |
|---------------------------|---|---|---|-----------------------|
| Contract Amendment Report | This report should detail the reasons any variation impact including monetary valuation, and confirmation of agreement between both parties.  | Within 1 month of a Variation being agreed between the Supplier and the Buyer | Same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer | Contract Review Board |
| Annual Contract Report    | This is the annual performance and financial management report which summaries all the transparency reports into a consolidated high level report. This report will provide an overview of the previous 12 months performance. It will capture and detail the implementation performance as well as the operational (BAU) performance of both equipment and support services provided by supplier | Within 1 month of the end of the Contract Year to which that report relates   | Same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer |                       |

| Performance Reports     |                    |                     |                  |          |
|-------------------------|--------------------|---------------------|------------------|----------|
| Management Report Title | Report Description | Frequency of Report | Format of Report | Audience |



## Schedule 6 (Transparency Reports)

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|                              |   |         |  |                       |
|------------------------------|---|---------|--|-----------------------|
| KPI Monitoring               | <p>A monthly performance report which details (on a rolling basis):</p> <ul style="list-style-type: none"> <li>• Performance against KPIs (for the avoidance of doubt includes Implementation and KPIs)</li> <li>• Service Credits for the period (if applicable)</li> <li>• Year on year comparison</li> <li>• Backing data should be provided in electronic format.</li> <li>• YTD dashboard( format to be agreed)</li> <li>• YTD overall performance against BAU KPIs</li> <li>• Fault Rate Reporting</li> </ul> |         |  |                       |
| Health and Safety            | <p>A report detailing any accidents and injuries incurred within the workshops including (but not limited to) Lost time injury rate</p> <p>Work days lost from injury</p> <p>Hazard reports</p>   |         |  |                       |
| Security Incidents and Risks | <p>A report providing an overview and summary of any risks, security or health and safety incidents for the reporting period and YTD tracking.</p>  | Monthly | <p>This will form part of the Contract Review Meeting (quarterly or as agreed) and should be presented in such a way to allow open discussion at the meeting. All backing data should be provided where available using tables / graphs illustrating performance, where appropriate which allows for easily extract of specific data</p> | Contract Review Board |

**General Management Reports ( includes for Cabinet Office reporting requirements)**

**Schedule 6 (Transparency Reports)**  
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| Management Report Title | Report Description | Frequency of Report | Format of Report | Audience |
|-------------------------|--------------------|---------------------|------------------|----------|
|-------------------------|--------------------|---------------------|------------------|----------|

## Schedule 6 (Transparency Reports)

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|                       |   |          |   |                       |
|-----------------------|---|----------|---|-----------------------|
| Sustainability Impact | <ul style="list-style-type: none"> <li>the key sustainability impacts identified by the Supplier and as detailed online at; <a href="https://www.gov.uk/guidance/measuring-and-reporting-environmental-impacts-guidance-for-businesses">https://www.gov.uk/guidance/measuring-and-reporting-environmental-impacts-guidance-for-businesses</a> and in accordance with PPN 6/20 and 6/21;</li> <li>sustainability improvements made;</li> <li>actions underway or planned to reduce sustainability impacts;</li> <li>sustainability policies, standards, targets and practices that have been adopted to reduce the environmental impact of the Supplier's operations and evidence of these being actively pursued, indicating arrangements for engagement and achievements.</li> </ul> | Annually | <p>This will form part of the Contract Review Meeting (annual) and should be presented in such a way to allow open discussion at the meeting. All backing data should be provided where available using tables / graphs illustrating performance, where appropriate which allows for easily extract of specific data. The Buyer shall be entitled to require text versions of any presentation and/or supplementary documents to support the presentation</p> | Contract Review Board |
|-----------------------|---|----------|---|-----------------------|

## Schedule 6 (Transparency Reports)

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|   |   |          |  |                       |
|---|---|----------|--|-----------------------|
| Waste permits                                 | Copies of any relevant permits and exemptions for waste, handling, storage and disposal   | Annually | Copy of Waste Certification  | Contract Review Board |
| Greenhouse Gas Emissions                      | Report should set out the Supplier's greenhouse gas emissions making use of the use of the most recent conversion guidance set out in 'Greenhouse gas reporting – Conversion factors' available online at <a href="https://www.gov.uk/guidance/measuring-and-reporting-environmental-impacts-guidance-for-businesses">https://www.gov.uk/guidance/measuring-and-reporting-environmental-impacts-guidance-for-businesses</a> | Annually | To be presented in a format that allows for ease of understanding and discussion | Contract Review Board |
| Energy Use (by Unit if metering is available) | Separate energy consumption figures for:<br>assets deployed on the Serviced Sites(s);   | Annually | To be presented in a format that allows for ease of understanding and discussion | Contract Review Board |
| Transport Use                                 | <ul style="list-style-type: none"> <li>miles travelled by transport and fuel type, for Units and goods delivered to the Serviced Sites</li> <li>miles travelled by Supplier Staff when visiting the Serviced Sites from the Supplier's Sites; and</li> <li>resulting Green House Gas (GHG) emissions using agreed Conversion Factors.</li> </ul>  | Annually | To be presented in a format that allows for ease of understanding and discussion | Contract Review Board |

## 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 within 10 Working Days, if requested to do so by the Buyer.

2.2 The draft Implementation Plan shall:

2.2.1 contain information at the level of detail necessary to manage the implementation stage effectively and as the Buyer may otherwise require, including but not limited to:

- (a) Key dates associated with the availability of Goods, components, software tooling;
- (b) Survey details;
- (c) Delivery;
- (d) Installation;

- (e) Commissioning;
  - (f) Training;
  - (g) Acceptance testing and handover;
- 2.3 take account of all dependencies known to, and/or which should reasonably be known to, the Supplier.
- 2.4 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.
- 2.5 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.
- 2.6 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.
- 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:
- 5.2 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;
- 5.3 include in its notification an explanation of the actual or anticipated impact of the Delay;
- 5.4 comply with the Buyer's instructions in order to address the impact of the Delay or anticipated Delay; and
- 5.5 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 as agreed within the Implementation Plan.
- 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
- 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.]

## **8. Commissioning**

- 8.1 The Supplier shall be responsible for fully commissioning the Goods to ensure that each Unit is fully operational (in compliance with Schedule 2 (Specification) Appendix A The Technical Goods Specification and effective to the levels set out in Appendix B The Technical Performance Specification) and tested to meet health & safety requirements without fault and, where required, set up for the Goods' intended use prior to formal handover to the Buyer.
- 8.2 The Supplier shall produce a Commissioning Report that shall include dose radiation readings. A copy of the Commissioning Report shall be provided to the individual Serviced Site and a copy sent to a nominated Buyer personnel or an Buyer central, shared email address for retention and audit purposes.
- 8.3 The Supplier shall carry out radiation measurements as part of their attendance to site to ensure that equipment is operating in compliance with the Ionising Regulations.
- 8.4 Where commissioning tests are carried out, the shall upon request report to the Buyer the specification of the dosimeter used and provide a description of the testing process for environmental measurements. The Supplier shall make available to the Buyer on request the applicable Dosimeter Calibration Certificates.
- 8.5 Dose measurements on all reports shall include a table of conversions to Micro Sieverts Hour ( $\mu\text{Sv/h}$ ) and taken 5cm from the housing.

## **9. Inspection of Goods**

- 9.1 The Supplier shall afford such reasonable access to its Sites as is required to allow the Buyer to inspect any part of or the finished Units, or the availability

of Goods, at the Supplier's Sites or any premises where the Supplier may store or hold Goods.

## **10. Security Clearance**

- 10.1 The Supplier shall ensure that the Supplier Staff responsible for installation and support complete and submit their security vetting forms at the commencement of the Contract, and present their Identification Documents in person at an agreed prison Site in England or Wales, to verify their identification, within 2 weeks of being requested to do so by the Buyer during the contract mobilisation period.

## **Annex 1: Implementation Plan N/A**

## 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):

|                                    |   |
|------------------------------------|---|
| <b>"Component"</b>                 | any constituent parts of the Deliverables;  |
| <b>"Material Test Issue"</b>       | a Test Issue of Severity Level 1 or Severity Level 2;   |
| <b>"Satisfaction Certificate"</b>  | 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; |
| <b>"Severity Level"</b>            | the level of severity of a Test Issue, the criteria for which are described in Annex 1;   |
| <b>"Test Issue Management Log"</b> | a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule;  |
| <b>"Test Issue Threshold"</b>      | 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;   |
| <b>"Test Reports"</b>              | the reports to be produced by the Supplier setting out the results of Tests;  |
| <b>"Test Specification"</b>        | 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;       |
| <b>"Test Strategy"</b>             | a strategy for the conduct of Testing as described further in Paragraph 3.2 of this Schedule;   |
| <b>"Test Success Criteria"</b>     | in relation to a Test, the test success   |

|                             |   |
|-----------------------------|---|
|                             | criteria for that Test as referred to in Paragraph 5 of this Schedule;                |
| <b>"Test Witness"</b>       | any person appointed by the Buyer pursuant to Paragraph 9 of this Schedule; and       |
| <b>"Testing Procedures"</b> | 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;
- 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

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;

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 ongoing 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 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**

[Redacted]

# Schedule 9 (Installation Works)

## 1. When this Schedule should be used

- 1.1. This Schedule is designed to provide additional provisions necessary to facilitate the provision Deliverables requiring installation by the Supplier.

## 2. Site Surveys and Installation Works

- 2.1. The Supplier shall undertake a survey of all Buyer Sites where new Units must be delivered and installed to ensure that the Units can be installed in the desired location. The Supplier shall advise on any access, handling, floor loading or pre-installation requirements for each site where required or any other related issues (**"Quotation Survey"**).
- 2.2. The Buyer may at its discretion request the Supplier to provide a quotation for the cost of providing Installation Works in respect of specific Units and Buyer Sites (**"Quote Request"**). The Buyer shall state its requirements in the Quote Request. The Supplier shall promptly upon request provide a written quote to the Buyer which sets out:
  - 2.2.1. the cost of the Installation Works in total, and with each of the:
    - (a) Goods; and
    - (b) Services, set out separately (at a component level);
  - 2.2.2. the scope of the Installation Works;
  - 2.2.3. the footprint of the Goods required for safe installation and operation;
  - 2.2.4. the applicable Lead Teams;
  - 2.2.5. a commitment to meet the Buyer's requirements as stated in the Quote Request;
  - 2.2.6. any required actions which the Supplier requires the Buyer to perform to enable the Installation Works; and
  - 2.2.7. any assumptions which apply to the Installation Works, 9.4 (**"Installation Works Quote"**).
- 2.3. If the Buyer wishes to accept the Installation Works Quote it shall notify the Supplier in writing, upon which the Supplier shall be bound to provide the Installation Works according to the Buyer's requirements and the terms set out in the Quote Request, and the Installation Works Quote (with the Quote Request taking precedence in the event of any conflict).

## 3. How things must be installed

- 3.1. Where the Supplier reasonably believes, it has completed the Installation Works it shall notify the Buyer in writing. Following receipt of such notice, the Buyer shall inspect the Installation Works and shall, by giving written notice to the Supplier:
  - 3.1.1. accept the Installation Works, or

- 3.1.2. reject the Installation Works and provide reasons to the Supplier if, in the Buyer's reasonable opinion, the Installation Works do not meet the requirements set out in the Award Form (or elsewhere in this Contract).
- 3.2. If the Buyer rejects the Installation Works in accordance with Paragraph 2.1.2, the Supplier shall immediately rectify or remedy any defects and if, in the Buyer's reasonable opinion, the Installation Works do not, within five (5) Working Days of such rectification or remedy, meet the requirements set out in the Award Form (or elsewhere in this Contract), the Buyer may terminate this Contract for material Default.
- 3.3. The Installation Works shall be deemed to be completed when the Supplier receives a notice issued by the Buyer in accordance with Paragraph 2.2.1 Notwithstanding the acceptance of any Installation Works in accordance with Paragraph 2.2), the Supplier shall remain solely responsible for ensuring that the Goods and the Installation Works conform to the specification in the Award Form (or elsewhere in this Contract). No rights of estoppel or waiver shall arise as a result of the acceptance by the Buyer of the Installation Works.

Throughout the Contract Period, the Supplier shall have at all times all licences, approvals and consents necessary to enable the Supplier and the Supplier Staff to carry out the Installation Works.

## **4 PRE-ORDER & ORDER PLACEMENT**

### **4.1 Quotation Survey**

- 4.1.1 The Supplier and/or its nominated Sub-Contractor will be required to attend Buyer Sites within the UK free of charge to carry out surveys as detailed within Paragraph 2 above.
- 4.1.2 The Supplier and/or its nominated Sub-Contractor(s) shall make the Buyer Site aware (via the Buyer's nominated contact), of the footprint of the Goods, including operator zones, to ensure that the Site is fully aware of the gross total footprint needed to accommodate and operate the Goods safely..
- 4.1.3 If a Quotation Survey is requested by the Buyer, the Supplier and/or its nominated Sub-Contractor shall contact the relevant Local Point of Contact to arrange access to the Site and provide the details of the Supplier Staff to attend the Site, and any other requested information the Local Point of Contact may require. The Supplier / Sub-Contractor shall ensure that the Supplier Staff understand and comply with the security requirements
- 4.1.4 If any Quotation Survey requires Equipment or tools to be brought on Site, the Supplier and/or Sub-Contractor as applicable shall provide details including, but not limited to, a full list of the Equipment and/or tools with serial numbers, where applicable. These details shall be provided to the Local Point of Contact (or any member of the Buyer's staff who may be authorised to request this information as notified to the Supplier). The Supplier shall provide to the Buyer

all requested information in full prior to conducting the Quotation Survey. The Supplier shall for authorisation for .

## **9.5 5. INSTALLATION SPECIFICS**

### **5.1 Pre-Site Actions (Installations)**

5.1.1 The Supplier / Sub-Contractor shall be required as part of an installation or Project Delivery process to contact a Site prior to any work being carried out following the placement of an order produce any risk assessments where requested and to arrange logistics and delivery of the installation. These cost to be included within the installation costs as included within Schedule 3 (Charges).

### **5.2 Site Conditions**

5.2.1 The Supplier shall comply with local working conditions, including, but not limited to:

- (e) The need to be escorted at all times within a prison and the need to work in separate parts or areas of a prison which will necessitate escorts to be present at both locations. Careful coordination with prisons will be required to ensure that escorts are made available.
- (f) Restrictions within prison premises on the availability and use of personal communication devices (for example mobile phones, or other devices which include Bluetooth connections) and any IT Equipment (such as laptop computers) which enables wireless connection to the internet or mobile phone networks. Where this Equipment is required as part of installation or testing, authorisation for each piece of Equipment will be required in advance of the visit to ensure that use/conveyance is lawful.
- (g) Working times will be subject to local regimes and approval must be sought with consideration of prisons operational and escort staff availability, anticipated to be confirmed by the Local Point of Contact.
- (h) Typically, working hours may be limited to approximately 5 hours per day. Within these core hours, limitations will arise subject to the individual Site's regime and work times will need to remain flexible to adapt to evolving circumstances and local needs. This may result in available work hours being limited on occasion, potentially at short notice, due to operational disruption. The Supplier should be aware of and be adaptable to these conditions and check in advance with Site for any local variations.

All security details relevant to site visits are included within Schedule 36 (The Secretary of State for Prisons)

## **4.1 Installation Responsibilities**

**4.1.1 Supplier Responsibilities:** In conjunction with the responsibilities of this Agreement, the Supplier shall:

- (i) undertake all Services associated with the installation of the Goods, in liaison with, and to the approval of, the Site including any agreed cabling within the onSite cable route;
- (j) make good any damage or disruption to Authority Premises or assets caused by the Supplier, and for all activity associated with opening and closing of the cable routes and for leaving the route in a condition acceptable to the Authority's Project Lead and at no cost to the Authority;
- (k) ensure that any exposed cabling in reach of prisoners is contained within steel security conduit or secured covertly;
- (l) ensure that all exposed fixings for conduit are security fixings;
- (m) provide all installation materials necessary to commission the Goods.
- (n) ensure compliance with the Construction (Design and Management) Regulations (if applicable);
- (o) liaise with the Authority's nominated on-Site Project Manager, who will do all that is reasonably required by the Supplier to enable the Supplier to affect any work requirements, and will do all that is reasonably required by the Supplier to enable the Goods to be installed and the Services to be supplied;
- (p) provide the Local Point of Contact, the Authority Project Lead or their representative with daily progress updates and requirements for access for the following day.

### **4.1.2 Responsibilities**

The Authority shall:

- (a) enable access for Supplier personnel to sites as required; and
- (b) undertake an initial survey of all sites to undertake an initial assessment of the suitability of the identified location of all new Units;

## **4.2 Training**

4.2.1 The shall provide free of charge basic operator training in respect of controls and safe use upon delivery of the Units.

## **4.3 Goods Handover Documentation**

4.3.1 Prior to the Supplier handing over the Goods to the Buyer, the Supplier shall provide all such documentation as the Buyer requires to allow the Buyer to manage and support the Goods, which shall include, but shall not be limited to:



- e) [Operating manuals for the Units in an electronic format written in English;
- f) Goods configuration information;
- g) test and acceptance documentation (including relevant health and safety compliance declarations); and
- h) Preventative Service Maintenance schedules and tasks including:
  - i. First service level - Customer capable servicing duties;
  - ii. Second service level - Third party maintainer / repair tasks and
  - iii. Third service level - Original Equipment Manufacturer tasks for specialist and/or non-serviceable components.]

# Schedule 10 (Service Levels)

## 10. Definitions

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

**“Completed Job”** means when a Fault or repair has been rectified in full by the Supplier and the Supplier has provided to the Buyer an Engineer Job Report

**“Critical Service Failure”** means:

(a) the Goods:

(i) do not function and/or are unusable; and/or

(ii) function but do not materially conform to the requirements of the Agreement; and/or

(b) any individual(s) is/are physically harmed by using, and/or as a result of use of, the Goods;

**“Fault”** means any problem with a Unit that stops, or interferes with it working correctly

**“First Time Fix”** means that any Fault is repaired or fixed at the first visit by an engineer or any member of the Supplier Staff

**“Fulfilled”** means the Goods and/or Services are successfully delivered to the location required by the Buyer and are accepted.

**“Monthly Service**

|  |   |
|--|---|
| <b>Charge</b>  | As defined in worked example, Annex B to Part A, Section 1.6.3 below.   |
| <b>“Non-Critical Failure”</b>                                      | means any failure of, and/or problems with, the Goods that is not a Critical Service Failure  |
| <b>“Order Fulfilment”</b>  | means the percentage completeness of an Order upon delivery   |
| <b>“Ordered Goods”</b>   | means any Goods ordered by the Buyer (and/or a Serviced Site)   |
| <b>“Planned Preventative Maintenance (PPM) Visit Booking Date”</b> | means the date agreed with the Site for the PPM Visit to take place) as detailed within the PPM Service Schedule  |
| <b>“Reactive Visit”</b>  | means a visit by Supplier Staff to a Serviced Site in to rectify a Fault and/or otherwise provide the Services which is not part of the Planned and Preventative Maintenance Schedule |
| <b>“Repeat Service”</b>  | means Services provided by the Supplier to rectify a Fault and/or failure of a Unit where such Fault and/or failure has been the subject of a Reactive Visit by the Supplier.         |
| <b>“Requested Repair(s)”</b>                                       | means any request made by authorised Staff at a Serviced Site and/or or the Buyer for the Supplier to conduct a Reactive Visit to rectify a Fault                                     |
| <b>"Service Credits"</b>   | shall be as set out within Part A of this Schedule;   |
| <b>"Service Credit Cap"</b>  | shall be as set out within Part A of this Schedule;   |
| <b>"Service Level Failure"</b>                                     | means a failure to meet the Service Level Performance Measure in respect of a Service Level;  |
| <b>"Service Level Performance Measure"</b>                         | shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule;   |

|                                   |   |
|-----------------------------------|---|
| <b>"Service Level Threshold"</b>  | shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule                          |
| <b>"Serviced Site(s)"</b>         | means any Buyer Site that has have one or more Unit(s) installed.   |
| <b>"% of Delivery Fulfilment"</b> | means the percentage of Units delivered and/or installed (as applicable) in compliance with the applicable Lead Time(s) |

**11. What happens if you don't meet the Service Levels? 11.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.**

**11.2 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.**

**11.3 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.**

**11.4 A Service Credit shall be the Buyer's exclusive financial remedy for a Service Level Failure except where:**

11.4.1 the Supplier has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or 11.4.2 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

11.4.3 the Buyer is otherwise entitled to or does terminate this Contract pursuant to Clause 10.4 of the Core Terms (When the Buyer can end the Contract).

**11.5 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:**

11.5.1 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;

11.5.2 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 11.5.3 there is no change to the Service Credit Cap.

## **Part A: Service Levels and Service Credits**

### **1. Service Levels**

If the level of performance of the Supplier: 1.1 is likely to or fails to meet any Service Level Performance Measure; or 1.2 is likely to cause or causes a Critical Service Failure to occur,

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

1.3.1 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 and/or Critical Service Failure from taking place or recurring;

1.3.2 instruct the Supplier to comply with the Rectification Plan Process; and/or

1.3.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Buyer.

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 unless the Buyer otherwise requests such Service Credits to be paid directly to the Buyer, in which case the Supplier shall do so promptly and in accordance with the Buyer's reasonable instructions.

3. Repeat Failures 3.1 If the Supplier fails to achieve the Service Level Performance Measure for two (2) consecutive Service Periods, the second such failure shall be a "Repeat Failure". Any subsequent failure by the Supplier to achieve that same Service Performance

Measure shall also be a Repeat Failure. If any Repeat Failure to meet the Service Performance Measure occurs, the value of the Service Credits owed to the Buyer shall increase in accordance with the following Service Multiplier table:

| Number of Repeat Failures<br>to meet the Service Level<br>Performance Measure | Service Credits Multiplier |
|---|----------------------------|
| 0 (initial failure)   | x1                         |
| 1   | x2                         |
| 2   | x3                         |

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

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

3.3.1 21% of the total amount payable in respect of the Ordered Goods and/or

3.3.2 21% of the total annual amount payable in respect of the maintenance charge during that period for the Planned Maintenance and Reactive Maintenance Service Level Performance Criterion as detailed in Table 1 below,

the “**Service Credit Cap**”.

**3.4 In the event that the Supplier fails to meet any Service Performance Measure for three (3) Service Periods in any Contract Year, then this shall be deemed a material breach and shall entitle the Buyer to terminate the Contract for material breach under Clause 14.**

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

### **5. Service Levels**

| Table 1 – Key Performance Indicators (KPI) |   |  |  |  |   |
|--|---|--|--|--|---|
| No.  | Key Performance Indicator Title   | Guidance and Description   | Frequency and Scope of Measurement                         | Service Level Threshold  | Service Credit (£) for each Service Period  |
| A1   | <b>Orders (Supply of Goods Lead Times.</b><br><br><i>measured as a ratio of; % of Delivery Fulfilment / agreed deliverable Lead Times</i> | <p>This will be measured against the Lead Times as detailed in Schedule 2 (Specification) , or as otherwise agreed between the Parties.</p> <p>Time taken for an Order to be Fulfilled shall be calculated from the date and time at which the Supplier receives an Order, until the date and time at which it is Fulfilled.</p> <p>For clarity this Service Level relates to Orders for Goods and is unrelated to any Service Levels for Planned Preventative or Reactive Maintenance Visits (see below).</p> | Monthly & measured collectively against all Serviced Sites | 98% of Orders made within the Service Period Fulfilled within the applicable Lead Time | <p>Where the Service Level Threshold has not been met, 1% of the Charges attributable to the item(s) of Goods the Supplier fails to deliver in accordance with the applicable Lead Time.</p> <p>Service Credits shall accrue for each Working Day and/or part thereof that the Lead Time is exceeded.</p> |



|    |   |  |  |   |   |
|----|---|--|--|---|---|
| A2 | <b>New Units:<br/>Delivery to end location &amp; Installation:</b>          | To be measured against agreed <b>New Equipment Delivery, Installation and Commissioning Schedule</b> , or as otherwise agreed by the Parties.  | Monthly & measured collectively against all Serviced Sites | 98% of Orders made in in Service Period Fulfilled in compliance with the New Equipment Delivery, Installation, and Commissioning Schedule | Where the Service Level Threshold has not been met, 1% of the Charges attributable to the item(s) of the Goods the Supplier fails to deliver in accordance with the applicable Lead Time. |
|    | <i>measured as a ratio of; % of Delivery Fulfilment / agreed Lead Times</i> | Unit(s) delivered to the location requested by the Buyer, installed, and fully commissioned in accordance with the New Equipment Delivery, Installation and Commissioning Schedule (deliveries of individual Units and/or multiple Units as applicable). |  |   | Service Credits shall accrue for each Working Day and/or part thereof that the Goods Lead Time is exceeded.   |

|   |  |   |   |  |   |
|---|--|---|---|--|---|
| B | <p><b>Planned Preventative Maintenance (PPM) Service Schedule Compliance</b></p> <p><i>Delivered on time against agreed PPM Service Schedule timescales.</i></p> <p>Tolerance on nominal date of 6 months from last PPM is +/- 4 weeks</p> | <p>This Service Level shall be measured against compliance with the PPM Visit Booking Date for each PPM Visit</p> | <p>Monthly &amp; measured collectively against all Serviced Sites</p> | <p>95% of PPM Visits delivered on the relevant PPM Visit Booking Date measured within each Service Period.</p> | <p>1% of the quarterly Unit Service Charge (for each individual Unit where the PPM Visit is not undertaken on the PPM Visit Booking Date). Service Credit(s) shall accrue for each Working Day and/or part thereof that the PPM Visit takes place outside of the PPM Visit Booking Date.</p> <p>Individual failures of a Unit, which are not rectified by the Supplier during the PPM Visit will be included within future Service Period failure measurements.</p> |
| C | <p><b>Reactive Maintenance:</b></p> <p><b>Call Out Attendance Lead times</b></p>   | <p>Compliance with Lead Times to rectify Critical Failure(s) and Non-Critical Failure(s) (See C1 – C5 below).</p> | <p>(See C1 – C5 below).</p>   | <p>(See C1 – C5 below).</p>  | <p>(See C1 – C5 below).</p>   |

|    |  |   |  |  |   |
|----|--|---|--|--|---|
| C1 | <b>Reactive Maintenance - Critical Failure:</b><br><br>Reactive Maintenance Call Out Attendance Lead times | Further to a pre-qualification call as detailed in Schedule 2 (Specification) and where a visit to a Serviced Site is deemed necessary by the Buyer and/or Supplier, the Supplier shall ensure a suitably qualified engineer arranged for the Serviced Site within 1 Working Day from the time the incident is first reported.  | Monthly & measured collectively against all Serviced Sites | 95% of Reactive Maintenance (Critical Failure) Visits arranged within 1 Working Day, measured within each Service Period                           | 1% of the quarterly Unit Service Charge shall accrue as a Service Credit for each Working Day that the Reactive Maintenance (Critical Failure) visit is arranged outside of the 1 Working Day deadline.     |
| C2 | Reactive Maintenance – (Non-Critical Failure)<br><br>Call Out Attendance Lead times                        | Further to a pre-qualification call as detailed in Schedule 2 (Specification) and where a visit to a Serviced Site is deemed necessary by the Buyer and/or Supplier, the Supplier shall ensure a suitably qualified engineer arranged for the Serviced Site within 2 Working Days from the date the incident is first reported. | Monthly & measured collectively against all Serviced Sites | 95% of Reactive Maintenance (Non-Critical Failure) Visits arranged for the Serviced Site within 2 Working Days , as measured within Service Period | 1% of the quarterly Unit Service Charge shall accrue as a Service Credit for each Working Day that the Reactive Maintenance (Non-Critical Failure) visit is arranged outside of the 2 Working Day deadline. |

|    |   |   |  |   |   |
|----|---|---|--|---|---|
| C3 | Reactive Maintenance (Critical & NonCritical Failures)–<br><br>Repeat Service | Percentage of jobs classed as Repeat Service which occurs within 3 months of the previous Completed Job (or job which was considered to be a Completed Job) | Monthly & measured collectively against all Serviced Sites | No more than 5% of jobs to be classed as Repeat Service, as measured within each Service Period | 1% of the monthly Service Charge shall accrue as a Service Credit for each percentage point over the target 5% Repeat Service threshold. Note: this will be a monthly charge per 1% over the target 5% Repeat Service threshold |
|----|---|---|--|---|---|

|    |   |  |  |   |   |
|----|---|--|--|---|---|
|    | <i>Percentage of jobs classed as Repeat Service.</i>                                |  |  |   |   |
| C4 | <b>Reactive Maintenance (Critical &amp; Non-Critical Failures) - First Time Fix</b> | Completion of repairs on first visit (no subsequent visit required). | Monthly & measured collectively against all Serviced Sites | 90% of Reactive Maintenance visits completed successfully on the first visit, as measured within each Service Period. | 1% of the monthly Service Charge shall accrue as a Service Credit for each percentage point below the target 90% First Time Fix threshold.<br><br>Note: this will be a monthly charge per 1% under the target 90% First Time Fix. |

|    |  |  |  |   |   |
|----|--|--|--|---|---|
| C5 | <b>Reactive Maintenance (Critical &amp; Non-Critical Failures) – Time to Completed Job</b> | In any event, all Requested Repair jobs to be completed (classed as a Completed Job) within 5 Working Days following the day of booking. | Monthly & measured collectively against all Serviced Sites | 95% compliance, as measured within each Service Period. | 1% of the monthly Service Charge shall accrue as a Service Credit for each percentage point under the target 95% Completed Job threshold. |
|----|--|--|--|---|---|

## ANNEX B TO PART A

### WORKED EXAMPLES

#### 5.1 For the avoidance of doubt:

- 5.1.1 Reactive maintenance KPIs (set out in C1-C3 of Annex A above) shall be considered to have been met in the event that no callouts or incidents were raised during the reporting period.
- 5.1.2 Where a Serviced Site rejects a scheduled or proposed visit for a PPM Visit and/or a Reactive Visit without due or valid cause this shall not count towards the Service Level measurement.

#### 1.2 The Calculation of Service Credits – Worked Examples

##### 1.2.1 Service Level A1 and A2

Please read in conjunction with Annex A above (Service Level A)

##### **Service Level: Supply of Goods – Lead Times ((A1) in Annex A to Part A above)**

For the purposes of this worked example, the assumption is made that the Service Threshold is not met within the monthly reporting timeframe:

Service Threshold = 95% of Orders delivered within the Service Level Performance Measure (3 working days)  
(all figures ex VAT and for illustration only)

##### **Example 1:**

Order 1 (full order not delivered)  
Order Value £100.00  
Order delivered on 10<sup>th</sup> Working Day after order placed = 7 Working Days late.  
Service Credit = [ $£100 \times 1\% = £1$ ] x 7 Working Days = **£7.00**

##### **Example 2:**

Order 2 (full order not delivered)  
Order Value £100.00  
Order delivered on 28<sup>th</sup> Working Day after order placed = 25 Working Days late (Service Credit Cap applies).  
Service Credit = [ $£100 \times 1\% = £1$ ] x 21 Working Days = **£21.00**

##### **Example 3:**

Order 3 (partial non-delivery)  
Total Order Value £1,000. Value of goods not delivered within target = £300.

Late portion (£300 value) delivered on 15<sup>th</sup> Working Day after order placed = 12 Working Days late

Service Credit = [ $£300 \times 1\% = £3$ ]  $\times$  12 Working Days = **£36.00**

Note: any late deliveries that are not delivered by the end of the month in which they were Ordered shall be included within the following month's Service Credit calculations, and any subsequent months thereafter. For the avoidance of doubt, the original target delivery date shall always be used to calculate the duration of the delay.

### **1.2.2 Service Level B**

Please read in conjunction with Annex A above (Service Level B)

#### **Service Level: Planned Preventative Maintenance (PPM) Service Schedule**

For the purposes of these worked examples the assumption is made that the Service Threshold is not met within the monthly reporting timeframe:

**Service Threshold = 95% of PPM visits delivered on time** against agreed PPM Service Schedule (agreed Target PPM Visit Dates contained therein).

(All fees ex VAT and for illustrative purposes only)

#### **Example 1:**

Scenario:

- 94% of visits performed on time. This is below the 95% Service Threshold. Therefore, Service Credits shall be calculated for each service visit attended outwith the date on the agreed PPM Service Schedule.
- Assumed the Service Package purchased is a £2,000 Gold charge per unit.
- Only one service visit delivered late – assume 5 Working Days late.
- Service Credit charge is 1% of the quarterly Unit Service Charge (for each individual unit where the PPM visit is not undertaken within the Service Level Performance Measure).
- EG:  $1\% \times (£2,000/4) = \textbf{£5.00}$  daily up to Service Credit Cap (**£105.00**) for the Service Period (1 month) for each unit where the PPM visit is late.

#### **Calculation:**

5 days late

=  $5 \times 1\%$  charge

=  $5 \times (£2,000/4)$

=  $5 \times \textbf{£5.00}$

= **£25.00 Service Credit payable for this one late visit.**

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

### **1.2.3 Service Level C.1**

Please read in conjunction with Annex A (Service Level C.1)

#### **Service Level: Reactive Maintenance: Critical Failure**

For the purposes of this worked example, the assumption is made that the Service Threshold is not met within the monthly reporting timeframe:

**Threshold = 95% of Reactive Maintenance (Critical Failure) visits delivered on time** against agreed timescale.

(All fees ex VAT and for illustrative purposes only)

#### **Example 1:**

Scenario:

- 94% of visits performed on time. This is below the 95% Service Threshold. Therefore, Service Credits shall be calculated for each service visit attended outwith the date on the agreed PPM Service Schedule.
- Assumed the Service Package purchased is a £2,000 Gold charge per Unit.
- Only one repair visit delivered late – assume 25 Working Days late.
- Service Credit charge is 1% of the quarterly Unit Service Charge (for each individual unit where the repair visit is not undertaken within the Service Level Performance Measure).
- EG:  $1\% \times (£2,000/4) = \text{£}5.00$  daily up to the Service Credit Cap (**£105.00**) for the Service Period (1 month) for each unit where the repair visit is late.

#### **Calculation:**

25 days late

Cap is 21 days, therefore 21 days maximum charge

=  $21 \times 1\%$  charge

=  $21 \times (£2,000/4)$

=  $21 \times \text{£}5.00$

= **£105.00 Service Credit payable for this one late visit.**

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

### **1.2.4 Service Level C.2**

Please read in conjunction with Annex A above (Service Level C.2)

#### **Service Level: Reactive Maintenance: Non-Critical Failure**



For the purposes of this worked example, the assumption is made that the Service Threshold is not met within the monthly reporting timeframe:

**Service Threshold = 95% of Reactive Maintenance (Critical Failure) visits delivered on time** against agreed timescale.

(All fees ex VAT and for illustrative purposes only)

**Example 1:**

Scenario:

- 94% of visits performed on time. This is below the 95% Service Threshold. Therefore, Service Credits shall be calculated for each service visit attended outwith the date on the agreed PPM Service Schedule.
- Assumed the Service Package purchased is a £2,000 Gold charge per Unit.
- Only one repair visit delivered late – assume 18 Working Days late.
- Service Credit charge is 1% of the quarterly Unit Service Charge (for each individual unit where the repair visit is not undertaken within the Service Level Performance Measure).
- EG:  $1\% \times (£2,000/4) = \text{£}5.00$  daily up to Service Credit Cap (**£105.00**) for the Service Period (1 month) for each unit where the repair visit is late.

**Calculation:**

18 days late

=  $18 \times 1\%$  charge

=  $18 \times (£2,000/4)$

=  $18 \times \text{£}5.00$

= **£90.00 Service Credit payable for this one late visit.**

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

**1.2.5 Service Level C.3**

Please read in conjunction with Annex A above (Service Level C.3)

**Service Level: Reactive Maintenance: (Critical & Non-Critical Failures): Repeat Service**

**Threshold = No more than 5% of jobs to be classed as Repeat Service, as measured within each monthly reporting timeframe.**

(All fees ex VAT and for illustrative purposes only)

**Example 1:**

Scenario:

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



- 
- Service Credit Cap of 21%: Maximum Service Credit Charge of 21% (of the monthly Service Charge) for the Service Period (1 month).  
First Time Fix (FTF) Examples:  
 90% FTF = NO CHARGE  
 89% FTF = Service Credit charge of (1% x monthly Service Charge)  
 88% FTF = Service Credit charge of (2% x monthly Service Charge) Etc...  
 up to 21% Service Credit Charge cap for the Service Period (1 month).
- Repeat Service will be calculated freshly each month.

#### **WORKED EXAMPLE:**

- Assume 88% of jobs classed as First Time Fix. This is 2 percentage points below the 90% Service Threshold, therefore the Service Credit charge will be 2% of the monthly Service Charge.
- Assumed the product purchased is the £2,000 Gold charge per unit.
- “Monthly Service Charge” is defined as follows: Monthly Service charge calculation (assuming 80 units on Gold Cover at £2,000 pa) 80 units x £2,000 Annual Charge = £160,000 annual service charge **Monthly Service Charge = £160,000/12 = £13,333.00.**

#### **Example Calculation:**

88% First Time Fix = 2 percentage points below the 90% Service Threshold  
 Service Credit Charge = 2% x Monthly Service Charge  
 = 2% x £13,333.00  
**= £266.66 Service Credit charge for this month**

#### **1.2.7 Service Level C.5**

Please read in conjunction with Annex A above (Service Level C.5)

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

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

#### **Example 1:**

Scenario:

- 
- This would not be Unit based, as Time to Completed Job is global measure for the full estate.
- Service Credit charge is 1% of the monthly Service Charge. Service Credit charged for each percentage point under the target 95% Time to Completed Job threshold.  
Service Credit Cap of 21%: Maximum Service Credit Charge of 21% (of the monthly Service Charge) for the Service Period (1 month).
- Time to Completed Job Examples:  
95% FTF = NO CHARGE  
94% FTF = Service Credit charge of (1% x monthly Service Charge)  
93% FTF = Service Credit charge of (2% x monthly Service Charge) Etc...  
up to 21% Service Credit Charge cap for the Service Period (1 month).
- Time to Completed Job will be calculated freshly each month.

#### **WORKED EXAMPLE:**

- Assume 92% of Completed Jobs are completed within 5 Working Days. This is 3 percentage points below the 95% Service Threshold, and therefore the Service Credit charge will be 3% of the monthly Service Charge.
- Assumed the Service Package purchased is a £2,000 Gold charge per Unit.
- Monthly Service Charge calculation (assuming 80 units on Gold Cover at £2,000 pa)  
80 units x £2,000 annual charge = £160,000 annual service charge  
**Monthly service charge = £160,000/12 = £13,333.**

#### **Example Calculation:**

92% of jobs completed within 5 days = 3 percentage points below the 95% threshold  
Service Credit Charge = 3% x Monthly Service Charge  
= 3% x £13,333 **£399.99 Service Credit charge for this month**

## **Part B: Performance Monitoring**

- 4. Performance Monitoring and Performance Review 4.1** The Supplier shall provide the Buyer with performance monitoring reports ("Performance Monitoring Reports") in accordance with the process and timescales agreed pursuant to paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
- 4.1.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
  - 4.1.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
  - 4.1.3 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
  - 4.1.4 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
  - 4.1.5 such other details as the Buyer may reasonably require from time to time.
- 4.2 The Parties shall attend meetings to discuss Performance Monitoring Reports ("Performance Review Meetings") on a quarterly or as agreed 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:**
- 4.2.1 normally 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;
  - 4.2.2 be attended by the Supplier's Representative and the Buyer's Representative; and
  - 4.2.3 be recorded, where key discussion points will be noted by the Buyer and these will be circulated by the Buyer to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.
- 4.3 The meeting notes (key discussion points) of the preceding Quarterly Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.**
- 4.4 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.**

**4.5 Where the Supplier fails to provide the required Performance Monitoring Reports, the Service Levels will be deemed not to have been met and the Buyer shall be entitled to apply Service Credits for each Service Level until such time as the Performance Monitoring Report is provided, upon which the actual achieved Service Credits will be calculated.**

**5. Satisfaction Surveys 5.1 The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.**

## Schedule 11 (Continuous Improvement)

### 6. SUPPLIER'S OBLIGATIONS

- 6.1 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.
- 6.2 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.
- 6.3 In addition to Paragraph 6.1, 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:
- 6.3.1 identifying the emergence of relevant new and evolving technologies;
  - 6.3.2 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);
  - 6.3.3 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
  - 6.3.4 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.
- 6.4 The initial Continuous Improvement Plan for the first (1<sup>st</sup>) Contract Year shall be submitted by the Supplier to the Buyer for Approval within six (6) Months following the Start Date.
- 6.5 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.
- 6.6 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.
- 6.7 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.



- 6.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 6.5:
- 6.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
  - 6.8.2 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.
- 6.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1<sup>st</sup>) Contract Year) in accordance with the procedure and timescales set out in Paragraph 6.3.
- 6.10 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.
- 6.11 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.
- 6.12 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)

### 7. DEFINITIONS

In this Schedule, the following expressions shall have the following meanings:

|                                   |   |
|-----------------------------------|---|
| <b>"Benchmark Review"</b>         | a review of the Deliverables carried out in accordance with this Schedule to determine whether those Deliverables represent Good Value; |
| <b>"Benchmarked Deliverables"</b> | any Deliverables included within the scope of a Benchmark Review pursuant to this Schedule;   |
| <b>"Comparable Rates"</b>         | the Charges for Comparable Deliverables;  |

|                                  |  |
|----------------------------------|--|
| <b>"Comparable Deliverables"</b> | 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; |
| <b>"Comparison Group"</b>        | 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;                   |
| <b>"Equivalent Data"</b>         | data derived from an analysis of the Comparable Rates and/or the Comparable Deliverables (as applicable) provided by the Comparison Group;   |
| <b>"Good Value"</b>              | that the Benchmarked Rates are within the Upper Quartile; and  |
| <b>"Upper Quartile"</b>          | 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.   |

## **8. WHEN YOU SHOULD USE THIS SCHEDULE**

The Supplier acknowledges that the Buyer wishes to ensure that the Deliverables, represent value for money to the taxpayer throughout the Contract Period.

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 9 of this Schedule.

Amounts payable under this Schedule shall not fall with the definition of a Cost.

## **9. BENCHMARKING**

### **How benchmarking works**

- 9.1.1 The Buyer may, by written notice to the Supplier, require a Benchmark Review of any or all of the Deliverables.
- 9.1.2 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.
- 9.1.3 The purpose of a Benchmark Review will be to establish whether the Benchmarked Deliverables are, individually and/or as a whole, Good Value.
- 9.1.4 The Deliverables that are to be the Benchmarked Deliverables will be identified by the Buyer in writing.
- 9.1.5 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.
- 9.1.6 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.

#### **Benchmarking Process**

- 9.1.7 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.
- 9.1.8 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.
- 9.1.9 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 9.1.9 shall apply to any amended draft plan.

- 9.1.10 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.
- 9.1.11 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 benchmarker's professional judgment using:
    - (i) information from other service providers to the Buyer;
    - (ii) survey information;
    - (iii) information from "in-house" providers to the Buyer to the extent that the benchmarker considers that they are valid comparators;
    - (iv) market intelligence;
    - (v) the benchmarker's own data and experience;
    - (vi) relevant published information; and
    - (vii) pursuant to Paragraph 9.1.12 below, information from other suppliers or purchasers on Comparable Rates;
  - (b) by applying the adjustment factors listed in Paragraph 9.1.13 and from an analysis of the Comparable Rates, derive the Equivalent Data;
  - (c) using the Equivalent Data, calculate the Upper Quartile; (d) determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.
- 9.1.12 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.
- 9.1.13 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.

### **Benchmarking Report**

- 9.1.14 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;
- 9.1.15 The benchmarker shall prepare a Benchmarking Report and deliver it to the Buyer, at the time specified in the plan Approved pursuant to Paragraph 9.1.9, 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.
- 9.1.16 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 28 (Changing the contract).

## Schedule 13 (Contract Management)

### Definitions

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

|                                |  |
|--------------------------------|--|
| <b>"Contract Review Board"</b> | the board established in accordance with paragraph 4.1 of this Schedule; and |
| <b>"Project Manager"</b>       | the manager appointed in accordance with paragraph 2.1 of this Schedule;     |

### Project Management

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

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.

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

### **Role of the Supplier Project Manager**

The Supplier Project Manager shall be:

- 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;

- able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Project Manager's responsibilities and obligations;

- able to cancel any delegation and recommence the position himself; and replaced only after the Buyer has received notification of the proposed change.

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

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

### **Role of The Contract Review Board**

The Contract Review Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.

The Contract Review 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 this Schedule.

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.

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 Contract Review 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.

The purpose of the Contract Review Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

### **Contract Risk Management**

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

The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:

the identification and management of risks; the identification and management of issues; and monitoring and controlling project plans.

The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.

The Supplier will maintain a risk register of the risks relating to the Contract which the Buyer and the Supplier have identified.

## **Annex: Contract Review Boards**

The Parties agree to operate the Contract Review Board at the locations and at the frequencies set out below:

| <b>Name</b>          | <b>Contract Review Board</b>   |
|----------------------|--|
| Location of Meetings | <ul style="list-style-type: none"><li>• Where feasible, at a Serviced Site nominated by the Buyer;</li><li>• Via web hosted service as directed by the Buyer; or</li><li>• as otherwise agreed between the Parties</li></ul> |

|   |  |
|---|--|
| Buyer Members of Contract Review Board        | Contract Manager (DCOD) (Chairperson)<br>Project Manager<br>Key Threats Manager (Operational management)<br>Commercial Manager<br>Other representatives from the Buyer as required |
| Supplier Members of Contract Review Board     | Project Manager<br>Other representatives from the Supplier as required   |
| Start Date for Contract Review Board meetings | 1 week following Start Date  |
| Frequency of Contract Review Board meetings   | Quarterly (or as agreed)   |

## Schedule 14 (Business Continuity and Disaster Recovery)

### 10. DEFINITIONS

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

|                                   |   |
|-----------------------------------|---|
| <b>"BCDR Plan"</b>                | has the meaning given to it in Paragraph 11.1 of this Schedule;   |
| <b>"Business Continuity Plan"</b> | has the meaning given to it in Paragraph 11.2.2 of this Schedule; |
| <b>"Disaster Recovery Plan"</b>   | has the meaning given to it in Paragraph 11.2.3 of this Schedule; |



|                               |  |
|-------------------------------|--|
| <b>"Related Supplier"</b>     | any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time; |
| <b>"Review Report"</b>        | has the meaning given to it in Paragraph 15.3 of this Schedule; and  |
| <b>"Supplier's Proposals"</b> | has the meaning given to it in Paragraph 15.3 of this Schedule;  |

## 11. BCDR PLAN

11.1 At least ninety (90) Working Days post 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:

11.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and

11.1.2 the recovery of the Deliverables in the event of a Disaster 11.2 The BCDR Plan shall be divided into three sections:

11.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;

11.2.2 Section 2 which shall relate to business continuity (the **"Business Continuity Plan"**); and

11.2.3 Section 3 which shall relate to disaster recovery (the **"Disaster Recovery Plan"**).

11.3 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.

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

12.1 Section 1 of the BCDR Plan shall:

12.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;

12.1.2 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;

12.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;

12.1.4 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;

- 12.1.5 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;
  - 12.1.6 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 an Insolvency Event of the Supplier, any Key Subcontractors and/or Supplier Group member;
    - (d) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
    - (e) a business impact analysis of different anticipated failures or disruptions;
  - 12.1.7 provide for documentation of processes, including business processes, and procedures;
  - 12.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
  - 12.1.9 identify the procedures for reverting to "normal service";
  - 12.1.10 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;
  - 12.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and
  - 12.1.12 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.
- 12.2 The BCDR Plan shall be designed so as to ensure that:
- 12.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
  - 12.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
  - 12.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
  - 12.2.4 it details a process for the management of disaster recovery testing.
- 12.3 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.

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

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

- 13.1 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:

- 13.1.1 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
- 13.1.2 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.

- 13.2 The Business Continuity Plan shall:

- 13.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables; 13.2.2 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;
- 13.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and 13.2.4 set out the circumstances in

which the Business Continuity Plan is invoked.

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

- 14.1 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.

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

- 14.2.1 loss of access to the Buyer Premises; 14.2.2 loss of utilities to the Buyer Premises; 14.2.3 loss of the Supplier's helpdesk or CAFM system;
- 14.2.4 loss of a Subcontractor;
- 14.2.5 emergency notification and escalation process;
- 14.2.6 contact lists;

- 14.2.7 staff training and awareness;
- 14.2.8 BCDR Plan testing;
- 14.2.9 post implementation review process;
- 14.2.10 any applicable Service Levels with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan; 14.2.11 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; 14.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and 14.2.13 testing and management arrangements.

## 15. REVIEW AND CHANGING THE BCDR PLAN

### 15.1 The Supplier shall review the BCDR Plan:

- 15.1.1 on a regular basis and as a minimum once every six (6) Months;
- 15.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 16; and
- 15.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 15.1.1 and 15.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.

### 15.2 Each review of the BCDR Plan pursuant to Paragraph 15.1 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.

### 15.3 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.

- 15.4 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.
- 15.5 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.

## **16. TESTING THE BCDR PLAN**

- 16.1 The Supplier shall test the BCDR Plan:
- 16.1.1 regularly and in any event not less than once in every Contract Year;
  - 16.1.2 in the event of any major reconfiguration of the Deliverables
  - 16.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 16.2 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.
- 16.3 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.
- 16.4 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.
- 16.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
- 16.5.1 the outcome of the test;
  - 16.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
  - 16.5.3 the Supplier's proposals for remedying any such failures.
- 16.6 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.

## **17. INVOKING THE BCDR PLAN**

17.1 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.

## **18. CIRCUMSTANCES BEYOND YOUR CONTROL**

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

# Schedule 16 (Security)

## Part A: Short Form Security Requirements

### 19. Definitions

19.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions): **"Breach of Security"** the occurrence of:

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

Contract, in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 2.2;

**"Security Management Plan"**

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

### 20. Complying with security requirements and updates to them

20.1 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.

20.2 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.

20.3 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.

- 20.4 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.

## **21. Security Standards**

- 21.1 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.
- 21.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
- 21.2.1 is in accordance with the Law and this Contract;
  - 21.2.2 as a minimum demonstrates Good Industry Practice;
  - 21.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and 21.2.4 where specified by the Buyer in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.
- 21.3 The references to standards, guidance and policies contained or set out in Paragraph 21.2 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.
- 21.4 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.

## **22. Security Management Plan**

### **22.1 Introduction**

- 22.1.1 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.

### **22.2 Content of the Security Management Plan**

- 22.2.1 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.

## **22.3 Development of the Security Management Plan**

22.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 22.4, 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.

22.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 22.3.1, or any subsequent revision to it in accordance with Paragraph 22.4, 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.

22.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 22.3.2. 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 22.2 shall be deemed to be reasonable.

22.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 22.3.2 or of any change to the Security Management Plan in accordance with Paragraph 22.4 shall not relieve the Supplier of its obligations under this Schedule.

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

22.4.1 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.

22.4.2 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.

22.4.3 Subject to Paragraph 22.4.4, 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 22.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.

22.4.4 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.

## **23. Security breach**

23.1 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.

23.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 23.1, the Supplier shall:

23.2.1 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.

23.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.



# Schedule 17 (Service Recipients)

## 1. WHEN YOU SHOULD USE THIS SCHEDULE

- 1.1 This Schedule is required where Service Recipients want to join with the Buyer to efficiently contract collectively under a single Contract rather than as separate individual buyers under separate contracts.

## 2. DEFINITIONS

- 2.1 "**Service Recipients**" means a person named as such in Annex A to this Schedule which shall be incorporated into the Award Form.

## 3. SERVICE RECIPIENTS BENEFITS UNDER THE CONTRACT

- 3.1 The Buyer has entered into this Contract both for its own benefit and for the benefit of the Service Recipients.
- 3.2 The Service Recipients who are to benefit under the Contract are identified in Annex A to this Schedule which shall be included into the Award Form.
- 3.3 Service Recipients shall have all of the rights granted to the Buyer under the Contract as if they had been parties to the Contract themselves. Accordingly, where the context requires in order to assure the Service Recipients rights and benefits under the Contract, and unless the Buyer otherwise specifies, references to the Buyer in the Contract (including those references to a Party which are intended to relate to the Buyer) shall be deemed to include a reference to the Service Recipients.
- 3.4 Each of the Service Recipients will be a third party beneficiary for the purposes of the CRTPA and may enforce the relevant provisions of the Contract pursuant to CRTPA.
- 3.5 The Parties to the Contract may in accordance with its provisions vary, terminate or rescind the Contract or any part of it, without the consent of any Service Recipient.
- 3.6 The enforcement rights granted to Service Recipients under Paragraph 3.4 are subject to the following provisions:
  - 3.6.1 the Buyer may enforce any provision of the Contract on behalf of a Service Recipient;
  - 3.6.2 any claim from a Service Recipient under the CRTPA to enforce the Contract shall be brought by the Buyer if reasonably practicable for the Buyer and Service Recipient to do so;
  - 3.6.3 the Buyer will ensure that Service Recipients comply with the Dispute Resolution Procedure in respect of any Disputes that involve a Service Recipient; and
  - 3.6.4 the Supplier's limits and exclusions of liability in the Contract shall apply to any claim to enforce the Contract made by the Buyer on behalf of a Service Recipient and to any claim to enforce the Contract made by a Service Recipient acting on its own behalf.
- 3.7 Other terms and conditions applicable to the provision of the Deliverables to any Service Recipient are as follows:

- 3.7.1 if a Service Recipient needs to comply with an obligation or responsibility of the Buyer to allow the Supplier to provide the Deliverables, the Buyer will remain responsible for this compliance, but compliance by the Service Recipient will be deemed to be compliance by the Buyer;
  - 3.7.2 to the extent that the Service Recipient receives the benefit of the Services, the term "Government Data" will be deemed to extend to any data of the Service Recipient;
  - 3.7.3 during the Contract Period, the Buyer and the Supplier may agree in writing to remove or add Service Recipients from the scope of this Contract and, as necessary, adjusting the Charges on an equitable basis, provided that such changes are in all cases compliant with regulation 72 of the Regulations.
- 3.8 If the Buyer and Supplier agree to remove or add a Service Recipient pursuant to Paragraph 3.7.3:
  - 3.8.1 the Buyer may request that the Supplier provide Termination Assistance; and
  - 3.8.2 the Supplier will, if requested by the Buyer as a result of any UK Government reorganisation, provide the Services to any new UK Government entity designated by the Buyer.
- 3.9 Notwithstanding that Service Recipients shall each receive the same Services from the Supplier the following adjustments will apply in relation to how the Contract will operate in relation to the Buyer and Service Recipients:
  - 3.9.1 Services will be provided by the Supplier to each Service Recipient and Buyer separately;
  - 3.9.2 the Supplier's obligation in regards to reporting will be owed to each Service Recipient and Buyer separately;
  - 3.9.3 the Buyer and Service Recipients shall be entitled to separate invoices in respect of the provision of Deliverables;
  - 3.9.4 the separate invoices will correlate to the Deliverables provided to the respective Buyer and Service Recipients;
  - 3.9.5 the Charges to be paid for the Deliverables shall be calculated on a per Service Recipient and Buyer basis and each Service Recipient and the Buyer shall be responsible for paying their respective Charges;
  - 3.9.6 the Service Levels and corresponding Service Credits will be calculated in respect of each Service Recipient and Buyer, and they will be reported and deducted against Charges due by each respective Service Recipient and Buyer; and
  - 3.9.7 such further adjustments as the Buyer and each Service Recipient may notify to the Supplier from time to time.

## Annex A – Service Recipients

The Deliverables shall also be provided for the benefit of the following Service Recipients:

| <b>Name of Service Recipient</b>                | <b>Services to be provided</b> | <b>Duration</b>       | <b>Special Terms</b> |
|---|--------------------------------|-----------------------|----------------------|
| Ministry of Justice<br>(including its Agencies) | All                            | As per Contract Terms | None noted           |
| Home Office<br>(including Border Force)         | All                            | As per Contract Terms | None noted           |
| Scottish Prison Service                         | All                            | As per Contract Terms | None noted           |
| Northern Ireland Prison Service                 | All                            | As per Contract Terms | None noted           |
| Private Managed Prison Providers (PMPPs)        | All                            | As per Contract Terms | None noted           |

## Schedule 18 (Supply Chain Visibility)

### 24. DEFINITIONS

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

**"Contracts Finder"** the Government's publishing portal for public sector procurement opportunities;

**"SME"** an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium sized enterprises;

**"Supply Chain Information Report Template"** the document at Annex 1 of this Schedule 18; and

**"Unconnected Sub-contract"** any contract or agreement which is not a Sub-contract and is between the Supplier and a third party (which is not an Affiliate of the Supplier) and is a qualifying contract under regulation 6 of The Reporting on Payment Practices and Performance Regulations 2017

**"Unconnected Subcontractor"** any third party with whom the Supplier enters into an Unconnected Sub-contract

### 25. VISIBILITY OF SUB-CONTRACT OPPORTUNITIES IN THE SUPPLY CHAIN

25.1 The Supplier shall:

- 25.1.1 subject to Paragraph 25.3, 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;



- 25.1.2 within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor; 25.1.3 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; 25.1.4 provide reports on the information at Paragraph 25.1.3 to the Buyer in the format and frequency as reasonably specified by the Buyer; and
- 25.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

25.2 Each advert referred to at Paragraph 25.1.1 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.

25.3 The obligations on the Supplier set out at Paragraph 25.1 shall only apply in respect of SubContract opportunities arising after the Start Date.

25.4 Notwithstanding Paragraph 25.1, the Buyer may by giving its prior Approval, agree that a SubContract opportunity is not required to be advertised by the Supplier on Contracts Finder.

## **26. VISIBILITY OF SUPPLY CHAIN SPEND**

26.1 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:

26.1.1 the total contract revenue received directly on the Contract;

26.1.2 the total value of sub-contracted revenues under the Contract (including revenues for non-SMEs/non-VCSEs); and

26.1.3 the total value of sub-contracted revenues to SMEs and VCSEs.

26.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Buyer from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 26.1.1 –26.1.3 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.

26.3 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.

#### 4 Visibility of Payment Practice

If this Contract has at the Start Date an anticipated contract value in excess of £5 million per annum (excluding VAT) averaged over the Contract Period and without prejudice to Clause 4.6, Clause 8.2.1(b) and 8.2.2(b), the Supplier shall:

pay any sums which are due from it to any Sub-contractor or Unconnected Subcontractor pursuant to any invoice (or other notice of an amount for payment) on the earlier of:

the date set out for payment in the relevant Sub-contract or Unconnected Subcontract; or

the date that falls sixty (60) days after the day on which the Supplier receives an invoice (or otherwise has notice of an amount for payment); and

include within the Supply Chain Information Report a summary of its compliance with this Paragraph 4.4, such data to be certified every six months by a director of the Supplier as being accurate and not misleading.

If any Supply Chain Information Report shows that in either of the last two six month periods the Supplier failed to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt, the Supplier shall provide to the Buyer within 15 Working Days of submission of the latest Supply Chain Information Report an action plan (the “**Action Plan**”) for improvement. The Action Plan shall include, but not be limited to, the following:

identification of the primary causes of failure to pay 95% or above of all Subcontractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt;

actions to address each of the causes set out in Sub-Paragraph 0; and  
mechanism for and commitment to regular reporting on progress to the Supplier’s Board.

Where the Supplier fails to pay any sums due to any Sub-contractor or Unconnected Sub-contractor in accordance with the terms set out in the relevant Sub-contract or Unconnected Sub-contract, the Action Plan shall include details of the steps the Supplier will take to address this.

The Supplier shall comply with the Action Plan or any similar action plan connected to the payment of Sub-contractors or Unconnected Sub-contractors which is required to be submitted to the Authority as part of the procurement process and such action plan shall be included as part of the Supplier’s Solution (to the extent it is not already included).

If the Supplier notifies the Buyer (whether in a Supply Chain Report or otherwise) that the Supplier has failed to pay 95% or above of its Unconnected Sub-contractors

within sixty (60) days after the day on which the Supplier receives an invoice or otherwise has notice of an amount for payment, or the Buyer otherwise discovers the same, the Buyer shall be entitled to publish the details of the late or nonpayment (including on government websites and in the press).

## Annex 1 - Supply Chain Information Report **template**

|   | Contract Year 20[ ] |      |                     |      |
|---|---------------------|------|---------------------|------|
|   | Under this Contract |      | Supplier as a whole |      |
|   | £                   | %    | £                   | %    |
| Estimated total contract revenue (£) to be received in this Contract Year | £[ ]                | 100% | £[ ]                | 100% |
| Total value of Sub-contracted revenues (£) in this Contract Year          | £[ ]                | [ ]  | £[ ]                | [ ]  |
| Total value of Sub-contracted revenues to SMEs (£) in this Contract Year  | £[ ]                | [ ]  | £[ ]                | [ ]  |
| Total value of Sub-contracted revenues to VCSEs (£) in this Contract Year | £[ ]                | [ ]  | £[ ]                | [ ]  |

## Schedule 19 (Cyber Essentials Scheme)

### Definitions

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>

|   |  |
|---|--|
| <b>"Cyber Essentials Basic Certificate"</b> | the certificate awarded on the basis of selfassessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;  |
| <b>"Cyber Essentials Certificate"</b>       | Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Framework Award Form  |
| <b>"Cyber Essential Scheme Data"</b>        | sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and   |
| <b>"Cyber Essentials Plus Certificate"</b>  | 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. |

## **What Certification do you need**

Where the Award Form requires that the Supplier provide a Cyber Essentials Certificate the Supplier shall provide a valid Cyber Essentials Certificate to the Buyer promptly upon the Start Date. 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.

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 renewal of the Cyber Essentials Certificate on each anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1.

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: a valid and current Cyber Essentials Certificate before the Supplier Processes any such Cyber Essentials Scheme Data; and renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 2.1.

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.

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.

This Schedule shall survive termination or expiry of this Contract.

## Schedule 21 (Variation Form)

[TO BE COMPLETED BY WINNING BIDDER WHEN/IF A VARIATION IS REQUIRED]

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

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

|  |                                   |                           |
|--|-----------------------------------|---------------------------|
|  | Additional cost due to variation: | £ <b>[insert]</b> amount] |
|  | New Contract value:               | £ <b>[insert]</b> amount] |

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

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

Signature

Date

Name (in Capitals)

Address

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

Signature

Date

Name (in Capitals)

Address

## Schedule 22 (Insurance Requirements)

### 1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is



effective no later than the Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and

**1.2 The Insurances shall be:**

- 1.2.1 maintained in accordance with Good Industry Practice;
- 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
- 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
- 1.2.4 maintained for at least six (6) years after the End Date.

**1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.**

**2. How to manage the insurance**

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

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

**3. What happens if you aren't insured**

**3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.**

**3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Buyer may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.**

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

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

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

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

#### **6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Buyer in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Buyer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

#### **7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or the Contract for which it may be entitled to claim under any of the Insurances. In the event that the Buyer receives a claim relating to or arising out of the Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.

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

#### **ANNEX: REQUIRED INSURANCES**

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

professional indemnity insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] ten million pounds (£10,000,000);  
public liability insurance [with cover (for a single event or a series of related events and in the aggregate)] of not less than ten million pounds (£10,000,000); and  
employers' liability insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] ten million pounds (£10,000,000).

## Schedule 24 (Financial Difficulties)

### Definitions

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"** the occurrence or one or more of the following events:
- the credit rating of the Monitored Company dropping below the applicable Credit Rating Threshold; 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;
  - there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Monitored Party; Monitored Company committing a material breach of covenant to its lenders;
  - 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; or
- any of the following:
- commencement of any litigation against the Monitored Company with respect to financial indebtedness or obligations under a contract;
  - non-payment by the Monitored Company of any financial indebtedness;
  - any financial indebtedness of the Monitored Company becoming due as a result of an event of default; or
  - 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; |
| <b>"Financial Distress Service Continuity Plan"</b> | 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;                                  |
| <b>"Monitored Company"</b>                          | Supplier, Guarantor and any Key Subcontractor; and   |
| <b>"Rating Agencies"</b>                            | the rating agencies listed in Annex 1.   |
| <b>When this Schedule applies</b>                   |  |

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.

The terms of this Schedule shall survive:

under the Contract until the termination or expiry of the Contract.

### **What happens when your credit rating changes**

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.

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.

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.

The Supplier shall:

regularly monitor the credit ratings of each Monitored Company with the Rating Agencies; and 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.

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.

### **What happens if there is a financial distress event**

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.

[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:

rectify such late or non-payment; or

demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.]

The Supplier shall and shall procure that the other Monitored Companies shall:

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 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:

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

provide such financial information relating to the Monitored Company as the Buyer may reasonably require.

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.

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.

Following Approval of the Financial Distress Service Continuity Plan by the Buyer, the Supplier shall:

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;

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

comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

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. **When the Buyer can terminate for financial distress**

The Buyer shall be entitled to terminate this Contract for material Default if:

the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 3.4;

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 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.

### **What happens If your credit rating is still good**

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:

the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and 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**

[Rating Agency Equifax

|                                   |                              |
|-----------------------------------|------------------------------|
| Credit Rating Level 1 = A+, A, A- | Excellent Risk               |
| Credit Rating Level 2 = B+, B, B- | Very Good                    |
| Credit Rating Level 3 = C+, C, C- | Above Average                |
| Credit Rating Level 4 = D+, D, D- | Average Risk                 |
| Credit Rating Level 5 = E+, E, E- | Below Risk                   |
| Credit Rating Level 6 = F+, F, F- | Very High Risk               |
| Credit Rating Level 9 = G         | Gazette Data Filed           |
| Credit Rating Level 10 = I        | Insolvent Code               |
| Credit Rating Level 11 = O        | Out of Date Accounts         |
| Credit Rating Level 12 = N/A      | No Accounts have been filed] |



## ANNEX 2: CREDIT RATINGS & CREDIT RATING THRESHOLDS

### CREDIT RATINGS AND CREDIT RATING THRESHOLDS

*[Table assumes Equifax ratings will be used - to be confirmed prior to completion]*

| Entity ( Monitored) | Credit Rating (long term)<br>(insert credit rating issued for the entity at the Effective Date) | Credit Rating Threshold<br>(insert the actual rating (e.g. AA-) or the Credit Rating Level (e.g. Credit Rating Level 3)) |
|---------------------|---|--|
| Supplier            | Rating Agency 3 – Credit Rating - C and above   | Rating Agency 3 – Credit Rating 3 -C and above   |
| Guarantor           | Rating Agency 3 – Credit Rating - C and above   | Rating Agency 3 – Credit Rating 3 - C and above  |
| Key Subcontractor   | Rating Agency 3 – Credit Rating - C and above   | Rating Agency 3 – Credit Rating 3 - C and above  |

## Schedule 25 (Rectification Plan)

| Request for [Revised] Rectification Plan |   |
|--|---|
| Details of the Default:                  | <b>[Guidance:</b> Explain the Default, with clear schedule references as appropriate] |
|  | <b>[add</b> date (minimum 10 days from request)]                                      |

|  |                  |                  |
|--|------------------|------------------|
| Deadline for receiving the<br>[Revised] Rectification<br>Plan: |                  |                  |
| Signed by Buyer :  |                  | Date:            |
| <b>Supplier [Revised] Rectification Plan</b>                   |                  |                  |
| Cause of the Default   | [add cause]      |                  |
| Anticipated impact<br>assessment:                              | [add impact]     |                  |
| Actual effect of Default:                                      | [add effect]     |                  |
| Steps to be taken to<br>rectification:                         | <b>Steps</b>     | <b>Timescale</b> |
|  | 1.               | [date]           |
|  | 2.               | [date]           |
|  | 3.               | [date]           |
|  | 4.               | [date]           |
|  | [...]            | [date]           |
| Timescale for complete<br>Rectification of Default             | [X] Working Days |                  |
| Steps taken to prevent<br>recurrence of Default                | <b>Steps</b>     | <b>Timescale</b> |
|  | 1.               | [date]           |
|  | 2.               | [date]           |
|  | 3.               | [date]           |

|   |  |        |  |
|---|--|--------|--|
|   | 4.   | [date] |  |
|   | [...]  | [date] |  |
| Signed by the Supplier:                   |  | Date:  |  |
| <b>Review of Rectification Plan Buyer</b> |  |        |  |
| Outcome of review                         | [Plan Accepted] [Plan Rejected] [Revised Plan Requested] |        |  |
| Reasons for rejection (if applicable)     | [add reasons]  |        |  |
| Signed by Buyer                           |  | Date:  |  |

# Schedule 26 (Corporate Social Responsibility)

## 1. What we expect from our Suppliers

- 1.1 In September 2017, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.  
([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/646497/2017-09-13\\_Official\\_Sensitive\\_Supplier\\_Code\\_of\\_Conduct\\_September\\_2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-13_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf))
- 1.2 The Buyer expects its suppliers and subcontractors to meet the standards set out in that Code. In addition, the Buyer expects its suppliers and subcontractors to comply with the standards set out in this Schedule.

## 2. Equality and Accessibility

- 2.1 In addition to legal obligations, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:
- 2.1.1 eliminate discrimination, harassment or victimisation of any kind; and
  - 2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

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

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

- 3.1 The Supplier:
- 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
  - 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;
  - 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
  - 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world.

- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offenses anywhere around the world.
- 3.1.6 shall have and maintain throughout the term of the Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;
- 3.1.8 shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to the Buyer and Modern Slavery Helpline.

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

##### **4.1 The Supplier shall:**

- 4.1.1 ensure that 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.
- 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):

|   |  |
|---|--|
| <b>"Buyer Property"</b>                                       | 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;  |
| <b>"Buyer Software"</b>                                       | 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;   |
| <b>"Buyer System"</b>   | 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;   |
| <b>"Commercial off the shelf Software" or "COTS Software"</b> | 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;  |
| <b>"Defect"</b>   | any of the following: <ul style="list-style-type: none"><li>a) any error, damage or defect in the manufacturing of a Deliverable; or</li><li>b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or</li><li>c) any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant</li></ul> |

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;

|  |  |
|--|--|
| <b>"Open Source Software"</b>          | computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge;  |
| <b>"Operating Environment"</b>         | means the Buyer System and any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: the Deliverables are (or are to be) provided; or the Supplier manages, organises or otherwise directs the provision or the use of the<br>Deliverables; or where any part of the Supplier System is situated; |
| <b>"Permitted Maintenance"</b>         | has the meaning given to it in Paragraph 8.2 of this Schedule;   |
| <b>"Quality Plans"</b>                 | has the meaning given to it in Paragraph 6.1 of this Schedule;   |
| <b>"Sites"</b>                         | 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;  |
| <b>"Software"</b>                      | Specially Written Software, COTS Software and non-COTS Supplier and third party Software;  |
| <b>"Software Supporting Materials"</b> | has the meaning given to it in Paragraph <b>Error! Reference source not found.</b> of this Schedule;   |
| <b>"Source Code"</b>                   | computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, 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; 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);

**"Supplier 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 SubContractor) 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.

#### **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 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. 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:

9.2.1.1. of its own Existing IPR that is not COTS Software;

9.2.1.2. 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. 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 needed 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 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 by giving at least thirty (30) days' notice in writing if there is a Buyer Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.

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

- 9.3.1. The Supplier shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the



Buyer on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

9.3.2. Where the Supplier owns the COTS Software it shall make available the COTS Software to a Replacement Supplier at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

9.3.3. Where a third party is the owner of COTS Software licensed in accordance 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 (*Licences for non-COTS IPR from the Supplier and third parties to the Buyer*) 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.

#### **9.5. Licence granted by the Buyer**

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

#### **9.6. Open Source Publication**

9.6.1. Unless the Buyer otherwise agrees in advance in writing (and subject to Paragraph 9.6.3) all Specially Written Software and computer program elements of New IPR shall be created in a format, or able to be

converted (in which case the Supplier shall also provide the converted format to the Buyer) into a format, which is:

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 longterm sick leave; or
- 1.4.3 the person's employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.

1.5 The Supplier shall:

- 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
- 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
- 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff's employment contract, this will mean at least three (3) Months' notice;
- 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
- 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.

- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

## Annex 1- Key Roles

[Redacted]

| Key Role   | Key Staff | Contact Details |
|------------|-----------|-----------------|
| [Redacted] |           |                 |

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## Schedule 30 (Exit Management)

### Definitions

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

|                               |  |
|-------------------------------|--|
| <b>"Exclusive Assets"</b>     | Supplier Assets used exclusively by the Supplier or a Key Subcontractor in the provision of the Deliverables;  |
| <b>"Exit Information"</b>     | has the meaning given to it in Paragraph 3.1 of this Schedule;   |
| <b>"Exit Manager"</b>         | the person appointed by each Party to manage their respective obligations under this Schedule;   |
| <b>"Net Book Value"</b>       | the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice); |
| <b>"Non-Exclusive Assets"</b> | those Supplier Assets used by the Supplier or a Key Subcontractor in connection with the Deliverables but which are also used by the Supplier or Key Subcontractor for other purposes;   |

|  |  |
|--|--|
| <b>"Registers"</b>                     | the register and configuration database referred to in Paragraph 2.2 of this Schedule;   |
| <b>"Replacement Goods"</b>             | any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;  |
| <b>"Replacement Services"</b>          | any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;   |
| <b>"Termination Assistance"</b>        | the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;  |
| <b>"Termination Assistance Notice"</b> | has the meaning given to it in Paragraph 5.1 of this Schedule;   |
| <b>"Termination Assistance Period"</b> | the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;  |
| <b>"Transferable Assets"</b>           | Exclusive Assets which are capable of legal transfer to the Buyer;   |
| <b>"Transferable Contracts"</b>        | Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation; |
| <b>"Transferring Assets"</b>           | has the meaning given to it in Paragraph 8.2.1 of this Schedule;   |
| <b>"Transferring Contracts"</b>        | has the meaning given to it in Paragraph 8.2.3 of this Schedule.   |

## **Supplier must always be prepared for contract exit**

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.

During the Contract Period, the Supplier shall promptly:

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  
create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables ("**Registers**").

The Supplier shall:

ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and

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.

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.

## **Assisting re-competition for Deliverables**

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**").

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.

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).

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.

## **Exit Plan**

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.

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.

The Exit Plan shall set out, as a minimum:

a detailed description of both the transfer and cessation processes, including a timetable;

how the Deliverables will transfer to the Replacement Supplier and/or the Buyer; 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;

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;

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;

proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;

proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;

proposals for the disposal of any redundant Deliverables and materials; how the Supplier will ensure that there is no disruption to or degradation of the

Deliverables during the Termination Assistance Period; and any other information or assistance reasonably required by the Buyer or a Replacement Supplier.

The Supplier shall:



maintain and update the Exit Plan (and risk management plan) no less frequently than:  
every twelve (12) months throughout the Contract Period; and  
no later than twenty (20) Working Days after a request from the  
Buyer for an up-to-date copy of the Exit Plan; 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; 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  
jointly review and verify the Exit Plan if required by the Buyer and promptly correct any  
identified failures.

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.

A version of an Exit Plan agreed between the parties shall not be superseded by  
any draft submitted by the Supplier.

### **Termination Assistance**

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: the nature of the Termination Assistance  
required; and

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.

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.

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).

### **Termination Assistance Period**

Throughout the Termination Assistance Period the Supplier shall:  
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; provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;  
use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;  
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; at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer; seek the Buyer's prior written consent to access any Buyer Premises from which the deinstallation or removal of Supplier Assets is required.

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.

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.

### **Obligations when the contract is terminated**

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

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: vacate any Buyer Premises; 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;

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:

such information relating to the Deliverables as remains in the possession or control of the Supplier; and

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.

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.

### **Assets, Sub-contracts and Software**

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

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

(subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

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:

which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");

which, if any, of: the Exclusive Assets that are not Transferable Assets; and the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and 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.

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.

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.

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:

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

procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.

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.

The Buyer shall:

accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and

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.

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.

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.

## **No charges**

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.

## **Dividing the bills**

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: the amounts shall be annualised and divided by 365 to reach a daily rate; 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

the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

### **Schedule 32 (Background Checks)**

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## **Schedule 32 (Background Checks)**

### **1. When you should use this Schedule**

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

### **2. Definitions**

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

### **3. Relevant Convictions**

- 3.1.1 The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.
- 3.1.2 Notwithstanding Paragraph 3.1.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant SubContractor must):
  - (a) carry out a check with the records held by the Department for Education (DfE);
  - (b) conduct thorough questioning regarding any Relevant Convictions; and

(c) ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS), and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.

Mid-Tier Contract

Project Version: v1.0

Model Version: v1.0

**Schedule 32 (Background Checks)**

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## Annex 1 – Relevant Convictions

[Redacted]

Mid-Tier Contract

Project Version: v1.0

Model Version: v1.0

## **Schedule 36 for The Secretary of State for Prisons [Only]**

This Schedule is solely for use by the Ministry of Justice in conjunction with the Secretary of State for the Home Department (Home Office) Contract for Supply and Maintenance of Detection Technology Equipment.

Part 1: Mandatory Security Conditions

Part 2: NOT USED refer to Schedule 16 Part

3: NOT USED refer to Schedule 16

Part 4: Prisons

1 Access to Prisons

2 Security

3 Offences and Authorisation

2

- 4 Health and Safety Rules for Suppliers Working on Prison Premises
- 5 List of Prohibited and Controlled Items
- 6 Unauthorised Articles Notice and List
- 7 Delivery Driver Handbook

## PART 1 MANDATORY SECURITY CONDITIONS

### Introduction

- 1.1 The term "Prison" shall mean Establishment. The term "Prison" shall also have the same meaning as . Serviced Site(s) as used throughout this contract schedules
- 1.2 Security precautions arise from the need for the Prison to continue to function during the Supplier works of the Contract and from the paramount need to maintain proper prison security during the execution of the Supplier works. The Supplier staff (a '**Supplier and its Sub Contractors**') shall allow in his rates for the necessary flexibility in working hours and conditions commensurate with these needs.
- 1.3 Security requirements arise from the need for the Authority (meaning '**Ministry of Justice**') to control risk at all times and to prevent a breach or compromise of the security as a direct result of the execution of the Supplier works. The Supplier staff shall allow appropriately for complying with such conditions in meeting the requirements.
- 1.4 The Conditions set out below apply to the Supplier works and shall be strictly observed by the Supplier staff, his employees, and all others under the Suppliers direction from start to completion of the Supplier works.

- 1.5 All plant, tools and vehicles, scaffolding, temporary accommodation, etc. mentioned elsewhere in the documents shall comply with these Security Conditions.
- 1.6 Nothing contained in these Security Conditions shall relieve the Supplier staff of obligations to comply with the Health & Safety at Work Acts, Local Authority Requirements and other similar obligations imposed under the Contract.

## Security of Documents

- 1.7 All documents used in the implementation of this Contract for the Authority constitute a security risk. Documents issued to Supplier staff remain at all times the property of Her Majesty's Prison Service and on completion of the Contract shall either be returned to the Authority in accordance with the Contract or be certified by the Supplier staff as having been destroyed in a secure manner.
- 1.8 The Authority operates a procedure, under the management of the Document Security Officer, to control and monitor the issue, use and return of documentation issued to others. The Document Security Officer is the focal point for inquiries from Supplier staffs on all matters related to this subject. Inquiries shall be directed through the on site representative or Buyers Contract Manager.
- 1.9 These security requirements have been incorporated in order to prevent information detrimental to the security of the Authority coming into the possession of unauthorised persons and at the same time establish an audit trail of document movement as well as a consciousness. Details of the Authority's Document Issue and Return Procedure in operation and the Forms used will be made available to the Supplier staff by the on site representative immediately following acceptance of the tender by the Authority.
- 1.10 The Supplier staff shall be responsible at all times for the security of all documents in the keeping of the Supplier staff whether issued by the Authority or copied or produced by the Supplier staff or Contractors.
- 1.11 In this context the term "documents" shall mean any and every drawing (including CAD disc), plan, schedule, specification, standard, presentation brochure, model, photograph and bill of quantities.
- 1.12 A named person, appointed by the Supplier staff to act as the Supplier staff's Security Manager, shall be provided at the Site for the whole of the duration of the Contract and shall be responsible for security at the Site.
- 1.13 The person shall be accountable for the control of all documents relating to the Contract and in particular record the whereabouts of each individual document. The person shall set up a management system of security, control and monitoring of documents and the Supplier staff shall demonstrate to the Authority/PM the operation of the system. When the Authority/PM is satisfied that the system is satisfactory it shall confirm its approval in writing.



- 1.14 The Supplier staff shall notify all personnel handling documents of the requirements imposed by the Authority and of the procedures for maintaining security. The Supplier staff shall notify to all others having an interest in the Contract of the particular requirements imposed regarding document security.
- 1.15 The Supplier staff shall include in all contracts with Supplier staffs, suppliers, etc. similar but no less strict conditions of document security and shall be responsible for their compliance.
- 1.16 The movement of documents defined above shall be either by hand or by recorded delivery and a detailed log shall be kept identifying document, number, person receiving, reason and confirmation of receipt.
- 1.17 The Security Manager shall be responsible for the issue of documents to site operatives including any Supplier staffs (whether nominated, approved, appointed or otherwise) to all others including suppliers and specialists and to representatives of the Authority.
- 1.18 The Supplier staff shall be responsible for ensuring that documents issued to others are returned.
- 1.19 Documents shall be returned to the Authority in accordance with the procedures made available to the Supplier staff by the on site representative or Buyers Contract Manager.
- 1.20 The Security Manager shall arrange for the secure destruction and recording of any documents which are no longer required, have been superseded or are extra to the Supplier staff requirements.
- 1.21 The Supplier staff shall provide, both at the Prison and at the Suppliers offices, secure lockable computers, cabinets and cupboards used for storing documents and these shall be kept locked at all times when not in use and secured at all times when unoccupied.
- 1.22 The Supplier staff shall report immediately to the Authority's Document Security Officer by the most expedient method the loss of any document stating details of the loss and what the Supplier staff is doing to secure its recovery. The name and details of the Document Security Officer will be made available to the Supplier staff by the on site representative as above.
- 1.23 At the completion of the Supplier works the Supplier staff shall obtain from all others having an interest in the Contract the return of all documents issued to and created by the other parties and shall remind them of the contractual obligations required by these Security Conditions.
- 1.24 The Supplier staff shall continue to safeguard and secure documents after completion of the Supplier works until such time as the Contract has finally completed and the Supplier staff has received all monies due from the Authority. At that stage the Supplier staff shall agree with the Authority in writing what documents shall be returned, destroyed, kept, etc. and if kept shall continue to keep them secure as required above.

## Site Personnel and Trafficking, etc.

1.25 The Supplier staff shall not communicate with the prisoners or inmates (except certain selected prisoners who are privileged to work daily without supervision outside the prison for private companies and receive the standard wages, etc. for their work) or anyone who traffics with the prisoners or inmates.

1.26 The Supplier staff shall employ as convenient to hire such labour as may be required but he shall first request the Governor's approval to bring them into the Prison. In particular the Supplier staff shall: -

- a) give the Governor or on site representative in writing the full name, address, date and place of birth and height of all persons to be employed at the Site not later than 10 working days before those concerned first visit the Site, and the registration numbers of all cars likely to be brought within the vicinity of the Prison. This information shall be given accurately as delays can occur in verifying inaccurate information;
- b) assist the Governor or on site representative in making any inquiries which they may deem desirable regarding any person employed;
- c) forthwith cease to employ at the Prison any person whose continued employment would, in the Governor's or on site representative opinion, involve a security risk;
- d) bring to the attention of every person employed upon or visiting the Site the Warning  
Notice applicable to all visitors to the Authority's and aid the Head of Supplier works Services to obtain the signatures of all persons representing the Supplier staff to certify that they have read the Notice. The Warning Notice is exhibited at the entrance to the Prison and copies shall be provided to the Supplier staff upon application to the Governor; a copy shall also be exhibited permanently in a prominent position on the Site;
- e) not allow any person under the age of 18 to enter the Prison precincts;
- f) ensure that all unworn clothing shall be kept secured to the approval of the Head of Supplier works Services and no clothing shall be left unattended at any time; and
- g) not allow intoxicants nor drugs to be brought into or onto the Prison premises.

## Access to and Egress from the Site

1.27 Access to and egress from the Site shall be restricted to the entrance designated by the on site representative. The following requirements and restrictions shall be observed:

- a) the Supplier staff shall provide a "tally board" (for workmen's numbered discs) which shall be sited at the entrance for use by Prison Security. The tally board shall give the names of all Supplier staff employed on the Site by the Supplier staff and by all Supplier staffs and shall be arranged so that each name is exposed to view when the appropriate "tally" is removed. The tally shall be worn in a prominent position by the operatives at all times when on the Site;
- b) the Supplier staff shall provide all his operatives with an approved identity card in a clear protective plastic cover, which shall contain the employee's name, address, height and his photograph of passport size. Each individual employee will present their identity card each day to the Gate Officer, who shall exchange it for the appropriate numbered disc referred to above. The process will be reversed at the end of each working period / day;
- c) all persons shall report to the Gatekeeper upon entering and leaving the prison and shall be liable to be searched at the Governor's discretion. As far as practicable workmen shall enter and leave the prison in one party;
- d) bicycles shall not be taken inside the prison and no storage accommodation shall be provided;
- e) cars shall not be taken inside the Prison and no car parking facilities shall be provided;
- f) vehicles shall be allowed to enter the prison at the convenience of the Gate Officer, but on entering or leaving shall halt and shall be subject to inspection by Prison Officers between the inner and outer gates;
- g) no personnel or vehicles shall proceed from the prison entrance to the Site (via the route referred to elsewhere in the Contract) or vice versa without being accompanied by and under the supervision of a Prison Officer and shall not wander from the direct route; and
- h) all vehicles inside the Prison precincts shall comply with the Prison traffic regulations and in particular where practicable no vehicle shall stop within 6.10m of the outer boundary wall. No vehicles shall move within the Prison precincts during prisoner's exercise and movement periods which are to be advised prior to project start.

## Movement to and from the Supplier works at the Prison

- 1.28 All personnel visiting, leaving or working on the Site shall be under the surveillance of one or more Prison Officer who shall remain and be at hand whilst any person remains on the Site.
- 1.29 All workmen employed on the Site by the Supplier staff and by all sub-Supplier staffs shall wear their tallies in a prominent position at all times whilst inside the Prison precincts.
- 1.30 Except where unavoidable, personnel who have arrived on the Site shall remain on the Site until the end of the period's / day's work.

## The Supplier Staff's Working Hours

- 1.31 All Supplier staff shall be escorted en bloc from the designated entrance of the Prison to the designated area and the Supplier staff shall ensure that all employees and all others under the Supplier staff's direction shall: -
- a) report at the designated entrance to the Prison at 8:30am to be escorted to the area designated as the Supplier staff's Site to start the morning's work at 9am;
  - b) assemble in the designated area such that the Supplier staff cease the morning's work at 11:30am to be escorted back to the designated entrance of the Prison;
  - c) report at the designated entrance to the Prison at 12:00pm to be escorted to the designated area as the Supplier staffs to start the afternoon's work at 1pm; and
  - d) assemble in the area designated as the Supplier staffs to cease the day's work at 5:00pm to be escorted back to the designated entrance of the Prison.
- Note: If employees are not at the designated entrance at these times they shall not be allowed on the Prison site and if employees do not assemble when required they shall forfeit the opportunity.
- 1.32 Should special conditions arise which make it desirable for the Supplier staff to remain on the Site after 6pm on weekdays and at any time on Saturdays and Sundays the Governor may be able to make special arrangements. Adequate notice in writing shall be given to the Governor for this purpose and his permission obtained but no guarantee can be given that the Governor will be able to give permission and should the Governor do so the Supplier staff shall have no claim against the Authority in respect of any overtime or other expenditure resulting therefrom.

## Plant, Tools and Materials on the Site

- 1.33 All plant, tools and materials shall be accounted for during the course of the Contract and for this purpose the Supplier staff shall provide the Governor in an approved form with detailed particulars of all items as they are brought on to the Site and again as they are removed so that day to day information is available for the purpose of checking that nothing is missing.
- 1.34 Plant and tools shall not be brought on to the Site an undue time before they are needed for use and they shall be removed as soon as they are no longer required.
- 1.35 Rubbish shall not be allowed to accumulate.
- 1.36 No temporary telephone, electric lighting or power system shall be installed which involves the use of cables unless they are removed at the end of each day's work. Where such installations are of necessity to be semi-permanent they must be installed in an approved and secure manner.
- 1.37 Hand operated power tools and trailing leads shall not be left unattended at any time.

## Security Checks

- 1.38 Regular security checks shall be carried out by the Establishment's Security Officer on behalf of the Governor to prevent during the Contract **any** secretion of weapons, tools or other items.
- 1.39 Security checks shall be carried out without the benefit of prior notice and the Supplier staff shall be expected to co-operate fully with the requirements of the Security Officer and the team during the operations. It is expected that approximately ..... checks will be carried out before the date for completion during the Supplier staff's working hours.
- 1.40 Every endeavour shall be made to minimise the disruption to the progress of the Contract whilst carrying out the security checks.
- 1.41 Security checks shall also be carried out outside the Supplier staff's Working hours and the Supplier staff shall be notified after the event.
- 1.42 The Supplier staff shall be notified by the Authority of any abnormalities resulting from the Security checks and shall co-operate fully in the further requirements or investigations of the Authority.
- 1.43 The Supplier staff shall in pursuance of the same objective stated above and under the control of the Supplier staff's Security Manager carry out on a regular basis security checks paying particular attention to areas of the Supplier works such as cavities, ducts, etc. and potential spaces immediately prior to their closure or sealing up.

- 1.44 In the event of an item being found the Supplier staff shall not interfere with the find but shall immediately secure the area and notify the Governor who shall investigate and determine what action shall be taken. The Supplier staff shall be notified by the Governor on the action resulting from the find and the Supplier staff shall co-operate in every way with the Governor's requirements.
- 1.45 The Supplier staff shall maintain a record of the security checks which shall be available for inspection by the Establishment's Security Officer and shall record such information as date, time, location, results, etc.
- 1.46 Immediately prior to the date on which the Supplier works are completed the Establishment's Security Officer shall with the co-operation of the Supplier staff carry out a final security check and the satisfactory conclusion of this shall determine the Issue of the certificate by the PM.

## Special Facilities and Protection

- 1.47 Special facilities and protection (including temporary barriers and lighting) shall be provided by the Supplier staff to enable persons and vehicles to use the existing buildings without interruption during the course of the contract. In particular, adequate and proper safeguards shall be provided by the Supplier staff to ensure, (in relation to the Supplier works, plant, scaffolding, materials and temporary buildings) the safety of the Night Patrol Officers of the Prison staff.

## Electrical Interference and Citizen Band Radios

- 1.48 No item of electrical equipment is to be used in the construction of the Supplier works unless it is fitted with a suppressor which ensures that there is no interference with Prison electrical equipment.
- 1.49 Short wave radio or other electronic equipment shall not be used without the approval of the Governor which may be withheld or withdrawn if interference with prison electronic equipment occurs or recurs.
- 1.50 No Citizen Band radio shall be permitted to be brought onto or into the prison premises or used within the vicinity of the Prison by the Supplier staff or his workmen.

## Notify the Governor of the Supplier works beyond Security Hoardings, etc.

- 1.51 The Supplier staff shall notify the Governor whenever he requires to carry out the Supplier works to the existing building beyond the security hoardings, etc.

## PART 2 – NOT USED

## PART 3 – NOT USED

## PART 4 - PRISONS

### 1. ACCESS TO PRISONS

- 1.1 If Supplier staff are required to have a pass for admission to an Authority Premises which is a Prison, (a “Prison”) the Authority (the ‘Ministry of Justice’) shall, subject to satisfactory completion of approval procedures, arrange for passes to be issued. Any member of the Supplier staff who cannot produce a security pass when required to do so by any member of the Authority’s personnel, or who contravenes any conditions on the basis of which a pass was issued, may be refused admission to a Prison or be required to leave a Prison if already there.
- 1.2 Supplier staff shall promptly return any pass if at any time the Authority so requires or if the person to whom the pass was issued ceases to be involved in the supply of the Goods. The Supplier shall promptly return all passes on expiry or termination of the Contract.
- 1.3 Supplier staff attending a Prison may be subject to search at any time. Strip searches shall be carried out only on the specific authority of the Authority under the same rules and conditions applying to the Authority’s personnel. The Supplier is referred to Rule 71 of Part IV of the Prison Rules 1999 as amended by the Prison (Amendment) Rules 2005 and Rule 75 of Part IV of the Young Offender Institution Rules 2000 as amended by the Young Offender Institution (Amendment) Rules 2005.
- 1.4 Searches shall be conducted only on the specific authority of the Authority under the same rules and conditions applying to the Authority’s personnel and/or visitors. The Supplier is referred to Section 8 of the Prison Act 1952, Rule 64 of the Prison Rules 1999 and PSI 67/2011.

### 2. SECURITY

- 2.1 Whilst at Prisons Supplier staff shall comply with all security measures implemented by the Authority in respect of Supplier staff and other persons attending Prisons. The Authority shall provide copies of its written security procedures to Supplier staff on request. The Supplier and all Supplier staff are prohibited from taking any photographs at Prisons unless they have Approval and the Authority’s representative is present so as to have full control over the subject matter of each photograph to be taken. No such photograph shall be published or otherwise circulated without Approval.
- 2.2 The Authority may search vehicles used by the Supplier or Supplier staff at Prisons.
- 2.3 The Supplier and Supplier staff shall co-operate with any investigation relating to security which is carried out by the Authority or by any person who is responsible for security matters on the Authority’s behalf, and when required by the Authority shall:
- a) take all reasonable measures to make available for interview by the Authority any Supplier staff identified by the Authority, or a person who is responsible for security matters, for the purposes of the investigation. Supplier staff may be accompanied by and be advised by another person whose attendance at the interview is acceptable to the Authority;

- b) subject to any legal restriction on their disclosure, provide all documents, records or other material of any kind and in any form reasonably required by the Authority, or by a person who is responsible for security matters on the Authority's behalf, for the purposes of investigation as long as the provision of that material does not prevent the Supplier from supplying the Goods. The Authority may retain any such material for use in connection with the investigation and, as far as possible, may provide the Supplier with a copy of any material retained.

### **3. OFFENCES AND AUTHORISATION**

3.1 In supplying the Goods the Supplier shall comply with PSI 10/2012 (Conveyance and Possession of Prohibited Items and Other Related Offences) and other applicable provisions relating to security as published by the Authority from time to time.

3.2 Nothing in the Contract is deemed to provide any "authorisation" to the Supplier in respect of any provision of the Prison Act 1952, Offender Management Act 2007, Crime and Security Act 2010, Serious Crime Act 2015 or other relevant legislation.

### **4. HEALTH & SAFETY RULES FOR SUPPLIER STAFFS WORKING ON PRISON PREMISES**

This document must be read in conjunction with the prison Health & Safety Policy Document available from the Establishments Site Manager.



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2. Purpose of the Addendum
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## **1. INTRODUCTION**

It is the responsibility of the governor as the controller of the establishment to ensure as far as is reasonably practicable, the health, safety and welfare of all Supplier staff, inmates and visitors. Furthermore, to ensure that the acts or omissions of Supplier staffs do not endanger Supplier staff, inmates and visitors while carrying out their normal duties in the establishment.

The establishment Health and Safety Policy Statement of Arrangements recognises these duties and this document should be read in conjunction with it. In view of the many and varied activities carried out by Suppliers and its Supplier staffs on prison premises, it is considered appropriate that an addendum to the establishment Health and Safety Policy Statement of Arrangements is implemented and recognised by Supplier staffs working on prison premises, setting out a general code of practice for each contract and takes into account the varying circumstances in each area of the establishment.

## **2. PURPOSE OF THE ADDENDUM**

This addendum has been prepared to help Supplier staffs and their employees to work safely, and to prevent accidents and injuries to themselves and to others who may be affected by their acts or omissions while working in the prison. The addendum also aims to assist Supplier staffs in complying with the Health and Safety at Work Act, the Management of Health and Safety at Work Regulations, the Construction (Health, Safety and Welfare) Regulations, and all other association legislation.

All Supplier staffs working on prison premises must conform to the provisions of the Health and Safety Policy Statement of Arrangements and this addendum. The observance of the statement and addendum, however, does not in any way relieve the Supplier staff of his legal or contractual obligations. All Supplier staffs and their employees should be conversant with the safety requirements of the area in which they are working, and the Supplier staff's representative named in the addendum has the responsibility for ensuring that this is the case.

In the event of any doubt regarding the application of the Statement of Arrangements or the addendum, or in any circumstances affecting safe working not covered by the two documents, advice should be sought from the establishment Health & Safety Advisor (if appointed) who will be available for consultation during normal working hours. Otherwise the Establishments Site Manager or his representative.

### **3. SECURITY REQUIREMENTS**

For Supplier staffs and their employees working for the first time within a prison can be a very traumatic experience. It need hardly be pointed out that it is not a normal working environment in the sense of working in public or private premises. This environment brings with it a unique set of problems which need to be taken into account by both the Supplier staffs, his employees and prison Supplier staff, not the least of which is security.

The principal security requirements are clearly set out in the Preliminaries (Section 1) to the contract documents and it is not proposed to expand upon them in these notes.

The Supplier staff will be escorted at all times by a member of Prison Supplier staff. The escort is responsible for all security matters relating to the contract, but not the technical content.

Further guidance upon security, of resolution of security matters arising from the Supplier staffs' work, which are beyond the delegated responsibilities of the escort Supplier staff, must be referred in the first instance to the Establishments Site Manager or his authorised representative.

The requirements of security must not be taken to override or mitigate the requirements of Health and Safety: both are essential functions for all persons on prison premises and under normal circumstances are regarded as complimentary to each other

### **4. STARTING WORK**

Before work commences on each area of the contract, the Establishments Site Manager must be informed so that the appropriate arrangements for Health and Safety can be made.

The form at the back of this document must be completed in full and signed by the appropriate persons concerned and a Safe System of Work arranged before Supplier staff operations are allowed to begin.

### **5. SUPPLIER STAFF'S SAFETY REPRESENTATIVE**

It shall be the duty of each individual Supplier staff to name one of his Employees who will be responsible for the safety of the Supplier staff's Supplier works. The person must be named in writing to the client and will liaise with the site Safety Supervisor appointed by the client. The Supplier staff or his representative will be requested to attend on site Safety Meetings as and when instructed by the client. If a Supplier staff sub-lets the work, it will be the duty of the Supplier staff to ensure the above condition is adhered to.

**6. HEALTH & SAFETY**

Through the Establishment's Site Manager, the Health & Safety advisor will give assistance to ensure a safe working environment is provided.

**7. ALARMS**

In the event of a general or fire alarm being sounded, the Supplier staff or his employees must follow the instructions given to him by the Escorting Officer.

**8. WELFARE FACILITIES**

The Supplier staff shall provide his own First Aid, sanitary, washing, Mess room, rest room and drying facilities unless it has been agreed that the client shall supply any or all these facilities, if this is the case a written agreement must be introduced and signed by both the client and the Supplier staff to that effect.

**9. FIRE PRECAUTIONS AND EQUIPMENT**

The Supplier staff shall ensure that adequate and suitable firefighting equipment is available with his site accommodation and that it is to be maintained in good and efficient working order. All of the Supplier staff's employees must be trained in the use of such equipment and be familiar with the establishment's evacuation procedures.

**10. PERSONAL PROTECTIVE EQUIPMENT**

The Supplier shall provide its staff with PPE appropriate to the task being carried out, in full compliance with the Personal Protective Equipment At Work Regulations. Particular attention is drawn to the wearing of safety helmets and safety footwear in designated areas, where they must be worn at all times, failure to do so, (after due warning from the client in Writing) will result in the removal of contract personnel from site.

**11. METHOD STATEMENTS (SAFE SYSTEMS OF WORK)**

All Supplier staff shall provide written safety method statements to the client and ensure that copies are provided to and understood by his own operatives including Supplier staff prior to the commencement of any work. A copy must be submitted to the establishment's Site Manager, prior to starting work.

**12. RISK ASSESSMENTS**

A suitable and sufficient assessment of the risks to health and safety shall be made by the Supplier staff in respect of his own employees and persons not in his employment who may be affected by his acts and omissions. Risk assessments shall be in writing where the Supplier staff employs or more employees or Sub-Supplier staffs and the results of the assessments made available to the employees for reference at any time. A copy of the assessments must be submitted to the Establishments Site Manager prior to starting work.

**13. PERMIT TO WORK**

Any Supplier staff who must perform a potentially hazardous operation, such as working with high voltage, at height, working in confined spaces, hot work, or working in excavations shall provide a permit to work system for his employees. The permit to work must be in writing and each part authorised by a suitably responsible person. And a copy of the permit to work must be provided at the request of the Establishments Site Manager, and a appointed person from the Establishment will ensure that the said permit is signed off at the appropriate time.

**14. ROOF WORK**

The Work at Height Regulations 2005 (WAHR) have no minimum height requirement for work at height. They include all work activities where there is a need to control a risk of falling a distance liable to cause personal injury. This is regardless of the work equipment being used, the duration the person is at a height, or the height at which the work is performed. It includes access to and egress from a place of work Supplier staff working at height or on fragile roofs must provide and use adequate crawling boards, crawling ladders and/or staging. Roof edge protection must be provided by the Supplier staff, unless the client has agreed to provide the necessary protection. If this is not possible, operatives must wear a suitable harness to protect him/her from falling.

**15. GENERAL SERVICES**

Supplier staff must not connect or interfere with the water, gas, or electrical or other service without the permission of the Establishments Site Manager or his representative; connection of 110-volt portable electric tools is exempt from this rule.

**16. ELECTRICITY**

The voltage of all portable electric power tools and lighting apparatus used on site must not exceed 110 volts. All such equipment must be PAT tested prior to being used on site and records kept. All equipment used must comply with Provision and Use of Work Equipment Regulations, and the Electricity at Work Regulations.

**17. NOISE**

To comply with the Noise at Work Regulations 1989, all Supplier staff must provide, maintain and ensure all of their employees wear suitable ear protection (where necessary) while working on site.

**18. COSHH**

To comply with the Control of Substances Hazardous to Health, Supplier staff must provide written risk assessments and safety data sheets that must be available for his employees to see, of all substances used in his undertaking, which may effect the health of his

Employees, prison staff, Supplier staff and visitors of the establishment and a copy of the assessments must be submitted to the Establishments Site Manager. Any Supplier staff using chemicals must be suitably trained to do so and should be provided with and use appropriate protective clothing and equipment

#### **19. SPECIAL HAZARDS**

Where Supplier staff operations are expected to create special hazards, i.e. in the application of heat, demolition work or use of dangerous articles or substances etc. The Supplier staff must inform the Establishments Site Manager so that arrangements can be made with the management of the affected area, and the appropriate action can be taken to minimise the risk to persons in the immediate and surrounding areas.

#### **20. ASBESTOS**

The Establishments Site Manager or his representative will inform the Supplier staff of the location of any suspected asbestos materials prior to the Supplier staff commencing any work within the establishment. No work must be undertaken by Supplier staffs involving the drilling, removing or disturbance of any asbestos based materials in any way, without the permission of the Establishments Site Manager.

#### **21. ACCIDENT REPORTING AND DANGEROUS OCCURRENCES**

All accidents and dangerous occurrences involving Supplier staffs and their employees must be reported to the Supplier staff who must record the details in the site accident book (B1 510). **All accidents and dangerous occurrences resulting in employees absent from work for 3 days or more must be reported to the Health and Safety Executive on form F5028.** It is the responsibility of the site manager to inform the Health and Safety Executive as soon as possible.

#### **22. USE OF TOOLS AND EQUIPMENT**

All plant, tools and equipment used by Supplier staff on prison premises must be suitable for the work to be undertaken and must comply with all relevant legal standards and must be maintained in accordance with all appropriate standards. It is the responsibility of the Supplier staff to ensure his employees takes care of tools and equipment and for security reasons not to mislay any, if this should happen, the Security Department must be informed without delay.

### **5 LIST OF PROHIBITED AND CONTROLLED ITEMS**

#### **Prohibited Items**

These are items or articles that are not permitted under any circumstances within the prison establishment:

|   |   |   |
|---|---|---|
| Explosives<br><br>Wax<br><br>Weapons  | Aerosols<br><br>Wire<br><br>Drugs (none HCC)  | Game Stations with an Internal<br>Modem |
| Cameras (including video cameras)<br><br>Magnets<br><br>Mobile Phone Bluetooth<br><br>Headsets and Technology | Toy Guns<br><br>Mobile Phones<br><br>Alcohol<br><br>Metal cutlery<br><br>Mobile phone SIM cards |   |

### **Controlled Items**

These are items or articles that must be carefully monitored when in the prison

|  |  |  |
|--|--|--|
| Tools<br><br>Matches<br><br>Yeast<br><br>Clingfilm<br><br>Chewing Gum<br><br>Rope<br><br>Vinegar<br><br>Games Consoles of any description<br><br>Computer Software<br><br>Syringes | Skips<br><br>Ladders<br><br>Solvents<br><br>Bleach<br><br>Personal Audio Equipment<br><br>DVD's and DVD Players<br><br>Computer Memory Devices<br><br>Money (limit £100)<br><br>Alarm clocks | Glue<br><br>Tin Foil<br><br>Video<br><br>Dustbins<br><br>Foods<br><br>CD's<br><br>Electrical equipment of any nature |
|--|--|--|

### **6 UNAUTHORISED ARTICLES NOTICE AND LIST**

It is a criminal offence under the Prison Act 1952 for certain items to be used, brought into, possessed within or taken out of prisons.

It is a criminal offence for any person without authority:

- i. - to bring or throw any of the following items in or out of a prison or to cause another person to do so, to leave any of the following items in any place (in or out of the prison) intending



it to come into the possession of a man in custody or to give to a man in custody any of the following items:

(a) a controlled drug, an explosive a firearm or other offensive weapon;

**Maximum penalty is 10 years imprisonment or an unlimited fine or both.**

(b) Alcohol, a mobile telephone, a camera or a sound-recording device;

**Maximum penalty is 2 years imprisonment or an unlimited fine or both.**

- ii. - to bring or throw any of the following items in or out of a prison with the intention of it coming into the possession of a man in custody or to cause another person to do so, or to leave any of the following items in any place (in or out of the prison) intending it to come into the possession of a man in custody, or to give to a man in custody any of the following items:

(c) Tobacco, money, clothing, food, drink, letters, papers, books, tools, IT equipment and associated peripherals

**Maximum penalty is a £1000 fine**

- iii. - to possess inside a prison a mobile telephone or any device capable of transmitting or receiving images, sounds or information by electronic communications (or a component part of such a device or an article designed or adapted for use with such a device) or take a photograph or make a sound recording within a prison or convey a restricted document out of a prison.

**Maximum penalty is 2 years imprisonment or an unlimited fine or both.**

**Criminal prosecutions will be pursued against those found to be in deliberate breach of the above provisions.**

## **UNAUTHORISED ARTICLES LIST**

- Mains electrical items
- Alcohol
- Tobacco and smoking requisites (including Vapes)
- Offensive weapons (knives)
- Tools (inc metal cutlery, knitting needles, scissors, metal combs, metal bike tools)
- Data recording equipment (disks, CDs, DVDs, MP3/MP4 players/IPods/ Kindle/ Hudl)
- Pre-recorded CDs, DVDs, video tapes & blue ray disks (Licensing Laws)
- Portable personal computers (unless authorised by Governor)

- Drugs (including Psychoactive Substances) and Medication (prescribed medication for one day in original packaging permissible)
- Firearms, ammunition, explosives, fireSupplier works
- Radio scanning equipment, Mobile telephones, data recording devices, SIM cards, Pagers (unless NOMS issued and with written approvals from Governor or DDC as appropriate)
- Dictaphones – unless specifically authorised by the Governor
- Laser pointers
- Cameras – and all ancillary equipment (in compliance with PSO 1100 2.3)
- Floppy disks/blank CDs/pen drives/memory sticks/USB including chargers for electronic cigarettes/MP3 players/ Kindle/ Hudl/ iPad/MP4 players / cassettes or any data transfer equipment or Sat Nav (unless written authorisation by the Governor)
- **Legal visitors will be allowed recording/digital playing devices due to the nature of their visit with their client.**
- Games consoles
- Solvents/glue
- Pornography, Racist and Protected Characteristics Materials
- Protectively marked documentation, in/out of establishment (unless written authorisation by the Governor)
- Excess cash - i.e. more than £100 (larger amounts by authorisation by the Governor)
- Darts
- Yeast
- Internet connectivity devices, such as dongles.
- Smart watches/technology Fit Bit/similar devices (**Those which have NO internet capacity, NO GPS, NO text/phone/camera/sound recording/video/data storage functions are allowable – seek further clarification from Security department.**)

## 7. DELIVERY DRIVERS HANDBOOK

### 7.1 Important Points about the Drivers Handbook

- a) It must be kept in your vehicle at all times.
- b) The Handbook is an important document and must be read and fully understood before attempting to make deliveries to Prison Establishments.
- c) If you are unsure about any of your duties and responsibilities, or you do not fully understand any part of this handbook, consult your Line Manager who will give you further advice.

### 7.2 Load Security

It is the responsibility of the driver to ensure:

- a) That the vehicle's load is secure at all times
- b) The vehicle is not over loaded
- c) The load is evenly distributed
- d) All pallets are securely wrapped and appropriately supported
- e) All cages are secured using load restraints
- f) All cage deliveries have a maximum loaded weight of 350 kilograms.
- g) All pallet deliveries have a maximum loaded weight of 800 kilograms.

NOTE Webbing straps can be used to secure the cage or load. If used, the webbing straps must stay on the vehicle and be accounted for before leaving the unloading area. Any missing webbing straps must be reported to the escorting officer before moving the vehicle. An inventory of straps and other equipment on all vehicles should be maintained and checked on a regular basis.

### **7.3 Before Departing from the Depot**

- a) Regular and relief company drivers delivering to the prisons must carry their company photo identification badges. Depots should contact the establishment to provide details of change to a regular driver.
- b) Agency Drivers must have a photo identification i.e. driving licence, passport.
- c) You should ensure that you have all necessary paperwork for the deliveries and equipment to unload the vehicle. Your paperwork should be compatible to the load plan for your vehicle.
- d) No alcohol, or products containing alcohol, will be permitted on prison property; this must be delivered before arriving at an establishment.
- e) If you know a prisoner who is held at any of the establishments which you are delivering to, tell your Line Manager before leaving the depot.
- f) There is no authorised drop off points at establishments where you can leave goods unattended.
- g) Medication and prescription drugs should be kept to the minimum you require for that working session.
- h) Large quantities of medication and prescription drugs should not be taken in to establishments as this may cause problems when vehicle or the person are searched.
- i) You should advise the escorting Supplier staff of any medication you have in your possession when they initially search the vehicle on entry to the establishment, this will then be dealt with in accordance with the local security strategy.

### **7.4 Delivery Windows**

- a) All establishments have strict delivery windows; the delivery must be completed within these times. Deliveries will not normally be accepted outside these windows. Due to other timed activities at establishments, if you have not completed your delivery within your approved window time, you may not be allowed to complete the unloading and requested to leave the establishment. You must contact your Line Manager, so they can

arrange an agreeable time for you to re-enter the establishment to complete the delivery.

- b) If you become aware that you will not be able to meet any specified delivery window, you should immediately advise your Line Manager in order that this can be communicated to the establishment in a timely manner.

## **7.5 Communication**

Drivers should:

- a) Maintain regular contact with their home depot
- b) Always seek advice from your Line Manager whenever you are unsure about any aspect of your work
- c) Communicate the cause and likely duration of any delays to your Line Manager
- d) Be polite and act in a professional manner at all times
- e) Ask for clarification on any unclear instructions given by HMPS Supplier staff
- f) Inform prison Supplier staff and your Line Manager if approached by a prisoner for any reason not connected to the delivery
- g) Report any behaviour by prisoners that is unusual or would suggest a pattern of behaviour that would lead to conditioning, i.e. the prisoner being overly friendly or performing delivery tasks as a favour or giving a helping hand. Be aware of every day questions about home life or other delivery points connected with your work.
- h) Be mindful of who is listening to you when talking to Supplier staff about home life or work-related information.

## **7.6 Prison Specific Delivery Requirements/Process**

Whilst adhering to company standard procedures, there are a number of additional requirements that must be complied with:

- a) Drivers should remain polite and helpful when making deliveries, no matter how trying the circumstances. If you have a dispute with the gate Supplier staff prior to entry to the establishment; please contact your manager for guidance.
- b) Once within the establishment drivers must always follow Prison Supplier staff instructions and adhere to the speed limits and the constraints of escorting Supplier staff walking behind the vehicle.
- c) Unloading should not commence until the escort Supplier staff indicate it is appropriate to do so. The cab should be locked and keys handed to escorting Supplier staff whilst unloading takes place.
- d) It is important to remember that there are stringent security protocols in effect at establishments which may at first appear abrupt and occasionally invasive. Drivers are expected to deal with these protocols in a professional and courteous manner. Their purpose is to ensure the safety of all concerned.
- e) If you are given an instruction which is unclear, or you do not understand, please ask for further clarification from the member of Supplier staff.

- f) Drivers are not allowed to smoke in the establishment given that it is likely the areas they will deliver to are designated non-smoking areas.
- g) A notice is displayed at the entrance to an establishment or at the gate providing information on the major issues relating to visiting an establishment.

On arrival drivers must observe the following points:

- a) Observe all speed limits and traffic directives in force on crown property.
- b) When stationary ensure your vehicle, engine is turned off.
- c) The vehicle must be securely locked before reporting to the main gate.
- d) Report to the main gate taking your ID and paperwork for the delivery or collection with you.
- e) The vehicle must not obstruct the gate to such an extent that it interferes with the free-flow of vehicles.
- f) You must always hand in any detachable mobile phones (including personal mobile phones), satellite navigation aids, accident recording camera at the main gate.
- g) These will be returned when leaving the establishment. If found on the vehicle when in the establishment this could be classed as trafficking, which is a criminal offence.
- h) Any permanently fitted cab-phone, satellite navigational aids, accident recording camera must be switched off and must remain off until you leave the establishment.
- i) If the vehicle is fitted with a manufactures vehicle management monitoring systems which must remain live at all times and which cannot be disabled or switched off, this must be reported to the gate keeper before entering the establishment.
- j) Medication and prescription drugs should be kept to the minimum you require them for that working session. You should advise the escorting Supplier staff of any medication you have in your possession when they initially search the vehicle on entry to the establishment, this will then be dealt with in accordance with the local security strategy.
- k) If you have not delivered or collected from the establishment before, always ask the gate Supplier staff about the procedures for visiting drivers; this will ensure the prompt completion of your visit.
- l) If you are carrying knives of any kind or any item which could be classed as a weapon, these must also be handed in at the gate.
- m) If found on the vehicle when in the establishment this could be classed as trafficking, which is a criminal offence
- n) No alcohol is permitted in an establishment. If found on the vehicle when in the establishment this could be classed as trafficking, which is a criminal offence
- o) Establishment Governors have the right to add other items to the banned list, an example being aerosols. You are encouraged to declare any item at the gate that you are unsure about to guard against confusion/embarrassment/potential prosecution.
- p) Ensure that you remove any cigarettes, lighters and personal items including letters from sight.
- q) If you have any operational tools which could be classed as a weapon (e.g. vehicle cranking bar or hook) these must be declared.
- r) Vehicles are searched when entering or leaving the establishment Please ensure you conform with the points above to save delays and any embarrassment to yourself or your company. Please note searches may include the use of a sniffer dog.

## **7.7 Making the Delivery**

- a) Prison Supplier staff will usually escort you to and from the delivery point. Escorting officers are not permitted to travel in Supplier staffs vehicles.
- b) For the avoidance of doubt, when escorted, you must always travel at the speed of the walking escorting officer and ensure you have visual contact with the escorting officer at all times.
- c) When going through internal gates you must wait until the escorting officer has closed and locked the gates. The escorting officer will instruct you when to continue with your journey.
- d) Never allow any third party to board your vehicle or its load area, particularly prisoners. It is your responsibility to unload/load your vehicle.
- e) Always ensure that your vehicle engine is switched off and the cab is securely locked with the keys removed whilst making the delivery.
- f) The Delivery Note must be signed and dated by the receiving member of Supplier staff. Under no circumstances are prisoners authorised to sign for the goods delivered. The load will be checked and signed for if possible, due to the size and complexity of some deliveries it is not practical on all occasions for a full check to be made on delivery and goods will be signed as unchecked at point of delivery. Discrepancies will be advised within 24 hours. This will allow the vehicle to leave and other deliveries to other areas to be made.
- g) You must undertake a check to ensure all your webbing straps and securing bars are accounted for before leaving the unloading area. If any items are missing, you must make the escorting officer aware of the situation before moving the vehicle.
- h) Do not enter into conversations with prisoners (other than those directly related to receipt of the goods or as general good manners whilst delivering).
- i) Do not give prisoners anything. It may seem innocent enough to reward them with a cigarette for helping to unload / load your vehicle, this could result in prisoners demanding more which can end in trafficking for them.
- j) Immediately inform a member of the prison Supplier staff before leaving the establishment if a prisoner asks you to take out or bring items into the establishment for them. This is classed as trafficking which is a criminal offence. You must also inform your depot transport management on return.
- k) If you find yourself accepting anything (e.g. a letter or package) from a prisoner– do NOT attempt to give it back. Inform your escorting officer immediately and pass the package to them. Upon leaving the establishment, contact the depot immediately and notify them of any such incident.
- l) If you see a prisoner that you know (family / friend etc.), you must report this to the gate Supplier staff or your escorting officer immediately. This must be reported back to your manager as part of the de-briefing.

## **7.8 Departure from the prison site**

- a) Before leaving the site ensure you have collected all returnable cages, pallets and boxes. If you are unable to collect all the returnable items awaiting for collection this must be reported back to your Line Manager as part of the Drivers De-brief ;
- b) Remember: to collect your belongings, e.g. mobile phones, etc., from the main gate before leaving the site;
- c) Before leaving you will need to pass on details of your next designation and contact details in case an issue arises from your delivery;

Award Form

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- d) Ensure you remain with your escort until dismissed; and
- e) Prison speed limits and traffic directives remain in force until you re-join the public highway