

**Agreement for Supply of
Software and Services**

**UK Emissions Permitting,
Monitoring, Reporting and
Verification System**

Dated 27 January 2020

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This agreement is made the 27 day of January 2020

Between:

- (1) **Secretary of State for Business, Energy and Industrial Strategy**, acting as part of the Crown (**Authority**)
- (2) **TRASYS International EEIG**, incorporated and registered in Belgium with company number 0667692570 whose registered office is at **Rue d'Arlon 53-7, 1040 Brussels, Belgium (Lead Supplier)**
- (3) **Uni Systems Information Technology Systems Commercial S.M.S.A.**, incorporated and registered in Greece with company number 121831201000 whose registered office is at **19-23, Al. Pantou Str. 176 71, Kallithea, Greece (Consortium Supplier)**

(together the Lead Supplier and Consortium Supplier, constitute the "**Supplier**".)

Background:

- (A) The United Kingdom requires a new Permitting, Monitoring, Reporting and Verification system as part of a suite of tools used by Greenhouse Gas emitting organisations within the UK to monitor and report emissions, necessary to comply with the EU ETS compliance cycle set out in the EU Monitoring and Reporting Regulation (MRR) and Accreditation and Verification Regulation (AVR) under both the current European Union Emissions Trading Scheme (EU ETS), and the future UK Emissions Trading Scheme (UK ETS).
- (B) The Authority placed a contract notice, reference number 507717-2019, on 28th October 2019 in the Official Journal of the European Union seeking expressions of interest from potential providers for the provision of a UK PMRV system and related services.
- (C) The Authority has, through a competitive process, selected the Supplier to provide such a system and related services and the Supplier is willing and able to provide the system and services in accordance with the terms and conditions of this Contract.
- (D) The Lead Supplier and the Consortium Supplier have agreed and entered into a consortium agreement as between themselves ("**Consortium Agreement**") which shall remain in force for the Term (as defined below) and for as long as all rights and obligations specified in the Contract (including all clauses that survive expiry or termination of the Contract) cease.

It is agreed as follows:

1 Definitions and Interpretation

- 1.1 The following definitions and rules of interpretation in this Clause apply in this Contract:

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Achieve	means in respect of a Test, to successfully pass such Test without any Test issues and in respect of a Milestone, the issue of a Milestone Achievement Certificate in respect of that Milestone and "Achieved", "Achieving" and "Achievement" shall be construed accordingly;
Acquired Rights Directive	the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;
Additional Services	means the adhoc consultancy, configuration and development services as may be requested and required by the Authority in accordance with Clause 5.4;
Affiliate	means 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;
Agile Acceptance Tests	means the test plan as developed for any particular User Story, to determine whether it complies with the relevant Agile Acceptance Criteria;
Agile Acceptance Criteria	means the acceptance criteria set out in or otherwise relating to a particular User Story or Agile Deliverable, and by reference to which it will be determined whether the relevant User Story has been Agile Delivered or Agile Deliverable is accepted;
Agile Deliverable	means the Software and any and all other products, the User Stories, the Documentation, materials, items and outputs (in whatever format or medium) developed produced or created pursuant to the provision of, or otherwise in relation to or connected with work undertaken by (or on behalf of) the Supplier in providing the Services;
Agile Delivery	means conformity of a particular Result with the User

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Story (including in particular its Agile Acceptance Criteria having passed the applicable Agile Acceptance Tests), and "Agile Deliver" and "Agile Delivered" shall be construed accordingly;

Agile Process

means as defined in Clause 5.2.7;

Approval

means the prior written consent of the Authority, and the term **Approve** and **Approved** shall be construed accordingly;

Authority Background IPR

means:

- (a) IPRs owned by the Authority before the Commencement Date, including IPRs contained in any of the Authority's Know-How, documentation, processes and procedures; ^
- (b) IPRs created by the Authority independently of this Contract; and/or
- (c) Crown copyright which is not available to the Supplier otherwise than under this Contract;

but excluding IPRs owned by the Authority subsisting in the Authority Software;

Authority Data

means:

- (a) 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 Authority's Confidential Information, and which:
 - (i) are supplied to the Supplier by or on behalf of the Authority; or
 - (ii) the Supplier is required to generate, Process, store or transmit pursuant to this Contract; or
- (b) any Personal Data for which the Authority is the Data Controller;

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Authority Premises	means land or buildings owned or occupied by the Authority;
Authority Property	means the property, other than real property and IPR, including the Authority System issued or made available to the Supplier by the Authority in connection with this Contract;
Authority Representative	means the representative of the Supplier nominated pursuant to Clause 3;
Authority Software	means any software identified in the Service Requirements (or as may be agreed by the Parties) along with all other software; which is owned by or licensed to the Authority and which is or will be used by the Supplier for the purposes of providing the Services;
Authority System	means the Authority's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Supplier in connection with this Contract which is owned by or licensed to the Authority by a third Party and which interfaces with the Supplier System or which is necessary for the Authority to receive the Services;
Availability	means as defined in paragraph 2.1, section 2 of Appendix A to Schedule 3;
Bug	means the description of how a User Story does not conform with the Agile Acceptance Tests;
Business Continuity Services	has the meaning given to it in paragraph 5.2.2 of Schedule 5 (Business Continuity and Disaster Recovery);
BCDR Plan	means the plan prepared pursuant to paragraph 2 of Schedule 5 (Business Continuity and Disaster Recovery) (as may be amended from time to time);
Change of Control	means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
Commencement Date	27 January 2020

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Confidential Information means:

- (a) all information obtained by the Supplier from the Authority or any other department or office of Her Majesty's Government relating to and connected with the Contract and the Services; but
- (b) does not include the Contract itself and the provisions of the Contract where, or to the extent that, the Authority publishes them by virtue of Clause 41;

Contract means this contract between the Authority and the Supplier including all Schedules and Appendices to it;

Contract Charges means the prices (exclusive of any applicable VAT) set out in Schedule 2 payable to the Supplier by the Authority under this Contract for the full and proper performance by the Supplier of its obligations under this Contract;

Contract Year means a period of 12 consecutive months starting on the Commencement Date and each anniversary thereafter;

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

Controls means control as defined in section 1124 and 450 Corporation Tax Act 2010 and "Controls" and "Controlled" shall be interpreted accordingly;

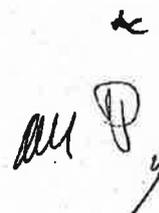
Core Support Hours means as defined in paragraph 1.4 of Annex A to Schedule 3;

Critical Service Level Failure any of the following events:

- (a) the Supplier performs at a standard below the applicable threshold for any Service Level for two consecutive months in respect of any Service Level relating to Availability or resolution of Incidents;
- (b) the Supplier performs at a standard below the applicable threshold for 3 months in any 6 month period in respect of any Service Level relating to Availability or the resolution of Incidents;

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Compensation for Critical Service Level Failure	has the meaning given to it in Clause 8.2;
Core Requirement 1	means as defined in Clause 5.1;
Crown	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
Data Controller	shall have the same meaning as given in the Data Protection Legislation;
Data Loss Event	means any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract and/or actual or potential loss and/or alteration and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
Data Protection Legislation	means (i) the General Data Protection Regulation (GDPR)(Regulation (EU) 2016/679), the Law Enforcement Directive (LED) (Directive (EU) 2016/680) and any applicable national implementing Laws as amended from time to time; (ii) the Data Protection Act 2018 to the extent that it relates to processing of Personal Data and privacy; (iii) all applicable Law about the Processing of Personal Data and privacy;
Data Processor	shall have the same meaning as given in the Data Protection Legislation;
Data Protection Officer	shall have the same meaning as given in the Data Protection Legislation;
Data Subject	shall have the same meaning as given in the Data Protection Legislation;
Data Subject Request	means 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;



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Default	means any breach of the obligations of the Supplier (including but not limited to including abandonment of this Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Sub-Contractors or any Supplier Personnel howsoever arising in connection with or in relation to the subject-matter of this Contract and in respect of which the Supplier is liable to the Authority including any Delay;
Delay	means: <ul style="list-style-type: none"> (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	means an item or feature in the supply of the Services and/or Solution delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan or at any other stage during the performance of this Contract;
Delivery	means, in respect of the Services, the time at which the Services have been provided or performed by the Supplier as confirmed by the issue by the Authority of a Milestone Achievement Certificate in respect of the relevant Milestone thereof (if any) or otherwise in accordance with this Contract and accepted by the Authority and Deliver and Delivered shall be construed accordingly;
Development Services	means the software development and implementation services delivered by the Supplier as described more particularly in Appendix A to Schedule 1;
Development Services End Date	means as described in Clause 5.2.2;
Disaster	means the occurrence of one or more unplanned events which, either separately or cumulatively, mean that the Services, or a material part thereof

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will be (or could reasonably be anticipated to be) interrupted, unavailable and/or impaired;

Disaster Recovery Services

means the services embodied in the processes and procedures for restoring the provision of Services following the occurrence of a Disaster, as detailed further in Schedule 5 (Business Continuity and Disaster Recovery);

Documentation

means all documentation as:

- (a) is required to be supplied by the Supplier to the Authority under this Contract;
- (b) would reasonably be required by a competent third Party capable of Good Industry Practice contracted by the Authority to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Services;
- (c) is required by the Supplier in order to provide the Services; and/or

has been or shall be generated for the purpose of providing the Services;

Due Diligence Information

means any information supplied to the Supplier by or on behalf of the Authority prior to the Commencement Date;

Employee Liabilities

all claims, actions, proceedings, orders, demands, complaints, investigations and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment,

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marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;

- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- (f) employment claims whether in tort, contract or statute or otherwise;

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

Employment Regulations the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations Implementing the Acquired Rights Directive;

EU ETS means the European Union's 'Cap and Trade' policy aimed at reducing carbon emissions. Further detail can be found here: https://ec.europa.eu/clima/policies/ets_en

Expiry Date means:

- (a) the date immediately prior to the date that is the sixth Contract Year anniversary of the Commencement Date; or
- (b) if this Contract is terminated in accordance with its terms before the date specified in (a) above, the earlier date of termination of this Contract;

Go-Live Milestone means the Milestone identified as such in the Implementation Plan;

Good Industry Practice means 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

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experienced person or body engaged within the relevant industry or business sector;

- Government Property** means anything issued or otherwise furnished in connection with the Contract by or on behalf of the Authority, including but not limited to documents, papers, data issued in electronic form and other materials;
- ICT Environment** means the Authority System and the Supplier System and any third party system that hosts or supports the Authority System and/or the Supplier System;
- Implementation Plan** means the full implementation plan to be developed by the Supplier in accordance with Schedule 6 (Implementation and Testing);
- Incident** means an incident relating to a Service Level specified in Table 1 in the Appendix to Schedule 3;
- Insolvency Event** means, in respect of the Supplier:
- (a) 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
 - (b) 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
 - (c) 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
 - (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or

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- (e) 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
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
- (g) 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
- (h) where the Supplier 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

any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;

Intellectual Property Rights (IPRs)

means patents, trade marks, service marks, design rights (whether registrable or not), applications for any of those rights, copyright, database rights, trade or business names and other similar rights or obligations, whether registrable or not, in any country, including but not limited to, the United Kingdom;

IPR Claim

has the meaning given to it in Clause 18.9;

Key Sub-Contract

means each Sub-Contract with a Key Sub-Contractor;

Key Sub-Contractor

means any Sub-Contractor:

- (a) listed in Schedule 9 (Software and Key Sub-Contractors);
- (b) which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or
- (c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the

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aggregate Contract Charges forecast to be payable under this Contract;

Know-How	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Services but excluding know-how already in the other Party's possession before the Commencement Date;
Law	means 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;
Loss	means any loss, damage, payment, cost (including reasonable legal costs and expenses), expense, award, charge, fine and/or other liability (as the case may be) and "Losses" shall be construed accordingly
Maintenance and Support Services	means the maintenance and support services described more particularly in Appendix B to Schedule 1;
Maintenance Start Date	means the date the Authority issues a Milestone Achievement Certificate for the Go-Live Milestone;
Maintenance Services Initial Term	means as defined in Clause 5.3.2;
Maintenance Services Term	means as defined in Clause 5.3.3;
Malicious Software	means 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;

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Man Day	means 8 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
Man Hours	means the hours spent by the Supplier Personnel properly working on the provision of the Services including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
Milestone	means an event or task described in the Implementation Plan which, if applicable, must be completed by the relevant Milestone Date;
Milestone Achievement Certificate	means the certificate materially in the form of the document contained in Appendix A to Schedule 6 (Implementation and Testing) granted by the Authority when the Supplier has Achieved a Milestone or a Test;
Milestone Date	means the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
Month	means a calendar month and "Monthly" shall be interpreted accordingly;
New Release	means an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;
Open Source Software	means 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;
Operating Environment	means the Authority System and the Sites;
Other Supplier	means any supplier to the Authority (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been aware;

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Outline Implementation Plan	means the implementation plan provided by the Supplier as part of its Tender, attached at Appendix A of Schedule 6;
Party	means a party to this Contract, and Parties shall mean both of them;
PMRV	Means as defined in recital (A);
Personal Data	shall have the same meaning as given in the Data Protection Legislation;
Personal Data Breach	shall have the same meaning as given in the Data Protection Legislation;
Process	shall have the same meaning as given in the Data Protection Legislation, and Processed and Processing shall be construed accordingly;
Project Specific IPR	means: <ul style="list-style-type: none"> (a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Contract and updates and amendments of these items including (but not limited to) database schema; and/or (b) IPR in or arising as a result of the performance of the Supplier's obligations under this Contract and all updates and amendments to the same; <p>but shall not include the Supplier Background IPR or the Specially Written Software;</p>
Protective Measures	means any appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;
Quality Plans	shall have the meaning given in Clause 6.2 (Standards and Quality);

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Regulations	means the Public Contracts Regulations 2015 as amended from time to time;
Relevant Transfer	a transfer of employment to which the Employment Regulations applies;
Relevant Transfer Date	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
Replacement Supplier	means any third party provider of any services which are substantially similar to any of the Services and which the Authority receives in substitution for any of the Services appointed by or at the direction of the Authority from time to time including where the Authority is providing Services for its own account;
Replacement Subcontractor	a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
Result	the Agile Deliverables developed by the Supplier as part of a Sprint;
Retail Prices Index	means the Retail Prices Index (RPI)(all Items)(United Kingdom);
Schedule	means a schedule to this Contract;
Security Policy	means the Authority's security policy (if any) in force as at the Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
Service Credit Cap	means 100% of the Maintenance and Support monthly Contract Charges;
Service Level	means any service levels applicable to the provision of the Services under this Contract specified in Schedule 3 (Service Levels and Performance);
Service Level Failure	means a failure by the Supplier to meet a Service Level;

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Service Period	means a recurrent period of one (1) Month during the Term;
Service Credits	means credits payable by the Supplier to the Authority due to the occurrence of 1 or more Service Level Failures, calculated in accordance with Part A (Service Levels and Service Credits) of Schedule 3 (Service Levels and Performance);
Service Requirements	means the requirements of the Authority in respect of the Services as set out in Schedule 1 (Service Requirements);
Services	means the services to be supplied under the Contract;
Service Transfer	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Sub-contractor;
Service Transfer Date	the date of a Service Transfer;
Sites	means: <ul style="list-style-type: none"> (a) any premises (including the Authority Premises, the Supplier's premises or third party premises): <ul style="list-style-type: none"> (i) from, to or at which: <ul style="list-style-type: none"> (1) the Services are (or are to be) provided; or (2) the Supplier manages, organises or otherwise directs the provision or the use of the Services; or (ii) where any part of the Supplier System is situated; or (b) any physical interface with the Authority System takes place;
SME	means 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;



Software	means Specially Written Software, Supplier Software, Open Source Software and Third Party Software;
Software Supporting Materials	has the meaning given to it in Clause 18.2.1(b);
Solution	means the Supplier's solution incorporating the Software as described in Schedule 4;
Source Code	means 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	means any software (including database software, linking instructions, test scripts, configuration data, profiles, 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 Supplier Software or Third Party Software created specifically for the purposes of this Contract;
Sprint	means a period of time, confirmed in the relevant Sprint Authorisation Notice, during which the User Stories identified in the Sprint Authorisation Notice are to be developed, tested and Agile Delivered in accordance with the provisions of this Contract;
Sprint Authorisation Notice	means the Authority's express written confirmation of the requirements that are to be developed during the relevant Sprint;
Staffing Information	in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Authority may reasonably request (subject to all applicable provisions of the Data Protection Act 2018), but including in an anonymised format (identifying each member of Supplier Personnel by a unique reference number or code which shall remain the

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same each time the Staffing Information is provided):

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting party and details of any relevant organised grouping of employees to which they are assigned;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other employee liability information as such term is defined in regulation 11 of the Employment Regulations;

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Standards

means any:

- (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;
- (b) standards detailed in the specification in Schedule 1 (Service Requirements) and Schedule 3 (Service Levels and Performance);
- (c) standards detailed by the Authority in Schedule 7 (Standards);

any relevant Government codes of practice and guidance applicable from time to time as the Supplier would reasonably and ordinarily be expected to comply with

Sub-Contract

means any contract or agreement or proposed contract or agreement between the Supplier and any third party whereby that third party agrees to provide:

- (a) the Services or any part thereof; or
- (b) facilities and/or, services necessary for the provision of the Services or any part thereof; or
- (c) is responsible for the management, direction or control of the provision of the Services or any part thereof;

Sub-Contractor

means any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;

Sub-Processor

means any third party appointed to Process Personal Data on behalf of the Supplier related to this Contract;

Supplier Equipment

means the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the

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Supplier (but not hired, leased or loaned from the Authority) in the performance of its obligations under this Contract;

Supplier Assets

means all assets and rights used by the Supplier to provide the Services in accordance with this Contract;

Supplier Background IPR

means

(a) Intellectual Property Rights owned by the Supplier before the Commencement Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/or

(b) Intellectual Property Rights created by the Supplier independently of this Contract,

but excluding Intellectual Property Rights owned by the Supplier subsisting in the Supplier Software;

Supplier's Final Supplier Personnel List

a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Relevant Transfer Date, identifying each member of Supplier Personnel by a unique reference number or code which shall remain the same each time the Supplier provides information about them;

Supplier Personnel

means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor engaged in the performance of its obligations under this Contract;

Supplier Representative

means the representative of the Supplier nominated pursuant to Clause 3;

Supplier Software

means any software which is proprietary to the Supplier (or an Affiliate of the Supplier) and identified as such in Schedule 10 together with all other such software which is not identified in Schedule 10 but which is or will be used by the Supplier or any Sub-Contractor for the purposes of providing the Services or is embedded in and

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in respect of such other software as required to be licensed in order for the Authority to receive the benefit of and/or make use of the Services;

Supplier System

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

Tender

means the tender submitted by the Supplier to the Authority set out in Part B of Schedule 4;

Term

means as the period from the Commencement Date up to and including the Expiry Date;

Third Party IPR

means Intellectual Property Rights owned by a third party but excluding Intellectual Property Rights owned by the third party subsisting in any Third Party Software;

Third Party Software

means any software identified as such in Schedule 10, together with all other software which is not listed in the Schedule 10 which is proprietary to any third party (other than an Affiliate of the Supplier) or any Open Source Software which is or will be used by the Supplier for the purposes of providing the Services;

Transferring Supplier Employees

those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;

UK ETS

means the proposed UK 'Cap and Trade' Emissions Trading Scheme;

Update

means in relation to any Software and/or any Deliverable means a version of such Item which has been produced primarily to overcome defects in, or to improve the operation of, that item;

Upgrade

means any patch, New Release or upgrade of Software and/or a Deliverable, including standard upgrades, product enhancements, and any modifications, but excluding any Update which the Supplier or a third party software supplier (or

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any Affiliate of the Supplier or any third party) releases during the Term;

- User Acceptance Testing (UAT)** means the software environment managed and used by the Authority to test the Agile Deliverables;
- User Story** means the Authority's requirement, describing the intended operations, functions, performance and/or other characteristics of the Agile Deliverables or part of it and its associated Agile Acceptance Criteria, as set out in a Sprint Authorisation Notice within the Supplier's software environment and made available to the Authority for that purpose;
- Valid Invoice** means an invoice issued by the Supplier to the Authority that complies with the Invoicing procedure in Schedule 2;
- Variation Procedure** means the procedure for variations and amendments to this Contract (including to the Contract Charges) set out in Clause 23;
- VCSE** means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives; and
- Working Day** means any Day other than a Saturday or Sunday or public holiday in England and Wales (or, where agreed in writing by the Authority, another country or countries).

- 1.2 The interpretation and construction of the Contract shall be subject to the following provisions:
- 1.2.1 a reference to any statute, enactment, order, regulation or similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
 - 1.2.2 the headings in this Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract;
 - 1.2.3 references to **person**, where the context allows, includes a corporation or an unincorporated association;
 - 1.2.4 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"; and

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1.2.5 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 This Contract is made up of the main body of this Contract and the Schedules to it. If there is any conflict between the terms of the main body of this Contract and the Schedules to it the terms of the main body of this Contract shall take precedence. If there is any conflict between a term of the Tender document attached at Schedule 4 Part B and a term of another Schedule, the term of the other Schedule shall take precedence.

2 Due Diligence

2.1 The Supplier acknowledges that:

2.1.1 the Authority has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Contract;

2.1.2 it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information and that it has entered into this Contract in reliance on its own due diligence alone;

2.1.3 it has satisfied itself (whether by inspection or having raised all relevant due diligence questions with the Authority in before the Commencement Date) of all relevant details (including those which could affect Service implementation, implementation, delivery, performance and price); and

2.1.4 it has advised the Authority in writing of:

(a) each aspect, if any, of the Operating Environment that is not suitable for the provision of the Services;

(b) the actions needed to remedy each such unsuitable aspect; and

(c) a timetable for and the costs of those actions.

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

(a) unsuitable aspects of the Operating Environment;

(b) misinterpretation of the requirements of the Authority in Schedule 1 or elsewhere in this Contract; and/or

(c) failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

2.3 Each of the Lead Supplier and the Consortium Supplier jointly and severally warrant that:

2.3.1 They have entered into the Consortium Agreement as at the Commencement Date;

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2.3.2 The Consortium Agreement is valid and binding on both of the Lead Supplier and the Consortium Supplier; and

2.3.3 The Consortium Agreement shall remain in force for the Term and for as long as all rights and obligations specified in the Contract (including all clauses that survive expiry or termination of the Contract) cease.

3 Representatives

3.1 Each Party shall have a representative for the duration of this Contract who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Contract.

3.2 The Authority shall notify the Supplier of the identity of its initial representative within 5 Working Days of the Commencement Date.

3.3 The Authority may, by written notice to the Supplier, revoke or amend the authority of the Authority's representative or appoint a new representative.

3.4 Any change to the Supplier's representative shall be agreed in advance and only with the written approval of the Authority.

4 Contract Term

4.1 This Contract shall commence on the Commencement Date and, unless terminated earlier in accordance with its terms, shall continue until the Expiry Date, on which date it shall automatically expire.

5 Services

5.1 The Supplier is engaged to and shall provide a core requirement of Services consisting of: (i) of 12 months of Development Services from and including the Commencement Date, including proportional Maintenance and Support Services from Milestone 8 to Milestone 11 as detailed in Schedule 1; and (ii) 12 Months of Maintenance and Support Services (the provision of such Services being, together, "**Core Requirement 1**").

5.2 Development Services

5.2.1 The Supplier shall provide the Development Services described in Appendix A (Development Services) to Schedule 1.

5.2.2 The provision of the Development Services by the Supplier shall commence on the Commencement Date and shall continue until the earlier of: (i) the Expiry Date; or (ii) subject to Clause 5.1, the date that the Go-Live Milestone is Achieved (the "**Development Services End Date**").

5.2.3 If at any point during the Term following the Development Services End Date the Authority requires additional development and/or implementation services to be provided by the Supplier, the Parties shall apply the Variation Procedure to determine the terms applicable to the provision of such further development and/or implementation services (which shall be treated either as Development Services or as Additional Services at the discretion of the Authority).

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- 5.2.4 The Supplier provided an Outline Implementation Plan as part of its Tender which is attached at Schedule 6 (Implementation and Testing) and is required under that Schedule to develop the Outline Implementation Plan into the final Implementation Plan.
- 5.2.5 The Supplier shall comply with the implementation requirements set out at Schedule 6 (Implementation and Testing) in respect of the Development Services.
- 5.2.6 The Supplier shall provide the Development Services in accordance with the Milestone Dates.

Agile Process

- 5.2.7 Where the Authority requires development to the functionality of the Solution using an agile methodology (whether forming part of the Development Services or an Additional Service), the Supplier agrees to use an agile methodology to configure the Software and provide configuration and development services in accordance with the principles set out in the specification set out in Schedule 1 (or such other specification as may be agreed between the Parties in writing) in accordance with Clauses 5.2.7 to 5.2.9 inclusive (**Agile Process**). The Agile Process is an iterative process whereby a system evolves to reflect changing requirements for integration and build, as opposed to more traditional methods of system development in which all requirements are collected up front and then developed all at once.
- 5.2.8 Within 10 Working Days of the end of each Sprint, the Authority will have completed testing within UAT and shall determine which of the Results meet their respective Agile Acceptance Criteria and may be deployed (and when) to the Authority's live production and/or technical environments.
- 5.2.9 Once each part of the Software has been accepted by the Authority the Software as a whole shall be subject to the Agile Acceptance Tests as set out in the Agile Acceptance Criteria and the Parties agree:
- (a) Agile Acceptance Tests shall take place from when the Agile Deliverable enters UAT testing. In developing Agile Acceptance Tests the Authority shall validate and test any Agile Deliverable in UAT through test User Stories to validate their compliance against the corresponding original User Story. Where the Agile Deliverable satisfies the requirements set out in the original User Story it shall have passed the relevant Agile Acceptance Test;
 - (b) if all Agile Deliverables achieve all the applicable Agile Acceptance Criteria as demonstrated by the Agile Acceptance Tests, the Authority will issue the Supplier with an Agile Acceptance Certificate stating that all the Agile Acceptance Criteria have been met in line with the Agile Process; and
 - (c) if an Agile Deliverable fails the Agile Acceptance Tests, the Authority will raise the software issue as a Bug within the software application made

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available for such purposes by the Supplier. Where the Agile Acceptance Criteria have not been met the Agile Deliverable shall be moved into the next Sprint as a User Story.

5.3 Maintenance and Support Services

- 5.3.1 The Supplier shall provide the Maintenance and Support Services described in Appendix B (Maintenance and Support Services) to Schedule 1.
- 5.3.2 The Supplier shall provide Maintenance and Support Services during the Term from and including the Maintenance Start Date for a period of a 12 consecutive Months (the "**Maintenance Services Initial Term**").
- 5.3.3 Prior to the expiry of the Maintenance Services Initial Term the Authority may provide written notice of its requirement of the Supplier to supply a further 12 consecutive Months of Maintenance Services, which the Supplier shall provide from the date immediately following the last day of the Maintenance Services Initial Term (or such other date as may be agreed between the Parties in writing) (the Maintenance Services Initial Term and the further 12 consecutive Month period being, together, the "**Maintenance Services Term**").
- 5.3.4 The Maintenance Services Term may be extended for further 12 consecutive Month periods where required in writing by the Authority prior to the expiry of the then-current 12 Month period of provision of Maintenance and Support Services.
- 5.3.5 The provision of the Maintenance and Support Services shall continue until the earlier of: (i) the date of the expiry of the Maintenance Services Term; or (ii) the Expiry Date.
- 5.3.6 The Supplier shall ensure that:
 - (a) the release of any new Supplier Software or upgrade to any Supplier Software forming part of the Maintenance and Support Services complies with the interface requirements of the Authority and (except in relation to new Software or upgrades which are released to address Malicious Software, security concerns or legislative requirements) shall notify the Authority three (3) Months before the release of any new Supplier Software or Upgrade; and
 - (b) 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.

5.4 Additional Services

- 5.4.1 From time to time the Authority may request the provision of Additional Services by the Supplier in relation to the Solution. The costs associated

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with any Additional Service requested by the Authority shall be calculated in accordance with the day rates set out in Appendix A of Schedule 2.

5.4.2 Subject to Clause 7.6, the Parties agree that the day rates set out in Appendix A of Schedule 2 are fixed for the duration of the Term. Save that the Supplier shall be entitled to provide Additional Services to the Authority at a reduced rate but shall in no circumstances be entitled to increase the day rate charges set out in Schedule 2.

5.4.3 The provision of such Additional Services is subject to the Parties discussing and agreeing the terms of the provision of such services and applying the Variation Procedure to adopt the provision of them.

5.5 Provision of the Services

5.5.1 The Supplier acknowledges and agrees that the Authority relies on the skill and judgement of the Supplier in the provision of the Services and the performance of its obligations under this Contract.

5.5.2 The Supplier shall perform its obligations under this Contract in accordance with:

- (a) all due skill, care and diligence;
- (b) all applicable Law;
- (c) Good Industry Practice;
- (d) the Standards;
- (e) the requirements of Schedule 8 (Security);
- (f) the Security Policy;
- (g) the Quality Plans; and
- (h) the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 5.5.2(a) to (h).

5.5.3 The Supplier shall:

- (a) at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Services in accordance with this Contract;
- (b) obtain, and maintain throughout the Term, all the consents, approvals, licences and permissions (statutory, regulatory contractual or otherwise) it may require and which are necessary for the provision of the Services;
- (c) ensure that:
 - (i) any products or services recommended or otherwise specified by the Supplier for use by the Authority in conjunction with the Deliverables and/or the Services shall enable the Deliverables and/or Services to meet the requirements of the Authority;

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- (ii) the Supplier System and Supplier Assets will be free of all encumbrances (except as agreed in writing with the Authority); and
 - (iii) the Services are fully compatible with any Authority Software, Authority System and Authority Property and as otherwise used by the Supplier in connection with this Contract;
- (d) minimise any disruption to the ICT Environment and/or the Authority's operations when providing the Services;
 - (e) ensure that any Documentation and training provided by the Supplier to the Authority are comprehensive, accurate and prepared in accordance with Good Industry Practice;
 - (f) co-operate and require its Sub-Contractors to co-operate with the Other Suppliers and provide reasonable information (including any Documentation), advice and assistance in connection with the Services to any Other Supplier to enable such Other Supplier to create and maintain technical or organisational interfaces with the Services or for any other reason;
 - (g) on the Expiry Date, to enable the timely transition of the supply of the Services (or any of them) to the Authority and/or to any Replacement Supplier, co-operate with and require its Sub-Contractors to co-operate with the Replacement Supplier and provide reasonable information (including any Documentation), advice and assistance in connection with the Services to the Replacement Supplier;
 - (h) assign to the Authority, or if it is unable to do so, shall (to the extent it is legally able to do so) hold on trust for the sole benefit of the Authority, all warranties and indemnities provided by third parties or any Sub-Contractor in respect of any Deliverables and/or the Services. Where any such warranties are held on trust, the Supplier shall enforce such warranties in accordance with any reasonable directions that the Authority may notify from time to time to the Supplier;
 - (i) provide the Authority with such assistance as the Authority may reasonably require during the Term in respect of the supply of the Services;
 - (j) deliver the Services in a proportionate and efficient manner;
 - (k) ensure that neither it, nor any of its Affiliates, embarrasses the Authority or otherwise brings the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Supplier's obligations under this Contract; and
 - (l) gather, collate and provide such information and co-operation as the Authority may reasonably request for the purposes of ascertaining the Supplier's compliance with its obligations under this Contract.

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- 5.6 An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that all Sub-Contractors and Supplier Personnel also do, or refrain from doing, such act or thing.
- 5.7 The Authority shall have the power to inspect and examine the performance of the Services at the Authority's Premises at any reasonable time or, provided that the Authority gives reasonable notice to the Supplier, at any other premises where any part of the Services is being performed.
- 5.8 Location and Manner of Delivery of the Services
- 5.8.1 Except where otherwise provided in this Contract, the Supplier shall provide the Services to the Authority through the Supplier Personnel at the Sites.
- 5.8.2 The Authority may inspect and examine the manner in which the Supplier provides the Services at the Sites and, if the Sites are not the Authority Premises, the Authority may carry out such inspection and examination during normal business hours and on reasonable notice.
- 5.9 If the Authority informs the Supplier that the Authority considers any part of the Services to be inadequate or in any way differing from the Contract, and this is other than as a result of default or negligence on the part of the Authority, the Supplier shall at his own expense re-schedule and perform the work correctly within such reasonable time as may be specified by the Authority.
- 5.10 Undelivered Services
- 5.10.1 In the event that any of the Services are not delivered in accordance with Clauses 5.5 (Provision of the Services) and 5.8 (Location and Manner of Delivery of the Services) ("**Undelivered Services**"), the Authority, without prejudice to any other rights and remedies of the Authority howsoever arising, shall be entitled to withhold payment of or require reimbursement within 30 Working Days of the applicable Contract Charges for the Services that were not so Delivered until such time as the Undelivered Services are Delivered.
- 5.10.2 The Authority may, at its discretion and without prejudice to any other rights and remedies of the Authority howsoever arising, deem the failure to comply with Clauses 5.5 (Provision of the Services), and 5.8 (Location and Manner of Delivery of the Services) and meet the relevant Milestone Date (if any) to be a material Default.
- 5.11 Supplier Equipment
- 5.11.1 The Supplier shall be solely responsible for the cost of carriage of Supplier Equipment to the Sites and to the Authority Premises, including its off-loading, removal of all packaging and all other associated costs. Likewise on termination or expiry of this Contract the Supplier shall be responsible for the removal and safe disposal of all relevant Supplier Equipment from the Sites and the Authority Premises, including the cost of packing, carriage and making good the Sites and/or the Authority

Premises following removal, and taking account of any sustainability requirements, including safe removal of data and recycling requirements.

5.11.2 All the Supplier's property, including Supplier Equipment, shall remain at the sole risk and responsibility of the Supplier, except that the Authority shall be liable for loss of or damage to any of the Supplier's property located on Authority Premises which is due to the negligent act or omission of the Authority.

5.11.3 Subject to any express provision of the BCDR Plan to the contrary, the loss or destruction for any reason of any Supplier Equipment shall not relieve the Supplier of its obligation to supply the Services in accordance with this Contract, including the Service Levels.

5.12 Obligation to Remedy of Default in the Supply of the Services

5.12.1 Subject to Clauses 18.9.2 and 18.9.3 (IPR Indemnity) and without prejudice to any other rights and remedies of the Authority howsoever arising (including under Clauses 5.9 (Undelivered Services)) the Supplier shall, where practicable:

(a) remedy any breach of its obligations within three (3) Working Days of becoming aware of the relevant Default or being notified of the Default by the Authority or within such other time period as may be agreed with the Authority (taking into account the nature of the breach that has occurred); and

(b) meet all the costs of, and incidental to, the performance of such remedial work.

5.13 Continuing Obligation to Provide the Services

5.13.1 The Supplier shall continue to perform all of its obligations under this Contract and shall not suspend the provision of the Services, notwithstanding:

(a) any withholding or deduction by the Authority of any sum due to the Supplier pursuant to the exercise of a right of the Authority to such withholding or deduction under this Contract;

(b) the existence of an unresolved dispute; and/or

(c) any failure by the Authority to pay any Contract Charges,

unless the Supplier is entitled to terminate this Contract for failure by the Authority to pay undisputed Contract Charges.

5.14 Business Continuity and Disaster Recovery

5.14.1 The Parties shall comply with the provisions of Schedule 4 (Business Continuity and Disaster Recovery).

6 Standards, Quality and Change in Law

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- 6.1 The Supplier shall at all times during the Term comply with the Standards and maintain, where applicable, accreditation with the relevant Standards' authorisation body.
- 6.2 If so required by the Authority the Supplier shall develop, within 6 weeks of the Commencement Date, quality plans that ensure that all aspects of the Services are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it (Quality Plans).
- 6.3 The Supplier shall seek Approval (the decision of the Authority to Approve or not shall not be unreasonably withheld or delayed) of the Quality Plans before implementing them. The Supplier acknowledges and accepts that Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Services are provided to the standard required by this Contract.
- 6.4 Throughout the Term, the Parties shall notify each other of any new or emergent standards which could affect the Supplier's provision, or the receipt by the Authority, of the Services. The adoption of any such new or emergent standard or changes to existing Standards shall be agreed in accordance with the Variation Procedure. Any change to an existing Standard which is included in Schedule 8 (Standards) shall, in addition, require the written consent of the Authority.
- 6.5 Where a new or emergent standard is to be developed or introduced by the Authority, the Supplier shall be responsible for ensuring that the potential impact on the Supplier's provision, or the Authority's receipt of the Services is explained to the Authority (within a reasonable timeframe), prior to the implementation of the new or emergent Standard.
- 6.6 Where Standards referenced conflict with each other or with best professional or industry practice adopted after the Commencement Date, then the later Standard or best practice shall be adopted by the Supplier. Any such alteration to any Standard or Standards shall require Approval (and the written consent of the Authority) where the relevant Standard or Standards is/are included in Schedule 8 (Standards) and shall be implemented within an agreed timescale.
- 6.7 Following the approval by the Authority of the Quality Plans:
- 6.7.1 the Supplier shall implement all Deliverables in accordance with the Quality Plans; and
- 6.7.2 any variation to the Quality Plans shall be agreed in accordance with the Variation Procedure.
- 6.8 The Authority requires that the Services and the Solution implement a Permitting, Monitoring, Reporting and Verification system that is compliant with the standards and applicable Laws in respect of EU ETS and the future UK ETS during the Term. The Authority and the Supplier acknowledge that UK emissions trading and PMRV system standards and applicable Laws in respect of emissions trading and obligations to meet the EU ETS compliance cycle will change in the future as a result of the UK's exit from the European Union. During the Term, the UK Government intends to consult on the UK ETS standards, options for a future carbon pricing

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scheme and implement new applicable emissions trading Laws and the necessary legislation will be implemented in due course.

- 6.9 Where there is a change to applicable Laws and/or Standards in respect of emissions trading and MRR in accordance with Clause 6.8 which may directly affect the Contract, Services, Solution, Contract Charges, the Authority's requirements and/or the ability for the Supplier and the Services or Solution to be compliant with applicable Laws and/or Standards, the Parties shall agree any such changes in accordance with the Variation Procedure. The Supplier shall minimise any increase in costs or maximise any reduction in costs and provide the Authority with evidence of it doing so.

7 Service Levels for Maintenance Services and Service Credits

- 7.1 The Parties shall comply with the provisions of Part A (Service Levels and Service Credits) of Schedule 3 (Service Levels and Performance).
- 7.2 The Supplier shall at all times during the Maintenance Services Term provide the Maintenance and Support Services to meet or exceed the Service Levels.
- 7.3 The Supplier acknowledges that any Service Level Failure may have a material adverse impact on the business and operations of the Authority and that it shall entitle the Authority to the rights set out in the provisions of Part A of Schedule 3 (Service Levels and Performance), including the right to any Service Credits.
- 7.4 The Supplier acknowledges and agrees that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Authority as a result of the Supplier's failure to meet any Service Levels.
- 7.5 Subject to Clause 7.6, not more than once in each Contract Year the Authority may, on giving the Supplier at least three (3) Months' notice, change the categorisation of the Service Levels and the Supplier shall not be entitled to object to, or increase the Contract Charges as a result of such changes, provided that:
- 7.5.1 the total number of Service Levels for which the categorisation is to be changed does not exceed the number set out at the Commencement Date of this Contract; and
 - 7.5.2 the principal purpose of the change is to reflect changes in the Authority's business requirements and/or priorities or to reflect changing industry standards.
- 7.6 The Supplier may adjust the Contract Charges applicable to certain Services with effect from 1 January of each year to reflect any percentage increase in the Retail Prices Index during the previous year by providing the Authority not less than one Month's prior notice in writing of such proposed changes, subject to the following:
- 7.6.1 the Contract Charges applicable to Additional Services may be increased with effect from and including 1 January 2021;
 - 7.6.2 the Contract Charges applicable to Maintenance and Support Services may be increased with effect from and including 1 January 2022; and

8 Compensation for failure to meet Service Levels

- 8.1 The Parties agree that the failure of the Supplier to carry out the Maintenance and Support Services resulting in a Service Level Failure shall entitle the Authority to receive Service Credits in accordance with Schedule 3.
- 8.2 On the occurrence of a Critical Service Level Failure the Authority shall at its discretion be entitled to either withhold and retain or require the payment of by the Supplier within 30 Working Days of written demand compensation for the Critical Service Level Failure a sum equal to any Contract Charges which would otherwise have been due to the Supplier in respect of that Service Period (**Compensation for Critical Service Level Failure**), provided that the operation of this Clause 8.2 shall be without prejudice to the right of the Authority to terminate this Contract and/or to claim damages from the Supplier for material Default as a result of such Critical Service Level Failure.

9 Disruption

- 9.1 The Supplier shall take reasonable care to ensure that in the performance of its obligations under this Contract it does not disrupt the operations of the Authority, the Crown, their employees or any other contractor employed by the Authority or the Crown or any other third party system that hosts or supports the Authority System and/or the Supplier System.
- 9.2 The Supplier shall immediately inform the Authority of any actual or potential industrial action, whether such action be by the Supplier Personnel or others, which affects or might affect the Supplier's ability at any time to perform its obligations under this Contract.
- 9.3 In the event of industrial action by the Supplier Personnel, the Supplier shall seek Approval to its proposals for the continuance of the supply of the Services in accordance with its obligations under this Contract.
- 9.4 If the Supplier's proposals referred to in Clause 9.3 are considered insufficient or unacceptable by the Authority acting reasonably then the Authority may terminate this Contract for material Default.

10 Delay and suspension of Services

Suspension of the Services by the Authority

- 10.1 The Authority may at any time demand that the Supplier suspend the provision of the Services for a period of time to be determined by the Authority in its sole discretion.
- 10.2 Subject to Clause 10.1, if the Authority exercises the right to suspend the provision of the Services or any part of them, or if the Supplier is otherwise delayed in proceeding with the provision of the Services by the Authority (otherwise than as a consequence of a breach of the Contract, or a breach of duty or fault or negligence on the part of the Supplier), the Authority shall be responsible for loss incurred by the Supplier as a result of such suspension or delay. Subject to the Supplier taking reasonable steps to mitigate its loss, the Supplier will be able to recover from the Authority under this Clause only for those losses which:
- 10.2.1 were reasonably foreseeable by the Authority as arising as a direct result of the suspension or delay; and

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10.2.2 relate to the cost of any commitments entered into by the Supplier which cannot be met as a result of the suspension or delay and in respect of which the Supplier cannot obtain a refund (where the Supplier has already paid in relation to the commitment) or is obliged to pay (where the Supplier has not already paid in relation to the commitment).

The provisions of this Clause 10.2 shall not apply where the reason for the suspension of the Services arises from circumstances beyond the control of the Authority.

10.3 If the performance of the Contract by the Supplier is delayed by reason of any act on the part of the Authority which the Supplier could not have prevented then the Supplier shall be allowed a reasonable extension of time for completion. For the purposes of this Clause, the Supplier shall be deemed to have been able to prevent causes of delay that are within the reasonable control of the Supplier's staff, agents and sub-contractors.

Delay of the provision of the Services

10.4 Timely provision of the Services shall be of the essence of the Contract, including in relation to commencing the provision of the Services within the time agreed or on a specified date.

10.5 The Supplier undertakes to perform its obligations under this Contract in accordance with its terms and in accordance with the Implementation Plan and undertakes to complete each obligation by the date specified in the Implementation Plan, and in fulfilling those obligations time shall be of the essence.

10.6 Without prejudice to Clause 31.1, the Supplier shall reimburse the Authority for all reasonable costs incurred by the Authority which have arisen as a direct consequence of the Supplier's delay in the performance of the Contract which the Supplier had failed to remedy after being given reasonable notice by the Authority.

11 Progress Report

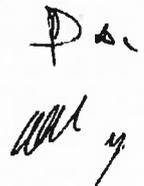
11.1 Where formal progress reports are required by the Contract, the Supplier shall render such reports at such time and in such form as may be specified by the Authority, or as otherwise agreed between the Supplier and the Authority.

11.2 The submission and acceptance of progress reports shall not prejudice any rights of the Authority under the Contract.

12 Supplier's Personnel

12.1 The Authority reserves the right to refuse to admit to the Authority's Premises any person employed by the Supplier or its Sub-Contractors whose admission would be undesirable in the opinion of the Authority.

12.2 If and when requested by the Authority, the Supplier shall provide a list of the names and addresses of all persons who may at any time require admission in connection with the performance of the Services to the Authority's Premises, specifying the role in which each such person is concerned with the Supplier and giving such other particulars as the Authority may require.

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- 12.3 If and when requested by the Authority, the Supplier shall procure from each person identified by the request, a signed statement that he understands that the Official Secrets Acts 1911 to 1989 applies to him both during the carrying out and after expiry or termination of the Contract and that he will comply with the provisions of those Acts in so far as they apply to the work he is performing under the Contract.
- 12.4 If and when requested by the Authority the Supplier agrees that it will submit any person employed by the Supplier or its Sub-Contractors to the Authority's security vetting procedure. The Supplier further agrees that any individual who refuses to submit to such vetting procedure or does not attain the clearance it affords will not carry out any work on the Contract which the Authority certifies as suitable only for people who have passed its security vetting procedure.
- 12.5 If the Supplier fails to comply with Clause 12.2, 12.3 or 12.4 and the Authority decides that such failure is prejudicial to its interests, the Authority may immediately terminate the Contract by notice in writing to the Supplier, provided that such termination shall be without prejudice to any accrued rights of, or to any rights that shall accrue thereafter to, the Authority.

13 Supply Chain Rights and Protections

13.1 Appointment of Sub-Contractors

- 13.1.1 The Supplier shall exercise due skill and care in the selection of any Sub-Contractors to ensure that the Supplier is able to:
- (a) manage any Sub-Contractors in accordance with Good Industry Practice;
 - (b) comply with its obligations under this Contract in the Delivery of the Services; and
 - (c) assign, novate or otherwise transfer to the Authority or any Replacement Supplier any of its rights and/or obligations under each Sub-Contract that relates exclusively to this Contract.
- 13.1.2 Prior to sub-contacting any of its obligations under this Contract, the Supplier shall notify the Authority and provide the Authority with:
- (a) the proposed Sub-Contractor's name, registered office and company registration number;
 - (b) the scope of any Services to be provided by the proposed Sub-Contractor; and
 - (c) where the proposed Sub-Contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed Sub-Contract has been agreed on "arm's-length" terms.
- 13.1.3 If requested by the Authority within ten (10) Working Days of receipt of the Supplier's notice issued pursuant to Clause 13.1.2, the Supplier shall also provide:
- (a) a copy of the proposed Sub-Contract; and
 - (b) any further information reasonably requested by the Authority.

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13.1.4 The Authority may, within ten (10) Working Days of receipt of the Supplier's notice issued pursuant to Clause 13.1.2 (or, if later, receipt of any further information requested pursuant to Clause 13.1.3), object to the appointment of the relevant Sub-Contractor they consider that:

- (a) the appointment of a proposed Sub-Contractor may prejudice the provision of the Services (including in respect of data protection and security) or may be contrary to the interests respectively of the Authority under this Contract;
 - (b) the proposed Sub-Contractor is unreliable and/or has not provided reasonable services to other Public Bodies and/or
 - (c) the proposed Sub-Contractor employs unfit persons,
- in which case, the Supplier shall not proceed with the proposed appointment.

13.2 Appointment of Key Sub-Contractors

13.2.1 The Authority has consented to the engagement of the Key Sub-Contractors listed in Schedule 9.

13.2.2 Where the Supplier wishes to enter into a new Key Sub-Contract or replace a Key Sub-Contractor, it must obtain the prior written consent of the Authority (the decision to consent not to be unreasonably withheld or delayed). The Authority may reasonably withhold its consent to the appointment of a Key Sub-Contractor if Clauses 13.1.4(a) to 13.1.4(c) apply.

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

- (a) provisions which will enable the Supplier to discharge its obligations under this Contract;
- (b) a right under CRTPA for the Authority to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Authority;
- (c) a provision enabling the Authority to enforce the Key Sub-Contract as if it were the Supplier;
- (d) a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Authority or any Replacement Supplier;
- (e) obligations no less onerous on the Key Sub-Contractor than those imposed on the Supplier under this Contract in respect of:
 - (i) data protection requirements set out under this Contract;
 - (ii) FOIA (Freedom of Information) requirements set out under this Contract;

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- (iii) the obligation not to embarrass the Authority or otherwise bring the Authority into disrepute set out in Clause 5.5.3(k) (Provision of Services);
 - (iv) the keeping of records in respect of the Services being provided under the Key Sub-Contract; and
 - (v) the conduct of audits as may be specified in this Contract or otherwise in writing by the Authority;
- (f) provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Authority under this Contract;
 - (g) a provision restricting the ability of the Key Sub-Contractor to Sub-Contract all or any part of the provision of the Services provided to the Supplier under the Sub-Contract without first seeking the written consent of the Authority;

13.3 Supply Chain Protection

- 13.3.1 Except where the Authority has given its prior written consent otherwise, the Supplier shall ensure that all Sub-Contracts contain a provision:
- (a) requiring that any invoices submitted by a Sub-Contractor shall be considered and verified by the Supplier in a timely fashion and that undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed;
 - (b) a right for the Authority to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period; and
 - (c) requiring the Sub-Contractor to include in any Sub-Contract which it in turn awards suitable provisions to impose, as between the Parties to that Sub-Contract, requirements to the same effect as those required by sub-clauses (a) and (b) directly above.
- 13.3.2 The Supplier shall:
- (a) pay any undisputed sums which are due from it to a Sub-Contractor within thirty (30) days from the receipt of a Valid Invoice;
 - (b) include within the monthly performance reports required under Schedule 11 (Reports and Records Provision) a summary of its compliance with this Clause 13.3.2, such data to be certified each quarter by a director of the Supplier as being accurate and not misleading.
- 13.3.3 If the Supplier notifies the Authority that the Supplier has failed to pay an undisputed Sub-Contractor's invoice within thirty (30) days of receipt, or the Authority otherwise discovers the same, the Authority shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

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13.4 Termination of Sub-Contracts

13.4.1 The Authority may require the Supplier to terminate:

(a) a Sub-Contract where:

- (i) the acts or omissions of the relevant Sub-Contractor have caused or materially contributed to the Authority's right of termination pursuant to any of the termination events in Clause 33 (Authority Termination Rights) except Clause 33.6 (Termination of the Development Services Without Cause); and/or
- (ii) the relevant Sub-Contractor or its Affiliates embarrassed the Authority or otherwise brought the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Sub-Contractor's obligations in relation to the Services or otherwise; and/or

(b) a Key Sub-Contract where there is a Change of Control of the relevant Key Sub-Contractor, unless:

- (i) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
- (ii) the Authority has not served its notice of objection within six (6) months of the later of the date the Change of Control took place or the date on which the Authority was given notice of the Change of Control.

13.5 Notwithstanding the Supplier's right to Sub-Contract pursuant to this Clause 13 (Supply Chain Rights and Protection), the Supplier shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own.

13.6 The Supplier shall not use the services of self-employed individuals in connection with the Contract without the previous agreement in writing of the Authority.

14 Indemnities

14.1 The Supplier shall hold harmless and indemnify the Authority on demand from and against all claims, demands, proceedings, actions, damages, costs (including legal costs), expenses and any other liabilities arising from claims made by the Authority's staff or agents, or by third parties, in respect of any death or personal injury, or loss or destruction of or damage to property, or any other loss, destruction or damage, including but not limited to financial losses which are caused, whether directly or indirectly, by the breach of contract or breach of duty (whether in negligence, tort, statute or otherwise) of the Supplier, its employees, agents or sub-contractors.

14.2 The Supplier shall be liable to the Authority for any loss, damage, destruction, injury or expense, whether direct or indirect, (and including but not limited to loss or destruction of or damage to the Authority's property, which includes data) arising

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from the Supplier's breach of contract or duty (whether arising in negligence, tort, statute or otherwise).

- 14.3 Nothing in these Clauses nor in any part of the Contract shall impose any liability on any member of the staff of the Authority or its representatives in their personal capacity.
- 14.4 The Supplier shall indemnify the Authority against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third Party's Intellectual Property Rights used by or on behalf of the Supplier for the purpose of the Contract, providing that any such infringement or alleged infringement is not knowingly caused by, or contributed to, by any act of the Authority.
- 14.5 The Authority shall indemnify the Supplier against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third Party's Intellectual Property Rights used at the request of the Authority by the Supplier in the course of providing the Services, providing that any such infringement or alleged infringement is not knowingly caused by, or contributed to by, any act of the Supplier.
- 14.6 Except in relation to:
- 14.6.1 Death or personal injury as referred to in clause 14.1;
 - 14.6.2 The Supplier's indemnity for third party IP rights in Clause 14.4; and
 - 14.6.3 The Supplier's indemnity for Data Protection and GDPR purposes in 28.15,

The Supplier's liability under this Agreement shall be limited to a sum of £10,000,000 (ten million pounds) per claim (or claims relating to the same subject matter) for a breach of its obligations under this Agreement.

15 Insurance

- 15.1 During this Contract and for a period of one year afterwards the Supplier shall maintain in force the following insurance policies with reputable insurance companies:
- 15.1.1 public liability insurance with a limit of at least £5,000,000.00 a claim;
 - 15.1.2 product liability insurance with a limit of at least £5,000,000.00 for claims arising from a single event or series of related events in a single calendar year;
 - 15.1.3 professional indemnity insurance with a limit of at least £3,000,000.00 for claims arising from a single event or series of related events in a single calendar year; and

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- 15.1.4 employer's liability insurance with a limit of at least £5,000,000.00 for claims arising from a single event or series of related events in a single calendar year.
- 15.2 The Supplier shall ensure that the Authority's interest is noted on each insurance policy or that a generic interest clause has been included.
- 15.3 On taking out and on renewing each policy, the Supplier shall promptly send a copy of the receipt for the premium to the Authority. On the Authority's written request, the Supplier shall provide the Customer with copies of the insurance policy certificates and details of the cover provided.
- 15.4 The Supplier shall ensure that any Sub-Contractors also maintain adequate insurance having regard to their obligations under this Contract.
- 15.5 The Supplier shall notify the Authority if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change.
- 15.6 The Supplier's liabilities under this Contract shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Clause 15.1.
- 16 Dispute Resolution**
- 16.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract. Prior to either Party being entitled to any rights under Dispute Resolution or any court action being taken by either Party the Parties agree to formally request internal escalation. Within 10 Working Days of such a request for internal escalation either, both Parties will summarise their position in writing and both summaries will be sent to a senior Director of the Supplier and to the Director General Corporate Services, BEIS and within a further 5 Working Days each Party will issue a written direction on settling any dispute. If a formal and lasting settlement is not agreed in writing by both Parties within a further 10 Working Days then the Parties may follow the further process permitted below.
- 16.2 If the Parties cannot resolve the dispute pursuant to Clause 16.1 of, the dispute may, by agreement of the Parties, be referred to mediation pursuant to Clause 16.4.
- 16.3 The performance of the Services shall not cease or be delayed by the reference of a dispute to mediation.
- 16.4 If the Parties agree to refer the dispute to mediation:
- 16.4.1 in order to determine the person who shall mediate the dispute (the **Mediator**) the Parties shall by agreement choose a neutral adviser or mediator from one of the dispute resolution providers listed by the Government Procurement Service on its website or in its printed guidance on dispute resolution within 30 days after agreeing to refer the dispute to mediation;
- 16.4.2 the Parties shall within 14 days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance

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from the Government Procurement Service to provide guidance on a suitable procedure;

- 16.4.3 unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
 - 16.4.4 if the Parties reach agreement on the resolution of the dispute within 60 days of the Mediator being appointed, or such longer period as may be agreed between the Parties, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by both the Authority and the Supplier;
 - 16.4.5 failing agreement within 60 days of the Mediator being appointed, or such longer period as may be agreed between the Parties, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties.
- 16.5 If the Parties do not agree to refer the dispute to mediation, or if the Parties fail to reach agreement as to who shall mediate the dispute pursuant to Clause 16.4.1 or if they fail to reach agreement in the structured negotiations within 60 days of the Mediator being appointed or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.

17 Bribery and corruption

- 17.1 The Supplier shall not, and shall ensure that its staff, Sub-Contractors and agents do not:
- 17.1.1 offer or promise, to any person employed by or on behalf of the Authority any financial or other advantage as an inducement or reward for the improper performance of a function or activity, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Authority;
 - 17.1.2 agree to receive or accept any financial or other advantage as an inducement or reward for any improper performance of a function or activity in relation to this Contract or any other contract with the Authority; or
 - 17.1.3 enter into the Contract or any other contract with the Authority or any other department or office of Her Majesty's Government in connection with which commission has been paid, or agreed to be paid by him or on his behalf, or to his knowledge, unless, before the Contract is made, particulars of any such commission and the terms and conditions of any agreement for the payment thereof, have been disclosed in writing to any person duly authorised by the Authority to act as its representative for the purpose of this Clause.

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Nothing contained in this Clause shall prevent the Supplier paying such commission or bonuses to his own staff in accordance with their agreed contracts of employment.

- 17.2 Any breach of this Clause by the Supplier, or by any person employed or engaged by him or acting on his behalf (whether with or without his knowledge), or any act or omission by the Supplier, or by such other person, in contravention of the Bribery Act 2010 or any other anti-corruption law, in relation to this Contract or any other contract with the Authority, shall entitle the Authority to terminate the Contract with immediate effect by notice in writing and to recover from the Supplier the amount of any loss resulting from such termination and the amount of the value of any such gift, consideration or commission as the Authority shall think fit.
- 17.3 Where the Contract has been terminated under Clause 17.2 there shall be deemed to be a failure to commence the provision of the Services, enabling the Authority to terminate the Contract with immediate effect, and the Authority will not be obliged to pay the Contract Charges.
- 17.4 In any dispute, difference or question arising in respect of:
- 17.4.1 the interpretation of this Clause (except so far as the same may relate to the amount recoverable from the Supplier under Clause 17.2 in respect of any loss resulting from such determination of the Contract); or
 - 17.4.2 the right of the Authority to determine the Contract; or
 - 17.4.3 the amount or value of any gift, consideration or commission,
- and the decision of the Authority shall be final and conclusive.

18 Intellectual Property Rights

18.1 Allocation of title to IPR

- 18.1.1 Save as expressly granted elsewhere under this Contract:
- (a) the Authority shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, including:
 - (i) in the Supplier Software;
 - (ii) the Supplier Background IPR;
 - (iii) in the Third Party Software;
 - (iv) the Third Party IPR;
 - (v) in the Specially Written Software; and
 - (vi) the Project Specific IPR.
 - (b) the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Authority or its licensors, including the:
 - (i) Authority Software;
 - (ii) Authority Background IPR; and

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(iii) Authority Data.

18.1.2 Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 18.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).

18.1.3 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

18.2 Licences granted by the Supplier: Specially Written Software and Project Specific IPR

18.2.1 The Supplier hereby grants to the Authority, or shall procure the direct grant to the Authority of, a perpetual, royalty-free, irrevocable, non-exclusive licence to use:

- (a) the Documentation, Source Code and the object code of the Specially Written Software (including any Supplier Background IPR or Third Party IPR that are embedded in or which are an integral part of the Specially Written Software) which shall include the right to load, execute, interpret, store, transmit, display, copy (for the purposes of loading, execution, interpretation, storage, transmission or display), modify, adapt, enhance, reverse compile, decode and translate such Specially Written Software;
- (b) all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software (together the **Software Supporting Materials**); and
- (c) the Project Specific IPR including but not limited to the right to copy, adapt, publish (including on the ICT Environment) and distribute such Project Specific IPR.

18.2.2 The Supplier shall:

- (a) inform the Authority of all Specially Written Software that constitutes a modification or enhancement to Supplier Software or Third Party Software; and
- (b) deliver to the Authority the Specially Written Software in both Source Code and object code forms together with relevant Documentation and all related Software Supporting Materials 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 the Source Code and of the Software Supporting Materials promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Authority.

18.2.3 The Supplier acknowledges and agrees that the ownership of the media referred to in Clause 18.2.2(b) shall vest in the Authority upon their receipt by the Authority.

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18.3 Licences granted by the Supplier: Supplier Software and Supplier Background IPR

- 18.3.1 The Supplier hereby grants to the Authority a perpetual, royalty-free and non-exclusive licence to use:
- (a) the Supplier Software for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or, if the Authority is a Central Government Body, any other Central Government Body's) business or function including but not limited to the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display); and
 - (b) the Supplier Background IPR for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to as part of the exercise of the Authority's (or, if the Authority is a Central Government Body, any other Central Government Body's) business or function.
- 18.3.2 At any time during the Term or following the Expiry Date, the Supplier may terminate a licence granted in respect of the Supplier Software or the Supplier Background IPR under Clause 18.3.1 by giving thirty (30) days' notice in writing (or such other period as agreed by the Parties) if the Authority materially breaches Clauses 18.3.1(a) or 18.3.1(b) (as the case may be) which, if the breach is capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Authority written notice specifying the breach and requiring its remedy.
- 18.3.3 In the event the licence of the Supplier Software or the Supplier Background IPR is terminated pursuant to Clause 18.3.2), the Authority shall:
- (a) immediately cease all use of the Supplier Software or the Supplier Background IPR (as the case may be);
 - (b) at the discretion of the Supplier, return or destroy documents and other tangible materials that contain any of the Supplier Software and/or the Supplier Background IPR, provided that if the Supplier has not made an election within six (6) months of the termination of the licence, the Authority may destroy the documents and other tangible materials that contain any of the Supplier Software and/or the Supplier Background IPR (as the case may be); and
 - (c) ensure, so far as reasonably practicable, that any Supplier Software and/or Supplier Background IPR that are held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Authority) from any computer, word processor, voicemail system or any other device containing such Supplier Software and/or Supplier Background IPR.

18.4 Authority's right to sub-license

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18.4.1 The Authority shall be freely entitled to sub-license the rights granted to it pursuant to Clause 18.2.1 (Licences granted by the Supplier: Specially Written Software and Project Specific IPR).

18.4.2 The Authority may sub-license:

(a) the rights granted under Clause 18.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) to a third Party (Including for the avoidance of doubt, any Replacement Supplier) provided that:

- (i) the sub-licence is on terms no broader than those granted to the Authority; and
- (ii) the sub-licence only authorises the third Party to use the rights licensed in Clause 18.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) for purposes relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or, if the Authority is a Central Government Body, any other Central Government Body's) business or function.

18.5 Authority's right to assign/novate licences

18.5.1 The Authority:

(a) shall be freely entitled to assign, novate or otherwise transfer its rights and obligations under the licence granted to it pursuant to Clause 18.2.1 (Licences granted by the Supplier: Specially Written Software and Project Specific IPR); and

(b) may assign, novate or otherwise transfer its rights and obligations under the licence granted pursuant to Clause 18.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) to:

- (i) a Central Government Body; or
- (ii) to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Authority.

(c) Where the Authority is a Central Government Body, any change in the legal status of the Authority which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in Clause 18.2.1 (Licences granted by the Supplier: Specially Written Software and Project Specific IPR) and/or Clause 18.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR). If the Authority ceases to be a Central Government Body, the successor body to the Authority shall still be entitled to the benefit of the licences granted in Clause 18.2.1 (Licences granted by the Supplier: Specially Written Software and Project Specific IPR) and Clause 18.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR).

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- (d) If a licence granted in Clause 18.2.1 (Licences granted by the Supplier: Specially Written Software and Project Specific IPR) and/or Clause 18.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) is novated under Clause 18.5.1(b) or there is a change of the Authority's status pursuant to Clause 18.5.1(c) (both such bodies being referred to as the **Transferee**), the rights acquired by the Transferee shall not extend beyond those previously enjoyed by the Authority.

18.6 Third Party IPR and Third Party Software

18.6.1 The Supplier shall procure that the owners or the authorised licensors of any Third Party IPR and any Third Party Software which is not commercial off-the-shelf software grant a direct licence to the Authority on terms at least equivalent to those set out in Clause 18.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) and Clause 18.5.1(b) (Authority's right to assign/novate licences). If the Supplier cannot obtain for the Authority a licence materially in accordance with the licence terms set out in Clause 18.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) and Clause 18.5.1(b) (Authority's right to assign/novate licences) in respect of any such Third Party IPR and/or Third Party Software, the Supplier shall:

- (a) notify the Authority in writing giving details of what licence terms can be obtained from the relevant third party and whether there are alternative software providers which the Supplier could seek to use; and
- (b) only use such Third Party IPR and/or Third Party Software if the Authority Approves the terms of the licence from the relevant third party.

18.6.2 The Supplier shall procure that the owners or the authorised licensors of any Third Party Software which is commercial off-the-shelf software grants a direct licence to the Authority on terms no less favourable than such software is usually made available.

18.7 Licence granted by the Authority

18.7.1 The Authority hereby grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Term to use the Authority Software, the Authority Background IPR and the Authority Data solely to the extent necessary for providing the Services in accordance with this Contract, including (but not limited to) the right to grant sub-licences to Sub-Contractors provided that:

- (a) any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier; and
- (b) the Supplier shall not without Approval use the licensed materials for any other purpose or for the benefit of any person other than the Authority.

18.8 Termination of licenses

18.8.1 Subject to Clauses 18.3.2 and/or 18.3.3 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR), all licences

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granted pursuant to this Clause 18 (Intellectual Property Rights) (other than those granted pursuant to Clause 18.6.2 (Third Party IPR and Third Party Software) and 18.7.1 (Licence granted by the Authority)) shall survive the Expiry Date.

- 18.8.2 The Supplier shall, if requested by the Authority, grant (or procure the grant) to the Replacement Supplier of a licence to use any Supplier Software, Supplier Background IPR, Third Party IPR and/or Third Party Software on terms equivalent to those set out in Clause 18.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) subject to the Replacement Supplier entering into reasonable confidentiality undertakings with the Supplier.
- 18.8.3 The licence granted pursuant to Clause 18.7.1 (Licence granted by the Authority) and any sub-licence granted by the Supplier in accordance with Clause 18.7.1 (Licence granted by the Authority) shall terminate automatically on the Expiry Date and the Supplier shall:
- (a) immediately cease all use of the Authority Software, the Authority Background IPR and the Authority Data (as the case may be);
 - (b) at the discretion of the Authority, return or destroy documents and other tangible materials that contain any of the Authority Software, the Authority Background IPR and the Authority Data, provided that if the Authority has not made an election within six months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Authority Software, the Authority Background IPR and the Authority Data (as the case may be); and
 - (c) ensure, so far as reasonably practicable, that any Authority Software, Authority Background IPR and Authority Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier containing such Authority Software, Authority Background IPR and/or Authority Data.

18.9 IPR Indemnity

- 18.9.1 The Supplier shall during and after the Term, on written demand indemnify the Authority against all Losses incurred by, awarded against or agreed to be paid by the Authority (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from any claim for, or allegations of, infringement which may give rise to a claim (IPR Claim).
- 18.9.2 If an IPR Claim is made, or the Supplier anticipates that an IPR Claim might be made, the Supplier may, at its own expense and sole option, either:
- (a) procure for the Authority the right to continue using the relevant item which is subject to the IPR Claim; or

- (b) replace or modify the relevant item with non-infringing substitutes provided that:
- (i) the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;
 - (ii) the replaced or modified item does not have an adverse effect on any other Services or the ICT Environment;
 - (iii) there is no additional cost to the Authority; and
 - (iv) the terms and conditions of this Contract shall apply to the replaced or modified Services.
- 18.9.3 If the Supplier elects to procure a licence in accordance with Clause 18.9.2(a) or to modify or replace an item pursuant to Clause 18.9.2(b), but this has not avoided or resolved the IPR Claim, then:
- (a) the Authority may terminate this Contract by written notice with immediate effect; and
 - (b) without prejudice to the indemnity set out in Clause 18.9.1, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute services including the additional costs of procuring, implementing and maintaining the substitute items.
- 18.9.4 The provisions of Clauses 18.9.1 to 18.9.3 (inclusive) shall not apply to the extent that any IPR Claim is caused by any use by or on behalf of the Authority of the Software, or the use of the Authority Software by or on behalf of the Supplier, in either case in combination with any item not supplied or recommended by the Supplier pursuant to this Contract or in a manner not reasonably to be inferred from the description of the Services or the provisions of this Contract.
- 18.9.5 The Authority agrees that:
- (a) it will notify the Supplier in writing of any IPR Claim;
 - (b) it will allow the Supplier to conduct all negotiations and proceedings and will provide the Supplier with such reasonable assistance required by the Supplier, each at the Supplier's cost, regarding the IPR Claim; and
 - (c) it will not, without first consulting with the Supplier, agree to make any payment or make an admission relating to the IPR Claim.
- 18.9.6 The Supplier shall consider and defend the IPR Claim diligently using competent counsel and in such a way as not to bring the reputation of the Authority into disrepute. The Supplier shall not settle or compromise any IPR Claim without the Authority's Approval (not to be unreasonably withheld or delayed).

19 Acts by the Authority

Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done by any person authorised, either expressly or impliedly, by the Authority to take or do that decision, act or thing.

20 Service of Notices and Communications

Any notice or other communication that either Party gives under the Contract shall be made in writing and given either by hand, first class recorded postal delivery or facsimile transmission. Notice given by hand shall be effective immediately, notice given by recorded postal delivery shall be effective two Working Days after the date of posting, notice given by facsimile transmission shall be effective the Working Day after receipt by the notifying Party of a transmission slip showing that the transmission has succeeded.

21 Official Secrets

The Supplier's attention is drawn to the provisions of the Official Secrets Acts 1911 to 1989. The Supplier shall take all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed in connection with the Contract have notice that these statutory provisions apply to them and will continue so to apply after the expiry or earlier termination of the Contract.

22 Conflict of Interest

22.1 The Supplier shall ensure that there is no conflict of interest as to be likely to prejudice his independence and objectivity in performing the Contract and undertakes that upon becoming aware of any such conflict of interest during the performance of the Contract (whether the conflict existed before the award of the Contract or arises during its performance) he shall immediately notify the Authority in writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as the Authority may reasonably require.

22.2 Where the Authority is of the opinion that the conflict of interest notified to it under Clause 22.1 above is capable of being avoided or removed, the Authority may require the Supplier to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and:

22.2.1 if the Supplier fails to comply with the Authority's requirements in this respect; or

22.2.2 if, in the opinion of the Authority, it is not possible to remove the conflict,

the Authority may terminate the Contract immediately and recover from the Supplier the amount of any loss resulting from such termination.

22.3 Notwithstanding Clause 22.2, where the Authority is of the opinion that the conflict of interest which existed at the time of the award of the Contract could have been discovered with the application by the Supplier of due diligence and ought to have been disclosed as required by the tender documents pertaining to it, the Authority may terminate the Contract immediately for breach of a fundamental condition and, without prejudice to any other rights, recover from the Supplier the amount of any loss resulting from such termination.

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23 Amendments and Variations

- 23.1 No amendment or variation to the terms of this Contract shall be valid unless previously agreed in writing between the Authority and the Supplier in accordance with this Clause 23.
- 23.2 If at any time the Authority wishes to alter all or any part of the Services and/or Deliverables then the Authority shall provide the Supplier with written particulars of such alterations and with such further information as the Supplier may reasonably require in connection with such proposed alterations.
- 23.3 The Supplier shall without delay submit to the Authority a full written quotation for such alterations specifying what alterations (if any) will be required to be made the Contract Charges and/or the information set out in the Schedules. The Supplier shall not be entitled to make any charges related to the preparation of quotations.
- 23.4 Upon receipt of such quotation the Authority may elect either:
- 23.4.1 to accept such quotation, in which case this Contract shall be amended in accordance therewith; or
 - 23.4.2 to withdraw the proposed alterations in which case the benchmarking process set out in Clause 24 shall apply. If the benchmarking process set out at Clause 24 has been applied but the quotation is nevertheless not accepted by the Authority this Contract shall continue in force unchanged.
- 23.5 If the Authority's request for such alterations is subsequently withdrawn but results in a delay in the performance of the Services then the Supplier shall not be liable for such delay and shall be entitled to an extension of time for performing its obligations equal to the period of the delay.
- 23.6 The Supplier shall not be obliged to consider or make any alterations to the Services and/or Deliverables save in accordance with the procedure set out in Clauses 23.2 to 23.4. Pending acceptance of the quotation or withdrawal of the proposed alterations, both Parties shall remain bound to comply with their obligations under the latest agreed version of this Contract.
- 23.7 If any alterations are made to the Services and/or Deliverables pursuant to this Clause 23 then the Supplier shall make appropriate modifications to the relevant information set out in the Schedules. The provisions of this Contract shall then apply to the relevant information set out in the Schedules as so modified. The cost of such modifications shall be included in the quotation given under this Clause 23.
- 23.8 Any variation to the terms of this Contract must be recorded in writing and executed by an authorised signatory of the Supplier and an authorised signatory of the Authority. Such record of the variation in question must address all consequential amendments required to be made to this Contract as a result of such variation.
- 23.9 Any variation in the Contract Charges payable under this Contract shall be made subject to Clause 24 (Benchmarking).
- 23.10 Each record of variation must be dated and sequentially numbered. Each of the Authority and the Supplier will be entitled to an original executed counterpart of the record of variation. Variations will take effect as from the date specified in the signed

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record of variation and shall not have retrospective effect unless expressly provided for in such record.

- 23.11 Save as provided in any such record of variation, this Contract will continue in full force and effect.

24 Benchmarking

- 24.1 Upon receipt of a quotation pursuant to Clause 23.3 the Parties shall discuss such quotation and seek to agree variations to the terms of this Contract to accommodate such quotation and shall apply the provisions of this Clause 24.
- 24.2 If the Parties fail to reach agreement of a variation to the terms of this Contract within 10 Working Days of receipt of a quotation pursuant to Clause 23.3 the Parties each agree to independently benchmark the Contract Charges and level of performance by the Supplier of the supply of the Services against other suppliers providing services substantially the same as the Services during the Term.
- 24.3 Both Parties shall use reasonable endeavours and act in good faith to supply information to the other Party in order to undertake the benchmarking. The nature of such information requirements shall be determined at the discretion of the Authority.
- 24.4 Following completion of the benchmarking process within a period of time determined by the Authority both Parties will summarise their independent benchmarking position in writing and both summaries will be sent to a senior Director of the Supplier and to the Director General Corporate Services, BEIS, following which within 5 Working Days each Party will issue a written direction on settling any dispute.
- 24.5 If, having applied the process set out in Clause 24.4, the Parties fail to settle a dispute the Parties shall apply the mediation process set out in Clause 16.4 to resolve such dispute.
- 24.6 Where, as a consequence of any benchmarking carried out by the Authority, the Authority and the Supplier decide improvements to the Services should be implemented, such improvements shall be implemented by way of the Variation Procedure at no additional cost to the Authority.

25 Assignment

- 25.1 The Supplier shall not give, bargain, sell, assign, sub-contract or otherwise dispose of the Contract or any part thereof without the previous agreement in writing of the Authority.
- 25.2 The Authority shall be entitled to assign any or all of its rights under the Contract to any contracting authority as defined in the Regulations, provided that such assignment shall not materially increase the burden of the Supplier's obligations under the Contract.
- 25.3 Where the Authority notifies the Supplier that it estimates the Contract Charges payable under this Contract are due to exceed £4 million in one or more Contract Years the Supplier shall:
- 25.3.1 subject to Clause 25.6, advertise on Contracts Finder all subcontract opportunities arising from or in connection with the provision of the

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Services above a minimum threshold of £25,000 that arise during the Term;

- 25.3.2 within 90 days of awarding a subcontract to a subcontractor, update the notice on Contracts Finder with details of the successful subcontractor;
 - 25.3.3 monitor the number, type and value of the subcontract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Term;
 - 25.3.4 provide reports on the information in Clause 25.3.3 to the Authority in the format and frequency as reasonably specified by the Authority; and
 - 25.3.5 promote Contracts Finder to its Suppliers and encourage those organisations to register on Contracts Finder.
- 25.4 Each advert referred to in Clause 25.3.1 above shall provide a full and detailed description of the subcontract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 25.5 The obligation in Clause 25.3.1 shall only apply in respect of subcontract opportunities arising after the contract award date.
- 25.6 Notwithstanding Clause 25.3, the Authority may, by giving its prior written approval, agree that a subcontract opportunity is not required to be advertised on Contracts Finder.

26 Rights of Third Parties

It is not intended that the Contract, either expressly or by implication, shall confer any benefit on any person who is not a party to the Contract and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.

27 Government Property

- 27.1 All Government Property shall remain the property of the Authority and shall be used in the execution of the Contract and for no other purpose whatsoever except with the prior agreement in writing of the Authority.
- 27.2 All Government Property shall be deemed to be in good condition when received by or on behalf of the Supplier unless he notifies the Authority to the contrary within 14 days or such other time as is specified in the Contract.
- 27.3 The Supplier undertakes to return any and all Government Property on completion of the Contract or on any earlier request by the Authority.
- 27.4 The Supplier shall, except as otherwise provided for in the Contract, repair or replace or, at the option of the Authority, pay compensation for all loss, destruction or damage occurring to any Government Property caused or sustained by the Supplier, or by his servants, agents or sub-contractors, whether or not arising from his or their performance of the Contract and wherever occurring, provided that if the loss, destruction or damage occurs at the Authority's Premises or any other Government premises, this Clause shall not apply to the extent that the Supplier is able to show that any such loss, destruction or damage was not caused or contributed to by his

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negligence or default or the neglect or default of his servants, agents, or sub-contractors.

- 27.5 Where the Government Property comprises data issued in electronic form to the Supplier (including Personal Data) the Supplier shall not store, copy, disclose or use such electronic data except as necessary for the performance by the Supplier of its obligations under the Contract (including its obligation to back up electronic data as provided in Clause 27.6 below) or as otherwise expressly authorised in writing by the Authority.
- 27.6 The Supplier shall perform secure backups of all such electronic data in its possession and shall ensure that an up to date back up copy is securely stored at a site other than that where any original copies of such electronic data are being stored.
- 27.7 The Supplier shall, and shall procure that its sub-contractors, agents and personnel, shall observe best practice when handling or in possession of any such electronic data. By way of example if the Supplier removes any such data or information from a Government establishment, or is sent such data or information by the Authority it shall ensure that the data and any equipment on which it is stored or is otherwise being processed is kept secure at all times. The Supplier shall impress on any of its Sub-Contractors, agents and personnel who are required to handle or have possession of such electronic data that they must safeguard it all times, and shall not place it in jeopardy for example by leaving it unattended in a vehicle or on public transport or by transmitting or posting it by insecure means.
- 27.8 If at any time the Supplier suspects or has reason to believe that such electronic data has or may become corrupted, lost, destroyed, altered (other than to the extent that the Supplier alters it by lawful processing in accordance with its obligations under this contract) or so degraded as a result of the Supplier's default so as to be unusable then the Supplier shall notify the Authority immediately and inform the Authority of the remedial action the Supplier proposes to take.
- 27.9 The Supplier shall indemnify the Authority against all claims and proceedings, and all costs and expenses incurred in connection therewith arising from the corruption, loss, destruction, alteration (other than by lawful processing permitted by this Contract) or degradation of electronic data which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Supplier or sub-contractors, agents and personnel and hold it harmless against all costs, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in such corruption, loss or degradation.
- 27.10 Malicious Software
- 27.10.1 The Supplier shall, as an enduring obligation throughout the Term use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software (or as otherwise agreed between the Parties).

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- 27.10.2 The Supplier shall, as an enduring obligation throughout the Term, ensure that the Software (including Upgrades, Updates and New Releases), is free from any and all Malicious Software.
- 27.10.3 Any cost arising out of the actions of the Parties taken to mitigate and reduce the effect of any Malicious Software and to restore provision of the Services shall be borne by the Parties as follows:
- (a) by the Supplier, where the Malicious Software originates from the Supplier Software, the Third Party Software supplied by the Supplier (except where the Authority has waived the obligation set out in Clause 27.10.1) or the Authority Data (whilst the Authority Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Authority when provided to the Supplier; and
 - (b) by the Authority if the Malicious Software originates from the Authority Software (in respect of which the Authority has waived its obligation set out in Clause 27.10.1) or the Authority Data (whilst the Authority Data was under the control of the Authority).
- 27.10.4 The Supplier shall indemnify the Authority against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of the Supplier's obligations pursuant to Clause 27.10.2, provided that any such infringement or alleged infringement is not knowingly caused by, or contributed to, by any act of the Authority.

27.11 Protection of Authority Data

- 27.11.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- 27.11.2 The Supplier shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise Approved by the Authority.
- 27.11.3 To the extent that the Authority Data is held and/or Processed by the Supplier, the Supplier shall supply that Authority Data to the Authority as requested by the Authority and in the format (if any) specified in this Contract and in any event as specified by the Authority from time to time in writing.
- 27.11.4 The Supplier shall take responsibility for preserving the integrity of Authority Data and preventing the corruption or loss of Authority Data.
- 27.11.5 The Supplier shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored off-site at an Approved location in accordance with any BCDR Plan or otherwise. The Supplier shall ensure that such back-ups are available to the Authority (or to such other person as the Authority may direct) at all times upon request and

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are delivered to the Authority at no less than six (6) Monthly intervals (or such other intervals as may be agreed in writing between the Parties).

- 27.11.6 The Supplier shall ensure that any system on which the Supplier holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy and any security management plan in place from time to time.
- 27.11.7 If at any time the Supplier suspects or has reason to believe that the Authority Data is corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Authority immediately and inform the Authority of the remedial action the Supplier proposes to take.
- 27.11.8 If the Authority Data is corrupted, lost or sufficiently degraded as a result of a Default so as to be unusable, the Supplier may:
 - (a) require the Supplier (at the Supplier's expense) to restore or procure the restoration of Authority Data to the extent and in accordance with the requirements specified in Schedule 5 (Business Continuity and Disaster Recovery) where used, or as otherwise required by the Authority, and the Supplier shall do so as soon as practicable but not later than five (5) Working Days from the date of receipt of the Authority's notice; and/or
 - (b) itself restore or procure the restoration of Authority Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in Schedule 5 (Business Continuity and Disaster Recovery) where used, or as otherwise required by the Authority.

28 Data Protection

- 28.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Data Controller and the Supplier is the Data Processor.
- 28.2 The Supplier shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- 28.3 The Supplier shall provide all reasonable assistance to the Authority in the preparation of any Data Protection impact assessment prior to commencing any Processing. Such assistance may, at the discretion of the Authority, include:
 - 28.3.1 a systematic description of the envisaged Processing operations and the purpose of the Processing;
 - 28.3.2 an assessment of the necessity and proportionality of the Processing operations in relation to the Services;
 - 28.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 28.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

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28.4 The Supplier shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:

28.4.1 Process that Personal Data only in accordance with Data Protection Legislation, unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Authority before Processing the Personal Data unless prohibited by Law;

28.4.2 ensure that it has in place Protective Measures, which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:

- (a) nature of the data to be protected;
- (b) harm that might result from a Data Loss Event;
- (c) state of technological development; and
- (d) cost of implementing any measures;

The review and approval of the Protective Measures by the Authority shall not relieve the Supplier of its obligations under Data Protection Legislation, and the Supplier acknowledges that it is solely responsible for determining whether such Protective Measures are sufficient for it to have met its obligations under the Data Protection Legislation.

28.4.3 ensure that:

- (a) the Supplier Personnel do not Process Personal Data except in accordance with this Contract;
- (b) it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Supplier's duties under this Clause;
 - (ii) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-Processor;
 - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Contract; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data.

28.4.4 do not transfer Personal Data outside of the European Union unless the prior written consent of the Authority has been obtained and provided the following conditions are fulfilled:

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- (a) the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Authority;
- (b) the Data Subject has enforceable rights and effective legal remedies;
- (c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
- (d) the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the Processing of the Personal Data.

28.5 Subject to Clause 28.6, the Supplier shall notify the Authority immediately if it:

- 28.5.1 receives a Data Subject Request (or purported Data Subject Request);
- 28.5.2 receives a request to rectify, block or erase any Personal Data;
- 28.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- 28.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract;
- 28.5.5 receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- 28.5.6 becomes aware of a Data Loss Event.

28.6 The Supplier's obligation to notify under Clause 28.5 shall include the provision of further information to the Authority in phases, as details become available.

28.7 Taking into account the nature of the Processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 28.5 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

- 28.7.1 the Authority with full details and copies of the complaint, communication or request;
- 28.7.2 such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
- 28.7.3 the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
- 28.7.4 assistance as requested by the Authority following any Data Loss Event;

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- 28.7.5 assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.
- 28.8 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
- 28.8.1 the Authority determines that the Processing is not occasional;
 - 28.8.2 the Authority determines the Processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - 28.8.3 the Authority determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 28.9 The Supplier shall allow for audits of its Processing activity by the Authority or the Authority's designated auditor.
- 28.10 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 28.11 Before allowing any Sub-Processor to Process any Personal Data related to this Contract, the Supplier must:
- 28.11.1 notify the Authority in writing of the intended Sub-Processor;
 - 28.11.2 obtain the written consent of the Authority;
 - 28.11.3 enter into a written Contract with the Sub-Processor which give effect to the terms set out in this Clause 28 such that they apply to the Sub-Processor; and
 - 28.11.4 provide the Authority with such information regarding the Sub-Processor as the Authority may reasonably require.
- 28.12 The Supplier shall remain fully liable for all acts or omissions of any Sub-Processor.
- 28.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office in respect of the Data Protection Legislation that is applicable to this Contract and shall make such variations to this Contract as the Authority may reasonably require to give effect to such guidance.
- 28.14 If the Supplier fails to comply with any provision of this Clause 28, the Authority may terminate the Contract immediately.
- 28.15 The Supplier shall indemnify the Authority against all claims and proceedings, and all costs and expenses incurred in connection therewith, made or brought against the Authority by any person in respect of the Data Protection Legislation or equivalent applicable legislation in any other country which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Supplier, its sub-contractors and Sub-Processors and hold it harmless against all costs, fines, losses and liability whatsoever incurred by it arising out of any action or inaction on

its part in relation to any of its obligations as set out in this Contract which results in the Authority being in breach of its obligations under the Data Protection Legislation or equivalent applicable legislation in any other country.

28.16 Upon expiry of this Contract or termination of this Contract for whatever reason, the Supplier shall, unless notified otherwise by the Authority or required by law, immediately cease any Processing of the Personal Data on the Authority's behalf and as required by the Authority:

28.16.1 provide the Authority with a complete and uncorrupted version of the Personal Data in electronic form (or such other format as reasonably required by the Authority); and

28.16.2 erase from any computers, storage devices and storage media that are to be retained by the Supplier after the expiry of the Contract. The Supplier will certify to the Authority that it has completed such deletion.

28.17 Where Processing of the Personal Data continues after the expiry or termination of this Contract, notified otherwise by the Authority or required by law, the Supplier shall comply with the provisions of this Clause 28 for as long as the Supplier continues to Process the Personal Data and such provisions shall survive the expiry or termination of this Contract.

28.18 Where the Supplier is required to collect any Personal Data on behalf of the Authority, it shall ensure that it provides the data subjects from whom the Personal Data are collected with a privacy notice in a form to be agreed with the Authority.

29 Invoices and Payment

29.1 In consideration of the Supplier carrying out its obligations under this Contract, including the provision of the Services, the Authority shall pay the undisputed Contract Charges in accordance with this Clause 29.

29.2 The Supplier shall submit invoices at times or intervals agreed by the Authority in writing. The Supplier shall ensure that any invoice it submits sets out the Authority's purchase order or contract number, the Contract Charges and, where not all of the Services have been completed, the relevant part of the Contract Charges with an appropriate breakdown of time worked, the part of the Services (if all the Services have not been completed) and period to which the invoice relates, and its confirmation that the Services (or relevant part of the Services referred to on the invoice) have been fully performed.

29.3 In consideration of the provision of the Services by the Supplier, the Authority shall pay the undisputed Contract Charges after receiving a correctly submitted invoice as set out in Clause 29.2. Such payment shall normally be made within 30 days of receipt of the correctly submitted invoice.

29.4 The Supplier shall not be entitled to charge for the provision of any services that are not part of the Services agreed within the Contract, unless the Contract has been properly varied in advance in accordance with the Variation Procedure.

29.5 The Authority may reduce payment in respect of any Services that the Supplier has either failed to provide or has provided inadequately, without prejudice to any other rights or remedies of the Authority.

29.6 If the Supplier believes that payment for a correctly submitted invoice is overdue, he should, in the first instance, speak to the named contact on the face of the Contract. In the event that the problem is not resolved to his satisfaction, he should write to the Head of Procurement at the Department for Business, Energy and Industrial Strategy setting out his case. The Head of Procurement shall ensure that the complaint is dealt with by an official who is independent of the main contact and that the Supplier is not treated adversely in future for having made a complaint.

29.7 For the purpose of calculating any statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998, the relevant date for the payment of the debt shall be deemed to be the last day of a period of 30 days commencing on the day when the Authority received the invoice, or, if the Supplier had not completed the Services (or the part of the Services to which the invoice relates) before submitting the invoice, the last day of a period of 30 days commencing on the day when the Supplier completed the Services, (or the part of the Services to which the invoice relates).

30 Accounts

30.1 The Supplier shall keep full and proper accounts, records and vouchers relating to all expenditure reimbursed by the Authority and all payments made by the Authority in respect of the Services.

30.2 The Supplier shall permit the Authority acting by its officers, servants and agents or independent auditor on request and at all reasonable times to examine all accounts, records and vouchers at the offices of the Supplier or at such other places as the Authority shall direct, and to take copies of such accounts, records and vouchers and the Supplier shall provide the Authority or its independent auditor with such explanations relating to that expenditure as the Authority may request.

30.3 The Supplier shall ensure that the said accounts, records and vouchers are available for a period of six years after termination or expiry of the Contract.

31 Recovery of Sums Due

31.1 Whenever under the Contract any sum of money shall be recoverable from or payable by the Supplier, such sum may be deducted from any amount then due, or which at any time thereafter may become due, to the Supplier under this Contract or any other agreement or arrangement with the Authority or with any other department or office of Her Majesty's Government.

31.2 Any over-payment by the Authority to the Supplier whether in respect of the Contract Charges or Value Added Tax shall be a sum of money recoverable from the Supplier pursuant to Clause 31.1 above or otherwise.

32 Value Added Tax

32.1 The Authority shall pay to the Supplier, in addition to the Contract Charges, a sum equal to the Value Added Tax chargeable on the value of the Services provided in accordance with the Contract.

32.2 Any invoice or other request for payment of monies due to the Supplier under the Contract shall, if he is a taxable person, be in the same form and contain the same

Information as if the same were a tax invoice for the purposes of regulations made under the Value Added Tax Act 1994.

- 32.3 The Supplier shall, if so requested by the Authority, furnish such information as may reasonably be required by the Authority relating to the amount of Value Added Tax chargeable on the Services.

33 Authority termination rights

33.1 Termination on material Default

33.1.1 The Authority may terminate this Contract by issuing a notice to terminate to the Supplier where:

- (a) the Supplier fails to Achieve a Milestone with a delay of 2 Months or more;
- (b) the Supplier commits a Critical Service Level Failure;
- (c) a statement inducing the Authority to enter into the Contract given by the Supplier is materially untrue or misleading, and the Supplier fails to provide details of proposed mitigating factors which in the reasonable opinion of the Authority are acceptable;
- (d) the Authority expressly reserves the right to terminate this Contract for material Default;
- (e) the Supplier commits any material Default of this Contract which is not, in the reasonable opinion of the Authority, capable of remedy; and/or
- (f) the Supplier commits a Default, including a material Default, which in the opinion of the Authority is remediable within 14 days but has not remedied such Default to the satisfaction of the Authority within 14 days;

33.1.2 For the purpose of Clause 33.1.1, a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default.

33.2 Termination in Relation to Financial Standing

33.2.1 The Authority may terminate this Contract by issuing a notice to terminate to the Supplier where in the reasonable opinion of the Authority there is a material detrimental change in the financial standing and/or the credit rating of the Supplier which:

- (a) adversely impacts on the Supplier's ability to supply the Services under this Contract; or
- (b) could reasonably be expected to have an adverse impact on the Suppliers ability to supply the Services under this Contract.

33.3 Termination on Insolvency

33.3.1 The Authority may terminate this Contract by issuing a notice to terminate to the Supplier where an Insolvency Event affecting the Supplier occurs.

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33.4 Termination on Change of Control

33.4.1 The Supplier shall notify the Authority immediately in writing and as soon as the Supplier is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control and provided such notification does not contravene any Law.

33.4.2 The Supplier shall ensure that any notification made pursuant to Clause 33.4.1 shall set out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.

33.4.3 The Authority may terminate this Contract under Clause 33.4 by issuing a notice to terminate to the Supplier within six (6) Months of:

(a) being notified in writing that a Change of Control is anticipated or in contemplation or has occurred; or

(b) where no notification has been made, the date that the Authority becomes aware that a Change of Control is anticipated or is in contemplation or has occurred,

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

33.5 Termination for breach of Regulations

33.5.1 The Authority may terminate this Contract by issuing a notice to terminate to the Supplier on the occurrence of any of the statutory provisos contained in Regulation 73 (1) (a) to (c).

33.5.2 The Authority may terminate this Contract by issuing a notice to terminate to the Supplier in the event that the Supplier has indulged or attempted to indulge in any collusion with any organisation and/or any member of the Authority prior to entering into this Contract.

33.6 Termination of the Development Services Without Cause

33.6.1 The Authority shall have the right to terminate the provision of the Development Services at any time by issuing a notice to terminate to the Supplier giving written notice of at least fifteen (15) Working Days.

33.6.2 Following receipt of a notice to terminate issued pursuant to Clause 33.6.1 the Authority may elect at its sole discretion and shall notify the Supplier in writing accordingly to either: (i) require the Supplier to continue to provide the Development Services until the completion of the then-current Milestone (or such element of the Development Services as may be required by the Authority); or (ii) to require the Supplier to suspend the provision of the Development Services on a specific date prior to the completion of the then-current Milestone.

33.6.3 If the Authority requires the Supplier to continue to provide the Development Services until the completion of the then-current Milestone pursuant to Clause 33.6.2 any charges applicable to the continued provision of the Development Services shall be agreed in writing between the Parties in advance.

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33.6.4 If the Authority requires the Supplier to cease the provision of the Development Services prior to the end of the then-current Milestone pursuant to Clause 33.6.2 it shall pay the Contract Charges applicable to the relevant period that the Development Services are provided in accordance with Clause 29.2.

34 Consequences of expiry or termination

34.1 Consequences of termination under Clauses 33.1 (Termination on Material Default) and 33.2 (Termination in Relation to Financial Standing)

34.1.1 Where the Authority:

- (a) terminates (in whole or in part) this Contract under any of the Clauses referred to in this Clause 34.1; and
- (b) then makes other arrangements for the supply of the Services,

the Authority may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Term provided that Authority shall take all reasonable steps to mitigate such additional expenditure. No further payments shall be payable by the Authority to the Supplier until the Authority has established the final cost of making those other arrangements.

34.2 Consequences of termination under Clause 33.6 (Termination without Cause)

34.2.1 Subject to Clause 34.3, where the Authority terminates (in whole or in part) this Contract under Clause 33.6 (Termination without Cause) the Authority shall reimburse the Supplier against any reasonable and proven Loss which would otherwise represent an unavoidable loss by the Supplier by reason of the termination of this Contract, provided that the Supplier takes all reasonable steps to mitigate such Loss. The Supplier shall submit a fully itemised and costed list of such Loss, with supporting evidence including such further evidence as the Authority may require, reasonably and actually incurred by the Supplier as a result of termination under Clause 33.6 (Termination without Cause).

34.2.2 The Authority shall not be liable under Clause 34.2.1 to pay any sum which:

- (a) was claimable under insurance held by the Supplier, and the Supplier has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
- (b) when added to any sums paid or due to the Supplier under this Contract, exceeds the total sum that would have been payable to the Supplier if this Contract had not been terminated.

34.3 Save as otherwise expressly provided in this Contract, termination or expiry of this Contract shall be without prejudice to any rights, remedies or obligations accrued under this Contract prior to termination or expiration and nothing in this Contract shall prejudice the right of either Party to recover any amount outstanding at the time of such termination or expiry.

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- 34.4 Upon termination or expiry (as the case may be) of this Contract the Supplier shall:
- 34.4.1 cease to use the Authority Data;
 - 34.4.2 provide the Authority and/or any Replacement Supplier with a complete and uncorrupted version of the Authority Data in electronic form (or such other format as reasonably required by the Authority);
 - 34.4.3 erase from any computers, storage devices and storage media that are to be retained by the Supplier all Authority Data and promptly certify to the Authority that it has completed such deletion;
 - 34.4.4 return to the Authority such of the following as is in the Supplier's possession or control:
 - (a) all copies of the Authority Software and any other software licensed by the Authority to the Supplier under this Contract;
 - (b) all materials created by the Supplier under this Contract in which the IPRs are owned by the Authority;
 - (c) any parts of the ICT Environment and any other equipment which belongs to the Authority; and
 - 34.4.5 vacate any Authority Premises;
 - 34.4.6 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Services and 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 and/or any Supplier Personnel;
 - 34.4.7 provide access during normal working hours to the Authority and/or any Replacement Supplier for up to twelve (12) months after expiry or termination to such information relating to the Services as remains in the possession or control of the Supplier.
- 34.5 Termination of this Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Supplier under Clauses 14 (Indemnities and Insurance), 15 (Dispute Resolution), 18 (Intellectual Property Rights), 26 (Rights of Third Parties), 28 (Data Protection), 44 (Entire Agreement), 46 (Severability), 47 (Confidentiality), 48(Freedom of Information), 49 (Law and Jurisdiction) and the provisions of Schedule 2 (Contract Charges) and, without limitation to the foregoing, any other provision of this Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry shall survive the Expiry Date.
- 35 Transfer of Services**
- 35.1 Where the Authority intends to continue with services equivalent to any or all of the Services after termination or expiry of the Contract, either by performing them itself or by the appointment of a replacement contractor, the Supplier shall (both during the term of the Contract and, where relevant, after its expiry or termination):

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- 35.1.1 provide all information reasonably requested to allow the Authority to conduct the procurement for any replacement services; and
- 35.1.2 use all reasonable endeavours to ensure that the transition is undertaken with the minimum of disruption to the Authority.
- 35.2 Without prejudice to the generality of Clause 35.1, the Supplier shall, at times and intervals reasonably specified by the Authority, provide the Authority (for the benefit of the Authority, any replacement Supplier and any economic operator bidding to provide the replacement services) such information as the Authority may reasonably require relating to the application or potential application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 including the provision of employee liability information.
- 35.3 Without prejudice to the generality of Clause 35.1, the contractor shall co-operate fully during the transition period and provide full access to all data, documents, manuals, working instructions, reports and any information, whether held in electronic or written form, which the Authority reasonably considers necessary.
- 35.4 The Supplier shall indemnify the Authority, any Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities in respect of any Transferring Supplier Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
 - 35.4.1 any act or omission of the Supplier or any Sub-Contractor whether occurring before, on or after the Service Transfer Date;
 - 35.4.2 the breach or non-observance by the Supplier or any Sub-Contractor occurring on or before the Service Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
 - (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 35.4.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
 - 35.4.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date or, where such proceeding, claim or demand arises as a result of the failure by the Supplier or Sub-contractor to provide the information required under Paragraphs 35.1, 35.2 and 35.3, arising after the Service Transfer Date; and

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- (b) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Authority and/or Replacement Supplier and/or any Replacement Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before or after the Service Transfer Date;
- 35.4.5 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date or, where such liability arises as a result of the failure by the Supplier or Sub-Contractor to provide the information required under Paragraph 35.1, 35.2 and 35.3, arising after the Service Transfer Date;
- 35.4.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-Contractor other than a Transferring Supplier Employee for whom it is alleged the Authority and/or the Replacement Supplier and/or any Replacement Sub-Contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
- 35.4.7 any failure to provide or any inaccuracy in (as at the date on which it is provided) the Staffing Information;
- 35.4.8 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises solely from the failure by the Authority and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 35.5 If any person who is not listed on the Final Supplier's Personnel List and who claims, or is found to be, a Transferring Supplier Employee such that he or she has, or claims to have, rights against the Replacement Supplier or Replacement Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- 35.5.1 the Authority shall procure that the Replacement Supplier shall, or any Replacement Subcontractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
- 35.5.2 the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Subcontractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

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- 35.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-contractor, the Authority shall procure that the Replacement Supplier shall, or procure that the Replacement Subcontractor shall, immediately release or procure the release of the person from his/her employment or alleged employment and shall confirm their agreement to the same in writing.
- 35.7 If after the 15 Working Day period specified in Paragraph 35.5.2 has elapsed:
- 35.7.1 no such offer of employment has been made by the Supplier or the Sub-Contractor;
 - 35.7.2 such offer has been made by the Supplier or the Sub-Contractor but not accepted; or
 - 35.7.3 the situation has not otherwise been resolved,
- the Authority shall advise the Replacement Supplier and/or Replacement Subcontractor, as appropriate that it may within 10 Working Days give notice to terminate the employment or alleged employment of such person.
- 35.8 Subject to the Replacement Supplier and/or Replacement Subcontractor acting in accordance with the provisions of Paragraphs 35.5 to 35.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify any the Authority, Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the employment of such person from the Service Transfer Date and the termination pursuant to the provisions of Paragraph 35.6 provided that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities arising out of the termination of employment or alleged employment of such person.
- 36 Equality and non-discrimination**
- 36.1 The Supplier shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 and any other anti-discrimination legislation in relation to the provision of the Services or otherwise and shall take all reasonable steps to ensure that its staff, sub-contractors and agents do not do so.
- 36.2 The Supplier shall comply with the Authority's equality scheme as published on the Authority's website, and shall take all reasonable steps to ensure that its staff, sub-contractors and agents do so.
- 36.3 The Authority may (without prejudice to its other rights under the Contract) terminate the Contract with immediate effect by notice in writing where the Supplier fails (or the Supplier's staff, Sub-Contractors or agents fail) to comply with Clauses 36.1 and/or 36.2.
- 37 Sustainable Procurement**
- 37.1 The Supplier shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Services. Without prejudice to the generality of the foregoing, the Supplier shall promptly provide all such information regarding the environmental impact of the Services as may reasonably be requested by the Authority.

- 37.2 The Supplier shall meet all reasonable requests by the Authority for information evidencing compliance with the provisions of this Clause by the Supplier.
- 37.3 All written outputs, including reports, produced in connection with the Contract shall (unless otherwise specified) be produced on recycled paper containing at least 80% post-consumer waste and used on both sides where appropriate.

38 Compliance with Anti-Slavery and Human Trafficking Laws

- 38.1 In performing its obligations under the Contract, the Supplier shall:
- 38.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including the Modern Slavery Act 2015;
 - 38.1.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK;
 - 38.1.3 include in contracts with its Sub-Contractors provisions which are at least as onerous as those set out in this Clause 38;
 - 38.1.4 notify the Customer as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract; and
 - 38.1.5 maintain a complete set of records to trace the supply chain of all Services provided to the Authority in connection with this Contract and permit the Authority and its third party representatives to inspect the Supplier's premises, records, and to meet the Supplier's personnel to audit the Supplier's compliance with its obligations under this Clause 38.

39 Other Legislation

The Supplier shall, and shall procure that its sub-contractors, agents and personnel, comply with all other applicable law.

40 Supplier Status

Nothing in the Contract shall create or be construed as creating a partnership, joint venture, a contract of employment or relationship of employer and employee, or a relationship of principal and agent between the Authority and the Supplier.

41 Transparency

- 41.1 In order to comply with the Government's policy on transparency in the areas of procurement and contracts, the Authority will, subject to Clauses 41.2 and 41.3, publish the Contract and the tender documents issued by the Authority (including the Tender) which led to its creation on a designated web site.
- 41.2 The entire Contract and all the tender documents issued by the Authority (including the Tender) will be published on that web site save where the Authority, in its absolute discretion, considers that the relevant documents, or their contents, would be exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000.

- 41.3 Where the Authority considers that any such exemption applies, the Authority will redact the relevant documents to the extent that the Authority considers the redaction is necessary to remove or obscure the relevant material, and those documents will be published on the designated web site subject to those redactions.
- 41.4 Where the Parties later agree changes to the contract, the Authority will publish those changes, and will consider any redaction, on the same basis.
- 41.5 In Clause 41.1 the expression **tender documents** means the advertisement issued by the Authority seeking expressions of interest, the pre-qualification questionnaire and the invitation to tender and the contract includes the Supplier's proposal.
- 42 Monitoring and Management Information**
- 42.1 Where requested by the Authority, the Supplier shall supply to the Authority and/or to the Cabinet Office such information relating to the Services and to the Supplier's management and performance of the Contract as they may require.
- 42.2 The information referred to in Clause 42.1 may include, but is not limited to, the following: line item amount, invoice line description, invoice line number, currency code, order date, vat inclusion flag, VAT rate, list price, number of items, unit of purchase quantity, price per unit, supplier service code, service description and/or name, UNSPSC code, taxonomy code and/or name, geographical, project code, project description, project start date, project delivery date (estimate and actual), total project cost and project stage. The information may also, without limitation, include information relating to the capability of the Supplier (and any key sub-supplier) to continue to perform the Contract (including information on matters referred to in the Regulations).
- 42.3 The information referred to in Clause 42.1 shall be supplied in such form and within such timescales as the Authority or the Cabinet Office may reasonably require.
- 42.4 The Supplier agrees that the Authority may provide the Cabinet Office, any other government department or agency or any other person or entity referred to in Clause 43.2 (Information Confidential to the Supplier), with information obtained under this Clause 42 and any other information relating to the Services procured and any payments made under the Contract.
- 42.5 Upon receipt of the information supplied by the Supplier in response to a request under Clause 42.1 or receipt of information provided by the Authority to the Cabinet Office under Clause 42.4 the Supplier hereby consents to the Cabinet Office (acting through the Government Procurement Service):
- 42.5.1 storing and analysing the information and producing statistics; and
 - 42.5.2 sharing the information or any statistics produced using the information, with any person or entity referred to in Clause 43.2.
- 42.6 The Authority may make changes to the type of information which the Supplier is required to supply and shall give the Supplier at least one calendar month's written notice of any such changes.
- 42.7 Where the Authority notifies the Supplier that it estimates the Contract Charges payable under this Contract are due to exceed £5 million in one or more Contract

Years the Supplier agrees and acknowledges that it shall, in addition to any other management information requirements set out in this Contract, at no charge, provide such timely, full, accurate and complete SME management information (MI) reports to the Authority as the Authority shall require which incorporate the data described in the MI Reporting Template which is:

- 42.7.1 the total contract revenue received directly on a specific contract;
 - 42.7.2 the total value of sub-contracted revenues under the contract (including revenues for non-SMEs/non-VCSEs); and
 - 42.7.3 the total value of sub-contracted revenues to SMEs and VCSEs.
- 42.8 The SME management information reports referred to in Clause 42.7 shall be provided in the correct format as required by the MI Reporting Template and any guidance issued by the Authority from time to time. The Supplier shall use the initial MI Reporting Template and which may be changed from time to time (including the data required and/or format) by the Authority by issuing a replacement version. The Authority shall give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used.
- 42.9 The Supplier further agrees and acknowledges that it may not make any amendment to the current MI Reporting Template without the prior written approval of the Authority.
- 43 Information confidential to the Supplier**
- 43.1 Unless agreed expressly by both Parties in writing, in a confidentiality agreement identifying the relevant information, information obtained by the Authority from the Supplier shall not constitute Confidential Information relating to the Supplier.
- 43.2 Where any information held by the Authority does constitute confidential information relating to the Supplier, the Authority shall nonetheless have the right to disclose that information:
- 43.2.1 on a confidential basis to any other government department or agency for any proper purpose of the Authority or of that department or agency;
 - 43.2.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
 - 43.2.3 to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
 - 43.2.4 on a confidential basis to a professional adviser, consultant, Supplier or other person engaged by any of the entities described in Clause 43.2.1 (including any benchmarking organisation) for any purpose relating to or connected with the Contract or the Services;
 - 43.2.5 on a confidential basis for the purpose of the exercise of its rights under the Contract; or

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43.2.6 on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract.

43.3 For the purpose of Clause 42.2, references to disclosure on a confidential basis mean disclosure subject to a confidentiality agreement.

44 Entire Agreement

The Contract constitutes the entire agreement and understanding between the Parties and supersedes all prior written and oral representations, agreements or understandings between them relating to the subject matter of the Contract provided that neither Party excludes liability for fraudulent misrepresentations upon which the other Party has relied.

45 Waiver

45.1 The failure by either Party to exercise any right or remedy shall not constitute a waiver of that right or remedy.

45.2 No waiver shall be effective unless it is communicated to the other Party in writing.

45.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

46 Severability

If any Clause, clause or provision of the Contract not being of a fundamental nature is held to be unlawful, invalid or unenforceable by a court or tribunal in any proceedings relating to the Contract, the validity or enforceability of the remainder of the Contract shall not be affected. If the court finds invalid a provision so fundamental as to prevent the accomplishment of the purpose of the Contract, the Parties shall immediately commence negotiations in good faith to remedy the invalidity.

47 Confidentiality

47.1 The Supplier agrees not to disclose any Confidential Information to any third Party without the prior written consent of the Authority. To the extent that it is necessary for the Supplier to disclose Confidential Information to its staff, agents and sub-contractors, the Supplier shall ensure that such staff, agents and sub-contractors are subject to the same obligations as the Supplier in respect of all Confidential Information.

47.2 Clause 47.1 shall not apply to information which:

47.2.1 is or becomes public knowledge (otherwise than by breach of these Clauses or a breach of an obligation of confidentiality);

47.2.2 is in the possession of the Supplier, without restriction as to its disclosure, before receiving it from the Authority or any other department or office of Her Majesty's Government;

47.2.3 is required by law to be disclosed; or

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- 47.2.4 was independently developed by the Supplier without access to the Confidential Information.
- 47.3 The obligations contained in this Clause shall continue to apply after the expiry or termination of the Contract.
- 47.4 The Supplier shall not handle or examine any document or thing bearing a Government security classification of **Confidential**, **Secret** or **Top Secret** other than in a Government establishment and the Supplier shall not remove any such document or thing from such Government establishment without the prior written consent of the Authority.
- 47.5 The Supplier shall not communicate with representatives of the general or technical press, radio, television or other communications media, with regard to the Contract, unless previously agreed in writing with the Authority.
- 47.6 Except with the prior consent in writing of the Authority, the Supplier shall not make use of the Contract or any Confidential Information otherwise than for the purposes of carrying out the Services.

48 Freedom of Information

- 48.1 The Supplier acknowledges that the Authority is subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations SI 2004 No. 3391 (**EIR**) and shall assist and cooperate with the Authority, at the Supplier's expense, to enable the Authority to comply with these information disclosure requirements.
- 48.2 In this Clause:
 - 48.2.1 **Information** has the meaning ascribed to it in section 84 of the FOIA;
 - 48.2.2 **Request for Information** has the meaning ascribed to it in section 8 of the FOIA, or any apparent request for information under the FOIA or EIR.
- 48.3 The Supplier shall (and shall procure that its subcontractors shall):
 - 48.3.1 Transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within two Working Days;
 - 48.3.2 Provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five Working Days (or such other period as the Authority may specify) of the Authority requesting that Information;
 - 48.3.3 Provide all necessary assistance as reasonably requested by the Authority to enable it to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 48.4 The Authority shall be responsible for determining, at its absolute discretion, whether any Information:
 - 48.4.1 is exempt from disclosure in accordance with the provisions of the FOIA or the EIR;

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48.4.2 is to be disclosed in response to a Request for Information.

In no event shall the Supplier respond directly to a Request of Information unless expressly authorised to do so in writing by the Authority.

- 48.5 The Supplier acknowledges that the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of the FOIA (issued under section 45 of the FOIA in November 2004), be obliged under the FOIA or the EIR to disclose Information unless an exemption applies. The Authority may at its discretion consult the Supplier with regard to whether the FOIA applies to the Information and whether an exemption applies.
- 48.6 The Supplier shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.
- 48.7 The Supplier acknowledges that any lists or schedules provided by it outlining information it deems confidential or commercially sensitive are of indicative value only and that the Authority may nevertheless be obliged to disclose information which the Supplier considers confidential in accordance with Clauses 48.4 and 48.5.

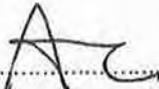
49 Law and Jurisdiction

The Contract shall be governed by and construed in accordance with English Law. Each party irrevocably agrees, for the sole benefit of the Authority that, subject as provided below, the courts of England shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation. Nothing in this clause shall limit the right of the Authority to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

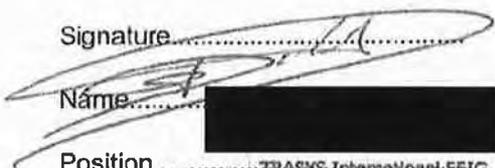
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IN WITNESS of which this Contract has been duly executed by the Parties.

SIGNED for and on behalf of **Secretary of State for Business, Energy and Industrial Strategy**

Signature 
Name 
Position 
Date 23/1/20

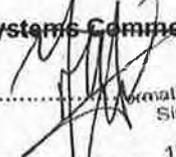
SIGNED for and on behalf of **Lead Supplier TRASYS International EEIG**

Signature 
Name 
Position TRASYS International EEIG
Date 14/1/2020

Signature 
Name 
Position Lead Supplier
Date 14/1/2020

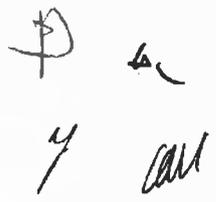
SIGNED for and on behalf of **Consortium Supplier ~~Technology Systems Commercial S.A.~~**

Uni Systems Information Technology Systems Commercial S.M.S.A.

Signature 
Name 
Position Consortium Supplier
Date 17/01/2020

Uni Systems
Information Technology Systems Commercial
Single Member Societe
19-23, AL. PANTOU STR.
176 71 KALLITHEA - GREECE
TAX Reg. No. EL 094189552
TEL: +30 2119897400 - FAX: +30 2119897400

Signature 
Name 
Position Consortium Supplier
Date 17/01/2020



Schedule 1

Service Requirements

This Schedule 1 (Service Requirements) sets out the descriptions of the Services that shall be provided by Supplier to the Authority under this Contract.

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Appendix A
Development Services

A. Overview of the current Emissions Trading System

- 1 This section provides background information on the current emissions trading systems that the UK is part of. The purpose is to help explain how the PMRV Solution will integrate and the role it will play.

Introduction

- 2 The EU ETS is a cornerstone of the EU's and UK's policies to combat climate change and is a key tool for reducing greenhouse gas emissions cost-effectively. The EU ETS operates as a cap-and-trade system of tradable Allowances, which are permits for the emission of 1 (one) tonne of carbon dioxide equivalent. The EU ETS includes Intra-European Economic Area (EEA) flights. Stationary installation operators, aircraft operators and traders participate in the scheme to reduce greenhouse gases over time and meet the Government's Clean Growth Strategy ambition and our statutory commitments under the Climate Change Act 2008.
- 3 The EU ETS was transposed into national law in the UK through the following measures:
 - a) The Greenhouse Gas Emissions Trading Scheme Regulations 2003
 - b) Greenhouse Gas Emissions Trading Scheme Rules 2004
 - c) The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013
 - d) The Greenhouse Gas Emissions Trading System Scheme (Amendment) Regulations 2013
 - e) The Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2014
- 4 ETSWAP is the system currently owned and operated by the Environment Agency (EA)/ Defra DDTS (Digital, Data and Technology Service) for permitting, monitoring, reporting and verification of greenhouse gas emissions in the UK under the current EU ETS. The system is designed to facilitate permitting of emissions, completion and submission of verified emissions and benchmarking reports, viewing of approved emissions/ benchmarking plans for existing operators and submission of emissions plans for new operators.
- 5 After the UK exits the EU we may initially remain in the EU ETS as per the Withdrawal Agreement until the end of the EU Exit Implementation Period. The UK Government and Devolved Administrations have consulted on the options for a future carbon pricing

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scheme¹ and are intending to create new UK Legislation in due course. In the event of exiting without a withdrawal agreement, the UK Government has announced that it will implement an interim Carbon Emissions Tax. In either scenario, a PMRV Solution will be required as described in this Contract.

- 6 We recommend that potential Suppliers familiarise themselves with all aspects of the current EU ETS and the annual compliance cycle. The UK ETS will be set out in UK Legislation.
- 7 Information relating to the above can be found at the following links:
- a) https://ec.europa.eu/clima/policies/ets_en
 - b) <https://eur-lex.europa.eu/eli/dir/2003/87>
 - c) https://ec.europa.eu/clima/policies/ets/monitoring_en
 - d) 19/12/2018 - [Commission Implementing Regulation \(EU\) 2018/2066 on the monitoring and reporting of greenhouse gas emissions amending Commission Regulation \(EU\) No 601/2012](#)
 - e) https://ec.europa.eu/clima/policies/ets/allowances_en#tab-0-1
 - f) 19/12/2018 - [Commission Implementing Regulation \(EU\) 2018/2067 on the verification of data and on the accreditation of verifiers](#)
 - g) <https://www.icao.int/environmental-protection/CORSIA/Pages/SARPs-Annex-16-Volume-IV.aspx>
 - h) Monitoring and Reporting Regulation (MRR), Accreditation and Verification Regulation: Guidance and templates. https://ec.europa.eu/clima/policies/ets/monitoring_en#tab-0-1
 - i) This link provides examples of Monitoring Plans, Improvements & Annual Emissions Reports: https://ec.europa.eu/clima/policies/ets/monitoring_en#tab-0-1
 - j) CORSIA, the Carbon Offsetting and Reductions Scheme for International Aviation, addresses the increase in total CO2 emissions from international aviation above 2020 levels: <https://www.icao.int/environmental-protection/CORSIA/Pages/default.aspx>

¹ <https://www.gov.uk/government/consultations/the-future-of-uk-carbon-pricing>

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B. Summary of Requirements

1. The following presents high-level requirements and the outcomes to be supported by PMRV:
 - a. Ability to register and Create, Read, Update and Delete (CRUD) accounts for Installation Operators, Aircraft Operators, Verifiers and other users of the system and the ability to appoint Verifiers to the relevant accounts.
 - b. Ability for users (e.g. Installation Operator, Aircraft Operators, etc) to apply for GHG permits and Emissions Plans (EPs) and update applications with role based access controls (RBAC).
 - c. The system must send out notification to users and administrator of significant changes to permits, EPs and other important CRUD activities in the system.
 - d. Ability for Installation Operators to surrender a GHG permit, or to transfer it to another Installation Operator with RBAC.
 - e. Ability to submit the Annual Emissions Report (AER) and Activity Level Change (ALC) for Installations and AER's for Aircraft Operators and the ability for Aircraft Operators to link AERs to CORSIA.
 - f. Ability for the Regulator and admin users to monitor and determine where an Operator's AER / ALC is not submitted on time and where the Verifier returns a 'not verified' opinion.
 - g. Ability for Aircraft Operators to submit triennial Emissions Unit Cancellation Reports (EUCR).
 - h. Ability for Accredited Verifiers to access the AER and ALC for Installations and AER for Aircraft Operators and access to an Aircraft Operator's EUCR.
 - i. Ability for a Verifier to complete and submit a verification report that outlines exactly how much emissions units were produced/offset, which forms an integral part of the Operator's AER/EUCR that is submitted to the regulator.
 - j. Ability for Installations to submit an Improvement Report (IR) with frequency of submission based on the size of the Operator's emissions.
 - k. Ability for Installations and Aircraft Operator to submit a Verifier Improvement Report (VIR) based on the findings of the Verifier that are recorded in the Verifier's report.
 - l. The system to initiate workflows automatically or manually by admin users (Regulators) for non-compliances (civil penalty) for defined non-compliances (e.g. failed to complete on time).
 - m. Ability to issue and collect Annual Subsistence (fee) Payments from Operators.
 - n. Ability to support Free Allocation Regulation (FAR) – Operators are provided with free emissions credits as required and the ability for new Operators to apply for such credits.
 - o. Facility to collect National Implementation Measures (NIMS) data collection (e.g. Operators are required to submit a report every 5 years, next report scheduled 2024).

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- p. Ability to submit a Monitoring Methodology Plan and ability to change from an Operator's and a Regulator's perspective.

2. PMRV needs to serve the following user groups:

- Installation Operator Users: Individuals/consultants employed by the Installation Operators, responsible of creating and submitting GHG permit applications and subsequent updates and reports.
- Aircraft Operator Users: Individuals/consultants employed by Aircraft Operators, responsible of creating and submitting EP applications and subsequent updates and reports.
- Verifier Users: Individuals employed by a verification body, responsible of reviewing and verifying AERs submitted by both Aircraft and Installation Operators, EUCRs submitted by Aircraft Operators only and activity levels submitted by Installation Operators only.
- Competent Authority Users: UK regulators with admin level role-based access that carry out Competent Authority activities

3. There are currently approximately 1100 Installations and 140 Aircraft Operators accounts active in the ETSWAP system.

4. A significant number of high-level user needs (Epics) have been captured and are documented in the Functional Requirements detailed in Section C below. The Supplier is required to run a full Discovery phase and align this work to the GDS Service Manual (<https://www.gov.uk/service-manual/agile-delivery/how-the-discovery-phase-works>) and refine and finalise them as User Stories, by working with the users of the system in line with N14.1 and the timescales set out in the Delivery in Section D below.

5. This Contract relates to the Procurement of:

- a) a fully functioning Permitting, Monitoring, Reporting and Verification system, which includes discovery of user needs, design, build, implementation, testing, training and rollout;
- b) Migration of data from the current ETSWAP system into the new PMRV system, as required; and
- c) Maintenance and Support Services for one year commencing on go-live of the PMRV Solution (to cover security updates, bug fixes etc. and 2nd and 3rd level support), with 1 year options going forwards. The Optional Maintenance & Support may be required until the end of the sixth year of the Contract Term.

6. Please note that the UK Legislation for the UK ETS will be developed concurrently to the PMRV Solution and this may affect the precise scope of the Project.

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C. Functional and Non-functional Requirements

This section details the Functional Requirements, all of which are required as part of the PMRV Solution. The supplier is to consider this as the scope of the project and will be required to ascertain the user needs for these functional requirements during the Discovery phase.

Ref	Functional Requirements
F1	<p data-bbox="411 645 798 674"><u>Accounts and User Registrations</u></p> <p data-bbox="411 701 1260 853">This functionality is required for users to register and create accounts for Installations, Aircraft Operators and other users. The system should provide all the Change, Read, Update and Delete (CRUD) functionality with Role-Based Access Control (RBAC) for users. The requirements for new Installation Operators and Aircraft Operator are detailed below:</p> <ul data-bbox="448 925 1273 1816" style="list-style-type: none"> <li data-bbox="448 925 1273 1570">• "New" Installation Operator Registration – ability for a user to register a new Installation Operator account. To facilitate this, the system should: <ul data-bbox="488 987 1273 1570" style="list-style-type: none"> <li data-bbox="488 987 1273 1104">○ display and request all required data with appropriate validation to ensure information provided is correct, examples of data items required include, details of Operator, address of Installation and similar; <li data-bbox="488 1111 1273 1196">○ validate the information provided with external third, e.g. Companies House - this will aim to ensure that ultimately only legitimate companies are permitted to register; <li data-bbox="488 1202 1273 1261">○ permit the Competent Authority (CA) to review the application where a manual "check" is required; <li data-bbox="488 1267 1273 1326">○ send an acknowledgment informing the Operator where a successful registration is to be generated, including the next steps as required; <li data-bbox="488 1332 1273 1480">○ provide an exception process in the event of a registration being rejected or where issues arise. The system is required to present to the CA an electronic template detailing an overview of the application, the CA should be able to amend/insert reason for rejection and potential suggestions and the system should notify the Operator. <li data-bbox="488 1487 1273 1570">○ permit the CA to assign a specific status to an account (e.g. "Live", "Exempt", and "Ceased Operations"). A status should influence what workflows/task can be activated or completed. <li data-bbox="448 1576 1273 1816">• "New" Aircraft Operators Registration – ability for a user to follow a similar process to the new Installation Operator Registration except where Aircraft Operators are identified internally by a CA (e.g. a new airline is launched, and the Operator appears on the UK or on Commission's list). When identified, an Aircraft Operator account is prepared in the system by the CA. The UK ETS may create a "new" method for adding an Aircraft Operator to the scheme, however this is still to be determined.

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	<ul style="list-style-type: none"> The system is required to generate a unique incremental static alphanumeric reference for each account created and support a search functionality that allows a CA user to search for a specific account within the system.
F2	<p><u>Permits and Emission Plans</u></p> <p>The system should allow a user to apply for a GHG permit (Installation Operators) and an EP (Aircraft Operators). In addition to the application process, the system should provide the following:</p> <ul style="list-style-type: none"> On creation of an Operator account, the system should notify the Operator that a GHG permit or EP is required to be submitted. The system is required to present an appropriate web-based form. On completion of the web-based form, users should submit it to the CA for approval. The CA should have the ability to review and comment on the application in the system with full audit capability. The CA should have the ability to formally request additional information (RFI), which should pause the review, or to request an extension to the review period (RDE). On completion of the review the CA should have the ability to approve or refuse the application. If approved a non-editable GHG permit or EP is required to be generated by the system, utilising the data provided by the Operator in the application and issued. <p><u>Management of GHG permits or EPs – updates</u></p> <ul style="list-style-type: none"> The system should allow the appropriate users to update/amend the GHG permit or the EP with full audit (e.g. track changes) such that the updates/amendments are clearly identified and date/time stamped. The update process should operate in a similar way to the initial application, in that it should be presented to the CA for review and comment and then to be approved or refused. If approved a revision to the original GHG permit or EP will be issued. <p><u>Payment of Application Fee</u></p> <ul style="list-style-type: none"> For both types of Operators, when a GHG permit or EP has been submitted, the system should request an application fee payment from the submitter.

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	<ul style="list-style-type: none"> • Annual Subsistence (fee) Payments - for both types of Operators the system is required to prompt when this renewal payment is due and for payment to be taken within the secure online payment functionality. • Ability to set the account to "live" when all the necessary payments have been made and the system to highlight accounts where payments are outstanding.
F3	<p><u>Financial (Invoicing & Payments)</u></p> <p>The users should be able to make payments securely online and administrators to be able to audit, report and analyse all such payments.</p> <p>The system will support a variety of payment methods and if required interface with external payment processing systems / services e.g. BACS.</p> <p>The system is required to record that payment has been made and issue an electronic invoice / receipt.</p>
F4	<p><u>Electronic Attachments</u></p> <ul style="list-style-type: none"> • The system shall allow users to attach electronic files to support registrations and applications or provide information to CA's. <p>Such attachments are to be in common formats e.g. PDF or MS Office with the ability to view, print and export the attachments.</p>
F5	<p><u>UK Registry Account</u></p> <ul style="list-style-type: none"> • The system shall provide ability for an Operator to Open a Registry account on first time approval of a GHG permit or EP. • The system is required to notify the Operator. • There is a requirement for the system and UK Registry to interface and share required data to support such an action, pre-populate the UK Registry with data already provided in the PMRV system. <p>The PMRV system is required to illustrate to the CA the status of the Registry account, i.e. submitted, pending, rejected and so on.</p>
F6	<p><u>Verifiers</u></p> <p>A verifier is required to provide external independent review of emissions reports submitted by Operators.</p> <ul style="list-style-type: none"> • The system should provide the ability for CA or Verifiers to create Verification Body (VB) accounts in a similar process to creating an Operator account • Access and function of the Verifiers to be controlled via a RBAC

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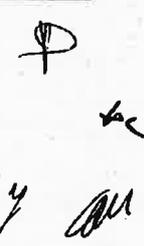
F7	<p><u>Verification of Reports – Installation & Aviation</u></p> <ul style="list-style-type: none"> • The system will allow a Verifier nominated by an Operator to securely review an Operator's AER/EUCR in order to verify the data. The AER/EUCR must be presented to the Verifier as read-only. • Independent verification of emissions is required in the majority of cases, unless below a certain threshold. An Operator must be able to submit an AER/EUCR to their nominated Verifier so that they can verify the Report contents. • Once verified, the Report must then be submitted back to the Operator for them to submit to the CA. • The system is required to permit a Verifier to review an Operators AER/EUCR and complete a verification report (VR) which is submitted to the Operator, comments between an Operator and a Verifier can occur for any number of iterations, a full audit of such iterations is required.
F8	<p><u>Verifier Improvement Report (VIR)</u></p> <p>A VIR concerns what actions an Operator is required to take following independent verification of the AER/EUCR. Verifier comments are required to be captured by the system and presented appropriately to the Operator in order for them to action in the VIR.</p>
F9	<p><u>Uncertainty Thresholds (Installations only)</u></p> <p>The system is required to determine if a particular Operator is not achieving the "tier" that has been submitted on their GHG permit. The Operator is required to provide justification as to why this is not being achieved, including providing supporting documents if appropriate.</p>
F10	<p><u>Surrender, Revoke and Transfer of a GHG permit</u></p> <ul style="list-style-type: none"> • In the event of a GHG permit being surrendered, revoked or transferred there is a requirement for the system to inform the Operator such action has been completed. • For GHG permit transfers the system is required to automatically generate a non-editable GHG permit which is to be issued to the new Operator. The "old" Operator is to be informed that the GHG permit has been transferred.
F11	<p><u>Annual Emissions Report (AER)</u></p> <ul style="list-style-type: none"> • Following registration, for both types of Operators (Installations and Aircraft Operators), the system is required to automatically initiate a request for the above to submit an AER, configurable reminders (timescales) are required to be supported by the system. • Provide functionality to each Operator to submit an AER between Jan – Mar.

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	<ul style="list-style-type: none"> • Upon completion of the AER, allow the Operator to submit to a third party Verifier for verification according to the business rules for this activity (e.g. excluded installations, Aircraft Operators with low emissions) • Upon completion of the verification process, allow the Operators to submit to the CA for review. <p>Supplementary notes:</p> <ul style="list-style-type: none"> ▪ The AER should detail the Operator's emissions calculated during the previous year in accordance with their GHG permit or EP. ▪ The submission of AERS have two functions: (1) UK ETS reporting, and (2) CORSIA reporting.
F12	<p><u>Emissions Unit Cancellation Report (Aircraft only)</u></p> <ul style="list-style-type: none"> • The system should provide facility for Aircraft Operators to submit an Emissions Unit Cancellation Report (EUCR) every 3 years. • Provide functionality for this EUCR to be sent to a Verifier for assessment then submitted to the CA for review – the first of such reports is to be submitted from 2025 (configurable). • The system is required to inform the Operator to submit a EUCR, a request is to be automatically generated by the system at the end of a 3-year period.
F13	<p><u>Determination of Reportable Emissions (DRE)</u></p> <p>In a number of cases a DRE may be required, this is when an AER is not submitted on time, a Verifier's opinion in the VR is 'Not verified', or the CA amends the Verifier's opinion to 'Not verified' or the emissions are found to be incorrect at a later date. The system should:</p> <ul style="list-style-type: none"> • be able to determine when a DRE is required based on business rules • provide functionality for the CA to record their determination and issue a notice to the Operator when complete. When performing the determination, the system should allow the CA to take on the position of the Operator providing the option for the CA to complete an emissions report. • Issue a notice to the Operator to pay a fee as a result of a determination. The fee should be settled via the systems secure electronic payment facility.
F14	<p><u>New Entrant Reserve (NER) Applications (installations only)</u></p> <ul style="list-style-type: none"> • The system is required to allow an Operator the option to submit a monitoring methodology plan (MMP) and a baseline activity level report as part of their application to the NER for free allocation of allowances. The activity level report must be accompanied by a verification report from an accredited verifier.

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	<ul style="list-style-type: none"> • The system should allow the CA to record their review comments and have outcomes based on approval / rejection. RFI and RDE functionality will be in line with similar workflows, e.g. new permit application. • On approval a consolidated GHG permit is issued with the approved MMP attached.
F15	<p><u>Annual ALC Report (installations only)</u></p> <p>Following application for allowances, the system is required to automatically initiate a request for operators to submit an ALC Report, configurable reminders (timescales) are required to be supported by the system.</p> <p>Each Operator with an MMP is required to submit an ALC Report between Jan – Mar. The ALC Report details the Operator's activity (production) levels calculated during the previous year in accordance with their GHG permit.</p> <p>The general process is that an ALC Report once complete by the Operator is to be submitted to a third party Verifier for verification.</p> <p>When the verification is complete the report is sent to the Operator, who then submits to the CA for review.</p> <p>The system is required to allow the CA to review this data record their comments and have outcomes resulting in adjustment to the operator's free allocation – interaction with Registry functionality is required here.</p>
F16	<p><u>Determination of ALC by the CA (installations only)</u></p> <p>See Determination of Reportable Emissions (DRE) requirement above – the system is required to have the same functionality in relation to ALC reports.</p>
F17	<p><u>National Implementation Measures (installations only)</u></p> <p>The system should provide functionality such that every 5 years, all installations must submit data to the CA that supports: eligibility to participate in a small emitter (Article 27) or ultra-small emitter (Article 27A) scheme or to apply for free allowances. The next time that this will be required is in 2024 (to be configurable).</p>
F18	<p><u>Compliance / Enforcement – for both Installation & Aircraft</u></p>



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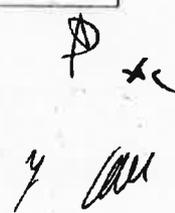
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	<ul style="list-style-type: none"> • The system should provide ability to identify if legislative requirements have not been achieved e.g. emissions thresholds or submission deadlines and to initiate a non-compliance (enforcement task). • The system is to present the CA with the appropriate notification to complete and record all aspects of the non-compliance; for example reason, history, appeals. • If a financial penalty is required, this is to be managed via the secure online payment functionality – reminders are to be auto generated by the system in the event of non-payment.
F19	<p><u>Article 27 Permit</u></p> <p>This occurs annually and the system is required to auto calculate if the threshold in the Article 27 permit has been exceeded and the notify the user and the administrators.</p>
F20	<p><u>Alerts and Reminders</u></p> <p>The system is required to produce alerts and reminders for key events/actions.</p> <p>The system shall provide automatic alerts to Operators, Verifiers and the CA users to advise that particular actions are required according to pre-defined timescales, deadlines.</p> <p>Timing of when alerts/reminders are issued is required to be easily amendable by the CA.</p> <p>If agreed such deadlines may be extended by the regulator as required for individual users, override functionality is therefore required.</p>
F21	<p><u>Communications Sent to External Stakeholders</u></p> <p>The system shall support automation of correspondence via templates to a pre-determined, configurable, list of recipients in response to user or automated actions.</p> <p>The data fields within the above are required to be populated with correct data and sent to the recipients.</p> <p>The system shall also enable ad hoc correspondence to be drafted and sent as required.</p> <p>An audit of all the above is required, for example:</p>

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	<ul style="list-style-type: none"> • the time, date sent • the email address / postal address utilised • the intended recipient • the content of the correspondence • version of template used <p>In a number of scenarios correspondence sent via the system are required to be non-editable e.g. GHG permit.</p> <p>The system is required to support easy amendment of existing email / letter templates and creation of new templates as required.</p>
F22	<p><u>Web Based Form Data Entry</u></p> <p>When a user of the system is required to complete a web-based form, such forms are required to be prepopulated with common data already provided to avoid data entry repetition.</p> <p>If a validation check fails, or if a mandatory field has not been completed, the system informs the user, highlighting the specific section(s) in the form.</p> <p>Web-based forms are required to allow for the upload of large data sets (e.g. emissions units cancellation data) in common formats (.csv, .xlsx or other equivalent).</p>
F23	<p><u>Web Based Form Configurability</u></p> <p>With appropriate controls the system is required to permit easy to implement changes to data entry (layout, data fields, logic etc.) of web-based forms (e.g. if a data field becomes redundant or new data items are required).</p> <p>Appropriate sections/pages of a form should only be presented to the user in context with related data entry to avoid over complicating form presentation / usage.</p> <p>Due to potential complexity and length certain web-based forms e.g. AER's it is required to be able to save at any point in time and resume at a later point in time with loss of any data.</p>



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F24	<p><u>Reference Data Set to Support Data Entry</u></p> <p>The system has a requirement to be able to access and interpret external reference data to enable users to complete accurate information as required and support business rules.</p> <p>For example, the system has the ability to update web-based form selection criteria for Operators displaying the latest models and manufacturers of areophane's, this will avoid the scenario where a particular aircraft selection is not possible.</p>
F25	<p><u>Notes Recording</u></p> <p>The system is required to support a notes facility permitting a CA to summarise, correspondence and upload documents associated with an Operator outside of any workflows.</p> <p>Any notes are required to be date stamped, editable etc.</p>
F26	<p><u>Management Information (MI) Reports</u></p> <p>A MI component is required to support the production of compliance and administrative reports.</p> <p>The system is required to support "ad hoc" and "real time" configurable reports along with predefined periodic reports.</p> <p>Such reports are required to print in a readable format, be extracted from the system in order to be stored locally for subsequent forwarding to recipients, and have the ability to export data in a variety of formats.</p>
F27	<p><u>High level Summary Data – from Emissions Reports</u></p> <p>Within each Operator account the system is required to provide a summary of reported data by scheme year (e.g. reported emissions, verified or not, verification opinion, whether emissions were determined).</p>
F28	<p><u>Ability to "Copy & Amend" Previous Data Submissions</u></p> <p>For certain Operators there is a requirement to submit multiple web-based forms, often with little differentiation.</p> <p>There is a requirement to allow the Operator in such a scenario to submit forms without re-entering all required data and simply make the minor changes as required. i.e. the common data items are duplicated.</p>

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F29	<p><u>Disable / Reinstate Accounts</u></p> <p>The System shall have the ability in "real time" to disable an account, and if required reinstate such an account at a later date in "real time".</p> <p>The System will support the requirement to remove persons from an account.</p> <p>A full audit of the above will be required to be stored by the system.</p>
F30	<p><u>Carbon Tax / HMRC</u></p> <p>In the event of a 'No Deal' -</p> <p>The system should provide ability for the CA to extract the required data from the AER to send to the HMRC in order for Operator charging to take place.</p>
F31	<p><u>Audit and Inspections</u></p> <p>The system is required to support the ability to manage inspections and audits, e.g. if an Operator is required to be audited the system will permit all associated documents to be recorded and stored.</p>

The Non-Functional Requirements of the PMRV Solution, all of which are required, are detailed below:

Ref	Non-Functional Requirements
N1	Policies and Standards
N1.1	<p><u>GDS Compliance</u></p> <p>The PMRV Solution will be required to undergo and pass a Digital Service Assessment at each stage of its delivery. Therefore it must conform to Government Digital Standards to be found at:</p> <ul style="list-style-type: none"> • https://www.gov.uk/service-manual/service-standard • https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice • https://design-system.service.gov.uk • Accessibility standards, WCAG 2.1 https://www.gov.uk/service-manual/helping-people-to-use-your-service/understanding-wcag • https://www.gov.uk/service-manual/helping-people-to-use-your-service
N1.2	<u>Architecture and Design</u>

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Ref	Non-Functional Requirements
	<p>PMRV design must conform to the Authority's technical design standards and reference architecture. The operational responsibility for the PMRV system may be assigned to Department for Environment, Food and Rural Affairs (Defra).</p> <p>The supplier must ensure that the production system is compatible with the Defra standards detailed in the document, "BEIS PMRV Defra Principles.pdf", available as part of this ITT Pack</p>
N1.3	<p><u>Secure Payments</u></p> <p>Card payment capabilities must be compliant with PCI DSS (Payment Card Industry Digital Security Standards, or equivalent)</p>
N1.4	<p><u>Workflow requirement and compliance with legislation</u></p> <p>The UK legislation, Enforcement and Sanctions Policies and subsequent legislation dictates how a system will operate – the "core" processing is summarised below:</p> <p>MONITORING AND REPORTING REGULATION (MRR)</p> <p>The system shall support compliance with the Monitoring and Reporting Regulation (MRR), i.e. monitoring plan (MP), annual emissions report (AER) content, and deadlines for submission.</p> <p>ACCREDITATION AND VERIFICATION REGULATION (AVR)</p> <p>The System shall support compliance as defined by the Accreditation and Verification regulation (AVR) i.e. Verification report (VR) content and submission process.</p> <p>Free Allocation Regulation (FAR)</p> <p>Ability to support Free Allocation Regulation (FAR), Operators are provided with free emissions credits as required and the ability for new Operators to apply for such credits.</p> <p>Activity Level Changes Regulation</p> <p>Ability to support changes to free allocation based on 15% change in activity levels on a 2-year rolling basis.</p>
N1.5	<p><u>Workflow / Forms – Localisation</u></p> <p>The legislation specified in this document dictates how the system will operate – this will be referred to as "CORE" requirements and should be only changed by an approved administrator.</p>

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Ref	Non-Functional Requirements
	<p>Localisation (flexibility) is a requirement to allow the regulators to support all the UK CA's who may wish to operate parts of the service differently, e.g. enforcement.</p> <p>In order to support the above the system will allow the creation, configuration and amendment of workflows and associated forms.</p> <p>The system will be required to be "ring-fenced", i.e. individual CAs can only access their own Operator accounts and customise their own outputs (letters/notices/payment methods).</p>
N1.6	<p>Supplier compliance</p> <p>The suppliers should conform to the following legislation:</p> <ul style="list-style-type: none"> • The Data Protection Act 2018; • Welsh Language Act 1993; • Special Education Needs and Disability Act; • Disability Discrimination Act; • Environmental Information Act; • Re-Use of Public Sector Information Act; • Computer Misuse Act; • Freedom of Information Act; • Official Secrets Act 1989; • Regulation of Investigatory Powers Act 2000 (RIPA); • Copyright, Designs and Patents Act 1988; • HMG Security Policy Framework (SPF); • International standard ISO/IEC 27001:2013, or equivalent; • Public Records Act 1967. • Information & Freedom of Information (Scotland)
N2	Security Requirements
N2.1	<p>Required to comply with following security standards</p> <p>https://www.gov.uk/government/publications/security-policy-framework</p> <p>Requirement to comply with government fraud and security standards – as defined by GDS.</p>
N2.2	Vulnerability scans need to be performed regularly.
N2.3	<p>Confidentiality and Integrity of The System must be maintained at all times and thus The System design must follow the Secure by Design Code of Practice</p> <p>https://www.gov.uk/government/publications/secure-by-design</p>

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Ref	Non-Functional Requirements
N2.4	<p>The selected supplier will be required to configure and maintain (under the Maintenance and Support agreement) any necessary security appliances and hardware systems, implemented as part of the solution.</p> <p>Note that any required hardware or security appliances for the production environment are to be provided by the Authority under a separate contract.</p>
N2.5	<p>Hardware VPN must be used in order to ensure secure communications.</p> <p>All data must be encrypted in transit</p> <p>Digital signatures must be used to make sure that messages are not tampered</p>
N2.6	<p>To access accounts, a two-factor authentication mechanism for all users accessing the account is required. Two-factor authentication will also be required for certain key transactions.</p>
N2.7	<p>A transaction signature mechanism is required for both initiation and approval of transactions. The confirmation code shall be sent out-of-band to the users.</p>
N2.8	<p>PMRV should mandate the 4-eyes approval method for certain specified (configurable) transactions.</p>
N2.9	<p>A delay should be applied between the initiation of a transfer and its execution to all the users to receive information and stop any suspected illegitimate transfer</p>
N2.10	<p>PMRV and associated systems must go through the security accreditation process, to ensure that the information risks are adequately mitigated by security controls. The assessment framework will be the National Cyber Security Centre (NCSC) cloud security principles.</p>
N2.11	<p>PMRV must be penetration tested by an NCSC-approved company prior to each accreditation and re-accreditation</p>
N2.12	<p>Any supplier selected must hold a suitable information security accreditation. The acceptable company accreditations are Cyber Essentials, Cyber Essentials +, and ISO27001 or equivalents.</p>
N2.13	<p>All systems which are accessible over the internet must have two-factor and/or federated authentication</p>
N2.14	<p>The PMRV security configuration must be flexible to meet any future requirements and regulations</p>

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Ref	Non-Functional Requirements
N2.15	Support the ability to implement password controls (e.g. expiry, complexity etc.)
N2.16	The Supplier maintains security by using a security management plan in the form of a set of security policies and procedures so that security is embedded in the Supplier's business culture
N2.17	The supplier shall ensure that all staff with access to Authority information, data or systems are vetted to appropriate standards (minimum BPSS or national equivalent). The Authority will advise in cases where this is unclear (e.g. Compliance with BS 7858 (British Standard Code of Practice for Security Screening of Personnel Employed in a Security Environment)
N2.18	The Supplier must provide details of any third parties which are involved in the supplier's service and any services they provide to us so that we can understand what purposes each third party is used for in the safety of the service.
N2.19	The Supplier must ensure all third party suppliers which are involved in the supplier's service will meet the security standards as the Supplier does to keep our data secure so that the risk assessments of confidentiality, integrity and availability of our data/system are not compromised.
N2.20	The Suppliers must provide evidence regarding how they manage security incidents and the actions they will take if things go wrong including the reporting of incidents relating to our data/systems.
N2.21	The Supplier must have a robust process to detecting, recording, monitoring and resolving vulnerabilities in the service so that service availability is not compromised by viruses, malware, denial of service attacks etc.
N2.22	The Supplier must provide details of the types of security alerts that will be issued, to who and how they will be sent (including out of hours arrangements) so that the Authority will be kept informed of potential issues.
N2.23	The supplier must provide details on how the service is segregated from other customers so that the Authority can determine whether the service is adequately protected.
N2.24	<p>Internal users and eligible CA's are required to have a single sign-on, other users require direct sign-on. External users and non-CA are required to log onto system direct or via a single sign via climate change portal.</p> <p>All users will be required to accept "Terms & Conditions" both from initial use and subsequent amendments.</p>

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Ref	Non-Functional Requirements
N3	Authentication and Authorisation
N3.1	Support for Single Sign-On technology to authenticate Delegated Authority users connecting to the system using SAML Also use Single Sign-On to generate signatures for transactions proposed through The System using the authorising users' certificate/key for the purpose of integrity control and non-repudiation
N3.2	Employees can be authenticated against Defra Active Directory Federation Service (ADFS) implementation, adopting a 'token exchange' approach conforming to the SAML 2.0 standard.
N3.3	Automate authentication and authorisation of external users accessing PMRV via the Climate Change Portal
N3.4	Support is required to ensure that users rights reflect their roles and to identify users who have not accessed the solution for a configurable period of time
N3.5	It should be possible for user accounts to be manually suspended
N3.6	Where the number of unsuccessful login attempts exceeds a configurable limit, the account should be locked
N3.7	If an attempt has been made to access a locked or suspended account, a meaningful message should be presented along with advice of the process to unlock
N4	Accessibility
N4.1	The System must operate correctly for the range of supported browsers listed on the Government Digital Services (GDS) web page: https://www.gov.uk/service-manual/technology/designing-for-different-browsers-and-devices . As a minimum, the latest stable browser version and the predecessor should be supported
N4.2	The system should be accessible to any authorised users from any of nominated delegated authority/regulator offices
N4.3	The service should be accessible to remote users who are connected via existing secure connections services (e.g. RSA)

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Ref	Non-Functional Requirements
N4.4	External users (Operators, Aviators and Verifiers) should be able to access PMRV via the internet using a supportable browser (see above)
N4.5	<p>PMRV must meet the GDS Accessibility Standard and must be tested and pass the Accessibility testing</p> <p>https://www.gov.uk/service-manual/helping-people-to-use-your-service/testing-for-accessibility?utm_source=EMAIL&utm_medium=service_owners&utm_campaign=access_regs</p>
N5	Environments
N5.1	<p>The Supplier must initially provide the appropriate environments for use during the build stage of the system. It is expected that the minimum requirement is a cloud-based Development and Test/Demo environment</p> <p>The Authority will purchase the necessary hosting services for the production system through a separate tender process. The Supplier is to assume in their response that they will not be supplying the production hosting solution, including security and network hardware and appliances</p> <p>Supplier is to assume that they will be providing any necessary ongoing software licencing that will be required to support the proposed solution. (e.g. database (SQL Server, Oracle etc.) Reporting software, logging software etc.). All software licencing should be included within the tender price, and clearly stated if this is on a per user basis</p> <p>The supplier must migrate their development environments to the UK provided environments when notified and then continue to develop on the UK provided environment. The minimum expected environments for the production system are:</p> <ul style="list-style-type: none"> • Production • Pre-production / Staging • Development • Test
N5.2	Requirement for segregated production, disaster recovery (DR), system test and development environments
N5.5	The system must offer a fully functional training environment for Defra staff and other system users

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Ref	Non-Functional Requirements
N6	Service Requirements
N6.1	<p>All systems should be available 24/7 with the exception of security patching and critical updates.</p> <p>The priority level response times are as follows (Note: expressed in Working Days and Working Hours as per the Contract):</p> <ul style="list-style-type: none"> • Priority 1: 8 hours • Priority 2: 16 hours • Priority 3: 5 days • Priority 4: 10 days <p>Priority Levels are as defined in the Contract.</p>
N6.2	Between September and April, there will be increased activity within PMRV due to the submission deadlines – and the support function should accommodate this.
N6.3	All data stored and processed by PMRV must be GDPR compliant with appropriate consent requests where required.
N6.4	All services provided must be compatible with full Business Continuity & Disaster Recovery capability including resilience contingency planning and failover process, backups, secure archive and data destruction. Supplier to support regular and annual failover testing as required
N6.5	PMRV must implement the necessary user interface and back-end services in order to support the UNFCCC's DES in its entirety. The design must be generic enough to support future changes related to Unit types, transaction types and business rules
N6.6	PMRV must be scalable and flexible to accommodate increase in user numbers, transaction volumes, unit types and change in infrastructure configuration
N6.9	Monitoring and alerting is required to ensure that relevant stakeholders are notified of any performance degradation, component failure, attempted security breaches etc.
N7	Disaster Recovery (DR) and Business Continuity Planning (BCP)
N7.1	Recovery Time Objective following complete service loss – up to 12 hours
N7.2	Return Point Objective (extent of data loss) – up to 3 hours

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Ref	Non-Functional Requirements
N7.3	An annual Disaster Recovery Test is required
N7.4	The Disaster Recovery servers should not be used for any other purposes other than DR
N7.5	The Supplier must provide details of their business continuity plan to support the production of a BEIS/Defra business continuity plan for PMRV, as detailed in Schedule 3 of the Contract.
N7.6	There is a requirement to test the BCP and DR process annually
N7.7	At the end of an agreed retention period, all back-up data must be disposed of in a secure manner
N8	Usability
N8.1	PMRV shall be robust enough to have a high degree of fault tolerance. For example, if the user enters an extreme value, PMRV should not "crash" and shall identify the invalid input and produce a suitable error message
N8.2	<p><u>Permissions Based Access / Control</u></p> <p>The system will support role-based permissions / user profiles based upon legislation specified in this document.</p> <p>When a user attempts any action, the system shall analyse the action and check that the user's role includes the permission necessary to perform the action. If the permission is correct, the action is allowed; if not, the action is prevented and the user is informed accordingly. The system is required to support levels of privileges (e.g. super user, admin user etc) giving the user access to specific functionalities.</p> <p>Account holders and admin users must be able to nominate / appoint multiple users to manage their account and delegate responsibility as appropriate i.e. an Operator is able to add new or existing users to accounts and add a user(s) to multiple accounts.</p> <p><u>CA Access to Operator/Verifiers Accounts</u></p> <p>CAs require access to an Operator's/Verifier's accounts as required and "trouble shoot" any issues an Operator user may be having.</p> <p>All actions are required to be auditable – the Operator being made aware of what actions a CA has performed.</p>

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Ref	Non-Functional Requirements
N8.3	<p>A flexible and configurable workflow and business rules-based system is required to support legislation. The system should support workflow/business rules functionality in order to support legislation including the following:</p> <ul style="list-style-type: none"> • Configurable, ability to create and amend to meet changes to business needs as required. • Support automated email, letter dispatch and alerts to stakeholders to notify of actions required. • Indicate to system users at what point the workflow for a particular activity is at e.g. for an Operator their application for a GHG permit. • Initiate actions and events required e.g. the manual review of a submitted application. • Contain configurable Service Level Agreements (SLA's) for tasks and also trigger reminders both internal and external. In the event of an exception a manual override is required – via an Administrator. • Generated automatically based on outcomes of other workflows, initiated based on specific dates within the compliance cycle, or generated manually by users. • Priority "flags" are required be assigned to workflow/tasks, linked to countdown deadlines • Present actions/tasks in a manageable work queue, users are able to sort tasks based on variables such as task type, due date, priority, and user ID.
N8.4	Training materials and guidance will be available for the product, such materials will also be easily maintained by authorised users
N8.5	PMRV should provide contextual assistance to both internal and external users of the service
N8.6	Users who have been inactive for a configurable period of time should be automatically logged out. If this is during a complex transaction, the data should be saved to enable the user to complete the transaction later.
N8.7	Where appropriate, default values should be populated based on the user profile and preferences
N8.8	For complex transactions, the user should have the ability to save a partly completed data entry (e.g. monitoring report)
N8.9	User interface must be responsive to support use on various devices and browser types, including mobile devices.
N9	Performance
N9.1	It should take no more than 10 seconds from logging in to the system, to being fully available.
N9.2	Depending on the activity, the response times for normal online transactions should meet the following criteria:

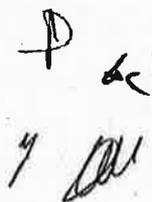
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Ref	Non-Functional Requirements
	<p>< 1 second in 90% cases</p> <p>< 5 seconds in 95% cases</p> <p>< 20 seconds in 100% cases</p>
N9.3	The Supplier will provide full application performance monitoring and should provide a summary on a quarterly basis.
N9.4	Details must be provided of how the Supplier would baseline application performance, monitor application performance and manage variations from that baseline.
N10	Sizing and Scalability
N10.1	<p>PMRV must be able to accommodate approximately 1100 Installation accounts.</p> <p>In addition, there are approximately 450 Aircraft Operator accounts of which approximately 140 are 'active', this is subject to change based upon the outcome of EU Exit. There are also 20 verification body accounts.</p>
N10.2	PMRV must be capable of supporting all required users of the service currently and automatically scale to meet increases in the number of users and/or increased transaction.
N10.3	Number of concurrent users must conform with the Authority's technical design standards for all user accounts, with an uplift factor of 20% to accommodate for system administrators and agents acting on behalf of Her Majesty's Government
N10.4	PMRV should automatically scale in response to increases or decreases in storage requirements, transaction volumes or users
N11	Integration
N11.1	PMRV must provide the capability to integrate with other internal and external systems using industry standard protocols APIs (e.g. RESTful, SOAP)
N11.2	Interfaces should be monitored, and alerts provided for any unexpected events (e.g. slow responses, errors, component failure)
N11.3	All API transactions must be authenticated using tokens
N11.4	All data should be secured during the end-to-end transaction
N11.5	Storage of any usernames/passwords for external systems must be secured using strong encryption standards (e.g. AES256)

Ref	Non-Functional Requirements
N11.6	Where feasible, integration of services should be loosely coupled
N11.7	Integration and data exchange should support the XETL standard
N11.8	<p><u>Exchange of ETS data</u></p> <p>The system shall interface with internal / external ETS systems, in order to support automated data sharing and synchronisation of data repositories.</p> <p>The above includes receiving validated data, storing and prepopulating web-based forms with data, removing the need to rekey data multiple times. Ultimately tasks are required to be automated and / or made redundant reducing the risk of human error in the processing.</p> <p>An initiative to utilise extended Emissions Trading Language (referred to as XETL) has been developed, although not mandated or being utilised at this moment in time. The benefits include data validation when provided by an Operator and the ability to share data easily with other systems by API's (Application Programming Interface).</p> <p>XETL data models are currently published and maintained by the European Commission.</p> <p>The following URL directs to the publicly available European Commission web pages for EU ETS MRV (Documentation – Data exchange formats)</p> <p>https://ec.europa.eu/clima/policies/ets/monitoring_en#tab-0-1</p>
N11.9	<p><u>Accessing Supporting Information during Data Entry.</u></p> <p>The System shall interface with external systems / services to aid the user when completing tasks. This will include the ability to validate information provided as part of the registration process with external third party information, e.g. Companies House ensuring that only legitimate companies are registered, and an Aircraft Operator is able to obtain report data from a Eurocontrol system, which automatically transfers data to the system.</p>



Ref	Non-Functional Requirements
N11.10	<p data-bbox="422 392 869 425"><u>PMRV and UK Registry – Data Sharing</u></p> <p data-bbox="422 481 1268 638">There is a functional requirement to provide ability for an Operator to Open a Registry account on first time approval of a GHG permit or EP. To facilitate this, our preference is for the PMRV system to "link" with the UK Registry. This is to support data and workflow notifications; such functionality is required in "real time".</p> <p data-bbox="422 660 790 683">Examples are summarised below:</p> <ul data-bbox="422 705 1284 1187" style="list-style-type: none"> • Following an Operator's GHG permit or EP approval within the system, the ability to create and auto-populate with data already provided a UK registry "shell account" and trigger the registry account opening process. • To provide UK Registry account status to the system in order to be viewed by CAs as required – to determine a particular Operator's application status. • Reported emissions data is taken from the AER and auto populates relevant registry account fields. • Any subsequent updates made in AER to the same report data automatically updates the UK Registry. • Allocation/free allowance information held in the system and appropriate adjustment made there, in turn updates the UK Registry. • Synchronisation of data between the system and UK Registry to reflect the compliance status of an Operator at any moment in time • Synchronisation of data between the system and UK Registry to reflect actions performed e.g. surrender of GHG permit, transfer or revoke. This will avoid discrepancies and manual rekeying of data.
N12	Data requirements
N12.1	The PMRV service must prevent disclosure of sensitive or "other" data subject to the Data Protection Act and GDPR, e.g. data is required to be encrypted, both in "transit and rest".
N12.2	Performance statistics are to be provided to allow monitoring of service level attainment
N12.3	End user analytics to be provided to support on-going enhancement and to have a better understanding of the user community preferences
N12.4	<p data-bbox="422 1545 1284 1601">Following the closure of an account, data must be retained online for the following data retention periods:</p> <ol data-bbox="470 1624 821 1736" style="list-style-type: none"> 1. Emissions Data - 10 Years 2. GHG permits - 10 Years 3. User related data - 10 Years 4. Activity data - 10 years
N12.5	Any user-related data should be held in compliance with GDPR regulations



Ref	Non-Functional Requirements
N12.6	After the data retention periods have expired, any data required to meet regulatory demands should be available via archive
N12.7	At the expiry of the Contract, all PMRV data should be made available to BEIS/Defra
N12.8	An audit trail of each transaction processed via the PMRV solution should be produced which should include user, date, time, role, transaction type plus pre and post transaction data states
N12.9	Access to the audit trail data should be restricted to authorised users
N12.10	Audit trails should be available for a configurable period of time before they are securely removed
N12.11	An audit of users who accessed the system is required along with, for external users, the Terms & Conditions version applicable/accepted at the time
N12.12	The Supplier will be expected to support the migration of data from the ETSWAP Solution.
N13	Sustainability and Environment
N13.1	The solution must provide capabilities which assist in reducing the government's impact on the environment
N13.2	Describe the approach taken for disposal of redundant equipment

The following links are provided for additional guidance:

1. NCSC Cloud security principles:

<https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>

2. NCSC approved penetration testing companies:

<https://www.ncsc.gov.uk/index/professional-service?f%2525B0%2525D=field+assurance+status%3AAssured&f%5B0%5D=field+assurance+status%3AAssured&f%5B1%5D=field+assurance+scheme%3A213>

D. Delivery & Management

Delivery Methodology

- 1 The supplier must use the Agile approach to project management and delivery when developing new functionality (not applicable to further development of a COTS product). This includes the use of Agile tools, techniques and methods to encourage the project teams to build quickly, test what they've built and iterate their work based on regular feedback.

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The Authority's UK Emissions Trading Scheme project team has already conducted a Pre-Discovery Phase (as per GDS standards) and broad user needs (functional requirements) have been established.

The supplier will be required to:

Ref	Detail of Requirements
N14	Delivery and Management Requirements
N14.1	<p>The supplier must deliver the solution as described in this section, Section 3 Specification, utilising the Discovery, in particular capturing user needs and user stories, Alpha and Beta phases of the GDS Agile delivery methodology, in particular providing Content design support during the Beta phase. A description of how the Discovery, Alpha and Beta phases work is described, along with how the Live Phase works, at the following links:</p> <p>https://www.gov.uk/service-manual/agile-delivery/how-the-discovery-phase-works</p> <p>https://www.gov.uk/service-manual/agile-delivery/how-the-alpha-phase-works</p> <p>https://www.gov.uk/service-manual/agile-delivery/how-the-beta-phase-works</p> <p>https://www.gov.uk/service-manual/agile-delivery/how-the-live-phase-works</p>
N14.2	Ensure that the PMRV development and delivery complies with the Digital Service Standard (GDS), the set of 14 criteria to help UK Government create and run good digital services
N14.3	The Authority's Product Owner will decide the prioritisation of the user stories to be refined and delivered by the Supplier and the Supplier must manage and deliver the refinement and the backlog
N14.4	Once each part of the software has been Delivered and accepted by the Authority, the software as a whole shall be subject to User Acceptance Testing as set out in the Acceptance Criteria
N14.5	Deploy private Beta to a controlled group of users to obtain feedback and carry out the required remediation before rolling your service out to a wider audience, the Public Beta
N14.6	Ensure that PMRV passes an Alpha, Beta and other Authority/GDS service assessment requirements
N14.7	Deploy public Betas of each phase in accordance with the timeline on in the Implementation Plan.

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N14.8	The development activity (which includes user needs refinement, design, development, test and implement of product increments) must utilise the Core principles of Agile, Agile tools and techniques and Agile ceremonies and artefacts. See the links below for more details
N15	Working arrangement requirements
N15.1	The Authority will be able to accommodate up to two dedicated staff on site, at the Authority's offices in London, and will expect the majority of the work to be undertaken at the Supplier's premises. In addition to this, the Supplier's staff may be accommodated as ad hoc visitors by prior arrangement
N15.2	Supplier's staff will be expected to travel when required to other sites for working with other Project stakeholders. This may include, but not be limited to, the EA and Department for Environment, Food, and Rural Affairs offices in the UK.
N16	Quality Assurance requirements
N16.1	Regular project meetings with the Authority (ad hoc and preferably on a weekly basis)
N16.2	Monthly progress reports highlighting new findings and showing demos of the service where possible, quality issues, impact on timescales, spend to date, estimate of time and cost to complete (in such circumstances as variations are permitted) and any issues. This will not inhibit the free flow of information on an ad hoc basis
N16.3	Draft copies of the relevant deliverables to be provided to the Authority and the EA four weeks in advance of their final deliverable deadline

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Appendix B
Maintenance and Support Services

Ref	Requirement
N5.3	Suppliers is required to maintain the required technical environments (e.g. test, development, pre-production) in their own hosting area until the point where they need to be migrated to the permanent live hosting area
N5.4	Supplier to conduct the migration of their environments to the live environment
N6.7	Supplier to manage the implementation of agreed software updates and upgrades as per a pre-agreed schedule of works
N6.8	Support/helpdesk availability – as defined in the Contract, Schedule 3, Appendix A

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Schedule 2

Contract Charges

1 CONTRACT CHARGES FOR CORE REQUIREMENT 1

- 1.1 The Authority will pay the Contract Charges for Core Requirement 1 (including in respect of the Development Services) specified at Table 1 of Appendix A of this Schedule 2.
- 1.2 The Parties agree that the Contract Charges for the Development Services shall only be payable when all the Deliverables associated with a Milestone have been completed and a Milestone Achievement Certificate has been issued to the Supplier for that Milestone.
- 1.3 All set-up costs connected with Core Requirement 1 (including with respect to Development Services) are to be absorbed by the Supplier. This will include any Supplier Personnel working from the Authority's Site as part of "the Supplier's ways of working".
- 1.4 The Contract Charges for Core Requirement 1 shall include all travel and subsistence costs which are incurred by the Supplier (including in respect of any person providing Services on behalf of the Supplier) in connection with the provision of the Services relating to Core Requirement 1 and the Supplier shall not be entitled to recover any other costs.
- 1.5 The Authority shall not be liable to reimburse or otherwise pay for any such costs outside those agreed between the Parties as more particularly set out in Appendix A to this Schedule 2.
- 1.6 For Core Requirement 1, all pricing, charges and payment shall be in £GBP Sterling and will be fixed. The fixed Contract Charges for Core Requirement 1 shall not be subject to any variation due to exchange rates or any indices.
- 1.7 From the Contract Charges for Development Services may be adjusted in accordance with Clause 7.6.

2 CONTRACT CHARGES FOR MAINTENANCE AND SUPPORT SERVICES

- 2.1 The Contract Charges for the Maintenance and Support Services are as stated in Table 2 of Appendix A to this Schedule.
- 2.2 The Contract Charges for Maintenance and Support Services shall include:
 - 2.2.1 the initial Maintenance and Support Services to be provided during the Maintenance Services Initial Term which forms part of the Core Requirement 1; and
 - 2.2.2 the optional Maintenance and Support Services to be provided during the Maintenance Services Term if the Authority exercises its contractual option under Clause 5.3.
- 2.3 The Contract Charges for Maintenance and Support Services will be fixed for the Maintenance and Support Services Initial Term.

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- 2.4 The Contract Charges for Maintenance and Support Services may be adjusted in accordance with Clause 7.6.
- 2.5 The initial Maintenance and Support Services will commence on the Maintenance Start Date. Further annual Maintenance and Support Services may be purchased by the Authority using the Variation Procedure.

3 DAY RATE CHARGES

- 3.1 The pricing applied to Additional Services will, at the Authority's sole discretion, be either fixed price or based on the day rates listed in Table 3 of Appendix A to this Schedule 2 (which may be adjusted in accordance with Clause 7.6).
- 3.2 The Contract Charges applicable to Services provided on a day rate basis shall be calculated as the aggregate of Man Day resource consumed in that month by the Authority based on the relevant rates as set out in Table 4 of Appendix A to this Schedule 2.
- 3.3 Each grade of Supplier Personnel referred to in the Table 3 of Appendix A to this Schedule 2 is defined within the table.
- 3.4 The day rates set out Table 3 of Appendix A to this Schedule 2 are based upon a standard working day of 8 hours (which shall be calculated exclusive of any breaks). For those roles where the 'Weekday Out of Hours Day Rate' and/or 'Weekend Out of Hours Rate' is shown as "N/A", a standard working day is assumed to be carried out as a 'professional day' with the individual consultant managing his/her own work schedule within hours appropriate to the Standard Day Rate to achieve the required results. Except in relation to those roles where N/A is shown in the 'Weekday Out of Hours Day Rate' Column in the table, then:
- 3.4.1 on any day where more than 8 hours are worked, 1/8th of the applicable Out of Hours Day Rate shall be paid for each extra whole hour that is worked; and
- 3.4.2 on any day where less than 8 hours are worked, 1/8th of the applicable Standard Day Rate shall be paid for each whole hour that is worked.
- 3.5 The Supplier shall provide a breakdown of any day rates Contract Charges. For the avoidance of doubt, no risks or contingencies shall apply to the provision of Services for which such Contract Charges apply.
- 3.6 The Supplier shall maintain full and accurate records of the time spent by the Supplier's Personnel in providing the Services and shall provide such records to the Authority with each relevant invoice if required by the Authority.
- 3.7 For Additional Services the Authority and the Supplier will where required, agree reasonable travel and subsistence charges when the Additional Services are purchased in accordance with the Final Contract.

4 SERVICE CREDITS (APPLIES TO MAINTENANCE AND SUPPORT)

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- 4.1 Service Credits that accrue and fall due will be calculated as a percentage of the total monthly Contract Charges due from the Authority to the Supplier in which the Supplier's performance failure occurred (as more particularly detailed in Schedule 3 (Service Levels and Performance)). Monthly Service Credits will be subject to the Service Credit Cap.
- 4.2 If no further Contract Charges fall due after Service Credits accrue, the Supplier shall issue a credit note to the Authority for a sum equal to any such Service Credits then outstanding which shall be repayable by the Supplier to the Authority as a debt.
- 4.3 Service Credits shall be applied by the Supplier as a financial credit against the Service Charges for the month following the month in which the Service Credit accrued, except where the Authority has otherwise requested in writing for the Service Credit to be 'banked' as credit towards a specific future Contract Charge, in which case the Supplier shall record the Service Credit as a financial credit in its accounts owing to the Authority and shall issue a credit note to that effect.
- 4.4 Where the Authority has accrued Service Credits in accordance with paragraph 5.3 of this Appendix A but has not incurred any Contract Charges against which the Service Credit was expressly reserved within 6 months of the date that the Service Credit was accrued (the **Unredeemed Credit**), then the Supplier shall credit the next invoice to the amount of the Unredeemed Credit and shall provide prior notification to the Authority of its intention to do so.

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Appendix A

Contract Charges Part 1

	Core Requirement 1 - including first year's Maintenance & Support
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Contract Charges Part 2

Table 2: Annual Maintenance and Support Services
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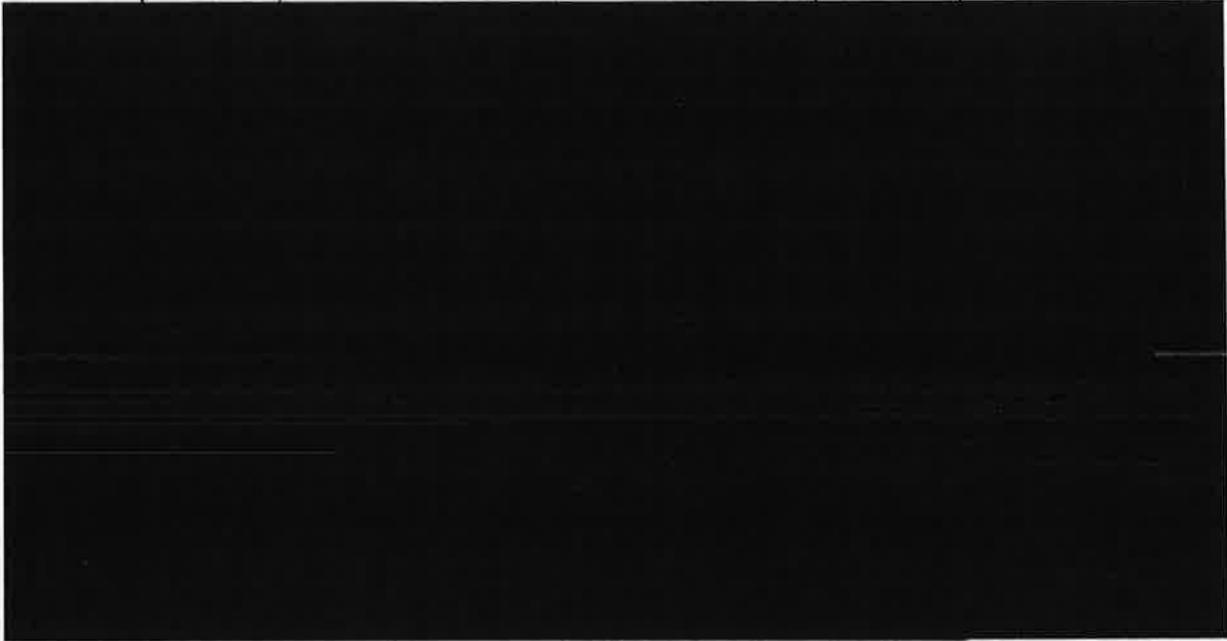


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Contract Charges Part 3

Table 3 - Additional Services Day Rates, Appendix A Part 3

REF	Job Title	Professional Working Day rate
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Schedule 3

Service Levels and Performance

1 Scope

- 1.1 This Schedule 3 sets out the Service Levels which the Supplier is required to achieve when providing the Maintenance and Support Services, the mechanism by which Service Level Failures and Critical Service Level Failures will be managed and the method by which the Supplier's performance in the provision by it of the Maintenance and Support Services will be monitored.

2 General Provisions

- 2.1 The Supplier Representative shall be proactive and shall ensure that all Service Levels are achieved to the highest standard throughout the Term.
- 2.2 The Supplier shall provide a managed service through the provision of a dedicated Contract manager (who can be the same person as the Supplier Representative) where required on matters relating to:
- 2.2.1 Maintenance and Support Services supply performance;
 - 2.2.2 quality of Maintenance and Support Services;
 - 2.2.3 Authority support;
 - 2.2.4 complaints handling; and
 - 2.2.5 accurate and timely invoices.
- 2.3 The Supplier accepts and acknowledges that failure to meet the Service Level performance measures set out in this Schedule will result in Service Credits becoming due to the Authority.
- 2.4 The objectives of the Service Levels and Service Credits are to:
- 2.4.1 ensure that the Services are of a consistently high quality and meet the requirements of the Authority;
 - 2.4.2 provide a mechanism whereby the Authority can attain meaningful recognition of inconvenience and/or loss resulting from the Supplier's failure to deliver the level of service for which it has contracted to deliver; and
 - 2.4.3 incentivise the Supplier to comply with and to expeditiously remedy any failure to comply with the Service Levels.

3 Service Baseline Period

- 3.1 The Supplier shall provide the Maintenance and Support Services to the Service Levels set out in this Schedule from the Maintenance Start Date (or such earlier date as may be agreed between the Parties in writing).

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3.2 The Authority may in its sole discretion agree for the nine (9) months commencing on the Maintenance Start Date to be the **Service Base Lining Period** in order to establish and update its requirements under this Schedule to achieve improved Service Level performance from the Supplier, taking into account the Solution.

3.3 At the end of the Service Base Lining Period the Service Levels (including the calculations and formula which underpin them) shall be reviewed and assessed against the measurements gathered and may be amended under the Variation Procedure. The Service Levels as agreed at the Commencement Date shall continue to apply after the Service Base Lining Period except where the Parties agree otherwise in accordance with the Variation Procedure.

4 **Service Levels**

4.1 Appendix A of this Schedule sets out the Service Levels, the performance of which the Parties have agreed will apply and will be measured in respect of the Maintenance and Support Services.

4.2 The Supplier shall monitor its performance of its Maintenance and Support Services by reference to the relevant performance criteria for achieving the Service Levels shown in Appendix A and shall send the Authority a performance monitoring report detailing the level of service which was achieved for each Service period.

4.3 The Supplier shall, at all times, provide the Maintenance and Support Services in such a manner that the performance of the Maintenance and Support Services meet or exceed the Service Level targets set for each Service Level in Table 2 of Appendix A to this Schedule.

4.4 The Supplier shall be deemed to have achieved a Service Level if the Supplier's performance in a given Service period in respect of a Service Level has met or exceeded the Service Level as set out in Appendix A of this Schedule.

4.5 If the level of performance of the Supplier of any element of the provision by it of the Maintenance and Support Services during the Term:

4.5.1 is likely to or fails to meet the Service Level; or

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

the Supplier shall immediately notify the Authority in writing and the Authority, in its absolute discretion and without prejudice to any other of its rights howsoever arising, may:

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

(b) if a Service Level Failure has occurred, deduct from the Contract Charges the applicable Service Credits payable by the Supplier to the Authority in accordance with the formula for that Service Level set out in Appendix A of this Schedule; or

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- (c) If a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure in accordance with Clause 8.2, without prejudice to the right of the Authority to terminate this Contract and/or to claim damages from the Supplier for material Default as a result of such Critical Service Level Failure in accordance with Clause 8.2.

- 4.6 Approval and implementation by the Authority of any rectification plan shall not relieve the Supplier of any continuing responsibility to achieve the Service Levels, or remedy any failure to do so, and no estoppels or waiver shall arise from any such Approval and/or implementation by the Authority.

5 Critical Service Level Failure

- 5.1 Critical Service Level Failures are compensated and otherwise dealt with in accordance with Clause 8.2 of the Contract.

6 Service Credits

- 6.1 Paragraph 8 of this Schedule 3 sets out the process used to calculate a Service Credit payable to the Authority as a result of a Service Level Failure in a given Service Period which, for the purpose of this Schedule, shall be a recurrent period of one (1) month during the Maintenance Services Term.
- 6.2 The Authority shall use the monthly performance reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each relevant Service Period.
- 6.3 The Supplier will provide to the Authority such supporting documentation as the Authority may reasonably require in order to verify the level of performance by the Supplier and to support the calculations by the Supplier of any Service Credits due.
- 6.4 Service Credits are a reduction of the amounts payable in respect of the Services and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with Schedule 2 (Charges and Invoicing) unless expressly directed otherwise by the Authority.

7 Nature of Service Credits

- 7.1 Both Parties agree that the Service Credits are a reasonable method of price adjustment to reflect poor performance of the Maintenance and Support Services.

8 Service Credit Failure Threshold

8.1 Incident Management

- 8.1.1 For any Service Period, a failure to achieve the required response time and/or resolution time for an Incident Classification 1 Service Level will result in the Authority receiving a Service Credit of 10% of the monthly Contract Charge for the Maintenance and Support Services for each Service Level Failure. There will be a further Service Credit payable by the Supplier where the Incident relates to call response times and this response time falls below the required 95%. In these circumstances, the Authority shall be entitled to receive a Service Credit of an additional 5%

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of the monthly charge for the Maintenance and Support Services Service Credit.

8.1.2 For any Service Period, a failure to achieve the response time Service Level for an Incident Classification 2 will result in a Service Credit of 5% of the monthly Contract Charge for the Maintenance and Support Services being payable to the Authority.

8.1.3 For any Service Period, any failure to achieve the response time Service Level for an Incident Classification 3 will result in a Service Credit of 5% of the monthly Contract Charge for the Maintenance and Support Services being payable to the Authority.

8.2 Service Availability

8.2.1 Availability of major system components and applications falling below 99% in any Service Period (and therefore failing to meet the Service Level for availability of the Solution) will result in a Service Credit as follows:

- (a) between 98% and 99% availability: 5% of the monthly Contract Charge for the Maintenance and Support Services; and
- (b) each additional 1% loss of availability will result in an additional 5% monthly Contract Charge and will be owed to the Authority as a Service Credit.

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Appendix A

Service Levels

1 Criteria 1 - Service Levels for Incidents

- 1.1 The Service Levels to be achieved in respect of Maintenance and Support Services that will otherwise result in Incidents if such Service Levels are not achieved as required by this Appendix A are set out in the third column of Table 2 below.
- 1.2 Incidents shall be deemed to occur at the point at which such incidents arise in the delivery of the Maintenance and Support Services received by the Supplier during Core Support Hours or during hours which are supported by on call support.
- 1.3 Response times and resolution times for Incidents specified in this Appendix shall relate to UK time (which may be either GMT or BST).
- 1.4 **Core Support Hours** shall be within the hours of 09:00 to 17:00 (UK Time) on Working Days only. For the avoidance of doubt, for the purposes of calculating response times and resolution times for Incidents, measurement of the times shall stop at 17:00 hours on a Working Day and shall resume at 09:00 hours on the next Working Day.
- 1.5 Updates to the Authority's service desk in respect of Incident resolution progress shall be during the hours of 09:00 to 17:00 on Working Days.
- 1.6 Incidents are classified as follows:

Table 1:

Incident Classification	Description
1 (most serious)	<p>A service failure which, in the reasonable opinion of the Authority:</p> <ul style="list-style-type: none">• affects multiple users and multiple systems affected or the service impacted is a priority system• causes a complete service loss (e.g. major network failure) or loss of major service line where all users or key users (such as the executive board) are affected. A major impact on business operations• causes significant financial loss and/or disruption to the Authority• has regulatory or legal implications• compromises the Authority's ability to support ministers effectively

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	<ul style="list-style-type: none"> • compromises the Authority's ability to respond to urgent parliamentary questions • compromises the Authority's reputation • makes the Authority's data vulnerable to loss, corruption or abuse • results in any material loss or corruption of the Authority's data • means no workaround is possible. <p>Non-exhaustive examples:</p> <ul style="list-style-type: none"> • failure of service to provide user authentication service allowing unauthorised access to the Authority's systems and the Authority's data • a critical system required in the provision of services is down • severe loss of functionality to a critical system required in the provision of services • loss of power to data centre causing failure of services.
2	<p>A service failure which, in the reasonable opinion of the Authority:</p> <ul style="list-style-type: none"> • affects multiple users and/or a single system • has a major (but not critical) adverse impact on the activities of the Authority and no work around is available • causes a financial loss and/or disruption to the Authority which is more than trivial but less severe than the significant financial loss described in the definition of an Incident Classification 1 • affects significant numbers of users (though fewer than in Incident Classification 1) • has a significant impact on business operations. <p>Non-exhaustive examples:</p> <ul style="list-style-type: none"> • Corruption of organisational database tables • loss of ability to update the Authority's data • partial service loss (e.g. telephone service).

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3	<p>A service failure which, in the reasonable opinion of the Authority:</p> <ul style="list-style-type: none"> • has a major adverse impact on the activities of the Authority which can be reduced to a moderate adverse impact due to the availability of a contingency • has a moderate adverse impact on the activities of the Authority. <p>Non-exhaustive examples:</p> <ul style="list-style-type: none"> • loss of a system or service affecting a limited number of users across the estate or is limited to a small number of locations • single user is affected or single item of equipment failure where there is an alternative in place • partial application loss for small group of users. • Loss of a system or service affecting a small number of users or system failure/lack of access limited to a matter of hours • Loss of some data which can be recovered by user and/or Supplier effort within a day
4 (least serious)	<p>A service failure which, in the reasonable opinion of the Authority</p> <ul style="list-style-type: none"> • has a minor adverse impact on the provision of the Service. <p>Non-exhaustive examples:</p> <ul style="list-style-type: none"> • some loss of some data which is recoverable with a minimum of user effort in a matter of hours • loss of a single item of equipment (e.g. personal computer, printer) where no alternative exists for the user • cosmetic faults on applications • no impact on business operations.

A Service Level failure which results in the non-availability of the Solution will always be classified as either a Incident Classification 1 or Incident Classification 2, at the discretion of the Authority depending on the severity of the failure.

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- 1.7 For each Incident Classification, the following table contains a target Response Time (as defined below) and Service Level for the Response Time; a Resolution Time (as defined below) and Service Level for the Resolution Time; and a target frequency of updates to the Authority's service desk (which are then available to be cascaded to the Authority or user) on progress of the Incident.

Table 2

Incident Classification	Response Time	Response Time * ("Service Level")	Resolution Time **	Resolution Time Service Level ("Service Level")	Update to Authority's service desk ("Service Level")
1	15 minutes †	95%	8 hours	95%	Every hour
2	30 minutes †	95%	16 hours	95%	Every 2 hours
3	2 hours	95%	5 Working Days	95%	Every 4 hours
4	2 hours	90%	10 Working Days	95%	Every Working Day

***Response Time** is defined as the time between the Authority, or the Authority's delegated representative, logging an Incident (by phone, or desk to desk interface) and when the Supplier commences work to resolve the incident and has notified the Authority accordingly.

****Resolution Time** is defined as the amount of time between when the Authority first notified the Authority's service desk of an Incident and when that problem is actually solved by the Supplier.

† Response time for Incident Classification 1 and 2 is applicable 24 hours seven days a week.

Incident Closure

- 1.8 Subject to paragraph 1.9 below, an Incident shall be deemed to be closed and the Supplier's obligations in respect of that Incident shall end when the first of the following occurs:
- 1.8.1 when the Authority's service desk is notified that a resolution to the incident (**Fix**), which may be a workaround (i.e. a temporary solution which doesn't fix the underlying cause), has been expressly approved by Authority;
 - 1.8.2 when the Supplier, acting reasonably, reaches a decision that the Incident requires fourth line support for its resolution and notifies the Authority's service desk accordingly;

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- 1.8.3 when the Supplier, acting reasonably, reaches a decision that the Incident is assessed to be outside of the scope of the Service Requirements and the Supplier notifies the Authority's service desk and the Authority accordingly.
 - 1.8.4 the Authority uses the Fix in the production environment which resolves the Incident; or
 - 1.8.5 a period of one month has elapsed following the delivery of a Fix by the Supplier to the Authority for acceptance (with clear instructions of how and when the Fix should be applied by the Supplier or the Authority in order to resolve the Incident) and the Authority has not notified Supplier of any failure of the Fix to resolve the Incident.
- 1.9 Any disputes in relation to the closing of an Incident shall be referred to the Dispute Resolution Procedure where the Parties shall determine using the appropriate escalation points whether an Incident was reasonably closed by the Supplier in accordance with paragraph 1.8 above.
- 2 Criteria 2 – Availability Service Levels**
- 2.1 The Supplier will measure the availability of the Solution and will monitor it in accordance with the agreed performance monitoring obligations set out in this Schedule.
 - 2.2 The Solution will be **Available** (and Availability will be interpreted accordingly) when;
 - 2.2.1 Authority end users are able to access and utilise all of the Solution during Core Support Hours; and
 - 2.2.2 the Solution is able to provide the functionality set out in Schedule 1 and elsewhere in this Contract.
 - 2.3 Availability of the Solution during Core Support Hours shall be >99% (and this is the required Service Level).

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Schedule 4

Supplier Solution

The incorporation of the Supplier's Solution and Tender into this Contract does not operate to transfer any risk that the Supplier's Solution or Tender is complete or will meet the Authority's Service Requirements set out in Schedule 1. The Supplier shall remain fully liable in respect of ensuring that its solution and delivery of the Services meets the Service Requirements.

PART A: SUPPLIER SOLUTION

Within this Schedule 4, Part A is a copy of the relevant parts of the Supplier response to the BEIS Invitation To Tender TRN 2107/10/2019.

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[SUPPLIER SOLUTION REDACTED]

PART B: TENDER

In addition to the documents within this Schedule 4, Part A, Schedule 4, Part B includes the following Supplier Declarations as submitted in the Supplier response to the BEIS invitation to Tender TRN 2107/10/2019 and form part of this Contract: These are (referenced and not printed within this Contract) as follows:

- (a) Declaration 1: Statement of non-collusion;
- (b) Declaration 2: Form of Tender;
- (c) Declaration 3: Conflict of Interest;
- (d) Declaration 4: Selection Questionnaire;
- (e) Declaration 5: The General Data Protection Regulation Assurance Questionnaire

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Schedule 5

Business Continuity and Disaster Recovery

1 SUPPLIER BCDR PLAN

1.1 The Supplier's Outline BCDR Plan is attached at Appendix A to this Schedule.

2 DEFINITIONS

2.1 In this Schedule, the following definitions shall apply:

Business Continuity Plan has the meaning given to it in paragraph 3.2.1(b) of this Schedule;

Disaster Recovery Plan has the meaning given to it in 3.2.1(c) of this Schedule;

Disaster Recovery System means the system embodied in the processes and procedures for restoring the provision of Services following the occurrence of a disaster;

Review Report has the meaning given to it in paragraph 7.2 of this Schedule;

Supplier's Proposals has the meaning given to it in paragraph 7.2.3 of this Schedule;

3 BCDR PLAN

3.1 Within the six (6) Months of the Commencement Date, the Supplier shall prepare and deliver to the Authority for the Authority's written approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

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

3.1.2 the recovery of the Services in the event of a Disaster;

3.2 The BCDR Plan shall:

3.2.1 be divided into three parts:

(a) Part A which shall set out general principles applicable to the BCDR Plan;

(b) Part B which shall relate to business continuity (the **Business Continuity Plan**); and

(c) Part C which shall relate to disaster recovery (the **Disaster Recovery Plan**); and

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- 3.2.2 unless otherwise required by the Authority in writing, be based upon and be consistent with the provisions of paragraphs 3, 4 and 5.
- 3.3 Following receipt of the draft BCDR Plan from the Supplier, the Authority shall:
 - 3.3.1 review and comment on the draft BCDR Plan as soon as reasonably practicable; and
 - 3.3.2 notify the Supplier in writing that it approves or rejects the draft BCDR Plan no later than twenty (20) Working Days after the date on which the draft BCDR Plan is first delivered to the Authority.
- 3.4 If the Authority rejects the draft BCDR Plan:
 - 3.4.1 the Authority shall inform the Supplier in writing of its reasons for its rejection; and
 - 3.4.2 the Supplier shall then revise the draft BCDR Plan (taking reasonable account of the Authority's comments) and shall re-submit a revised draft BCDR Plan to the Authority for the Authority's Approval within twenty (20) Working Days of the date of the Authority's notice of rejection. The provisions of paragraphs 3.3 and 3.4 of this Schedule shall apply again to any resubmitted draft BCDR Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

4 PART A OF THE BCDR PLAN AND GENERAL PRINCIPLES AND REQUIREMENTS

- 4.1 Part A of the BCDR Plan shall:
 - 4.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
 - 4.1.2 provide details of how the Invocation of any element of the BCDR Plan may impact upon the operation of the provision of the Services and any services provided to the Authority by an Other Supplier;
 - 4.1.3 contain an obligation upon the Supplier to liaise with the Authority and (at the Authority's request) any Other Suppliers with respect to issues concerning business continuity and disaster recovery where applicable;
 - 4.1.4 detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Authority and any of its Other Suppliers in each case as notified to the Supplier by the Authority from time to time;
 - 4.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Authority;
 - 4.1.6 contain a risk analysis, including:

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- (a) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
 - (b) identification of any single points of failure within the provision of Services and processes for managing the risks arising therefrom;
 - (c) identification of risks arising from the interaction of the provision of Services and with the services provided by an Other Supplier; and
 - (d) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
- 4.1.7 provide for documentation of processes, including business processes, and procedures;
 - 4.1.8 set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-Contractors) and for the Authority;
 - 4.1.9 identify the procedures for reverting to normal service;
 - 4.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;
 - 4.1.11 identify the responsibilities (if any) that the Authority has agreed it will assume in the event of the invocation of the BCDR Plan; and
 - 4.1.12 provide for the provision of technical advice and assistance to key contacts at the Authority as notified by the Authority from time to time to inform decisions in support of the Authority's business continuity plans.
- 4.2 The BCDR Plan shall be designed so as to ensure that:
- 4.2.1 the Services are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
 - 4.2.2 the adverse impact of any Disaster, service failure, or disruption on the operations of the Authority is minimal as far as reasonably possible;
 - 4.2.3 it complies with the relevant provisions of ISO/IEC 27002 and all other industry standards from time to time in force; and
 - 4.2.4 there is a process for the management of disaster recovery testing detailed in the BCDR Plan.
- 4.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services or to the business processes facilitated by and the business operations supported by the provision of Services.
- 4.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels or to any increase in the Contract Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.
- 5 BUSINESS CONTINUITY PLAN - PRINCIPLES AND CONTENTS**

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5.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the provision of Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Authority expressly states otherwise in writing:

5.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Services; and

5.1.2 the steps to be taken by the Supplier upon resumption of the provision of Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.

5.2 The Business Continuity Plan shall:

5.2.1 address the various possible levels of failures of or disruptions to the provision of Services;

5.2.2 set out the services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such goods, services and steps, the **Business Continuity Services**);

5.2.3 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 Services during any period of invocation of the Business Continuity Plan; and

5.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

6 DISASTER RECOVERY PLAN - PRINCIPLES AND CONTENTS

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

6.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.

6.3 The Disaster Recovery Plan shall include the following:

6.3.1 the technical design and build specification of the Disaster Recovery System;

6.3.2 details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:

(a) data centre and disaster recovery site audits;

(b) backup methodology and details of the Supplier's approach to data back-up and data verification;

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- (c) identification of all potential disaster scenarios;
 - (d) risk analysis;
 - (e) documentation of processes and procedures;
 - (f) hardware configuration details;
 - (g) network planning including details of all relevant data networks and communication links;
 - (h) invocation rules;
 - (i) Service recovery procedures; and
 - (j) steps to be taken upon resumption of the provision of Services to address any prevailing effect of the failure or disruption of the provision of Services;
- 6.3.3 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 Services during any period of invocation of the Disaster Recovery Plan;
- 6.3.4 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;
- 6.3.5 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
- 6.3.6 testing and management arrangements.

7 REVIEW AND AMENDMENT OF THE BCDR PLAN

- 7.1 The Supplier shall review the BCDR Plan (and the risk analysis on which it is based):
- 7.1.1 on a regular basis and as a minimum once every six (6) months;
 - 7.1.2 within three calendar months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 7; and
 - 7.1.3 where the Authority requests any additional reviews (over and above those provided for in paragraphs 7.1.1 and 7.1.2 of this Schedule) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Authority's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Authority for the Authority's approval. The costs of both Parties of any such additional reviews shall be met by the Authority except that the Supplier shall not be entitled to charge the Authority for any costs that it may incur above any estimate without the Authority's prior written approval.
- 7.2 Each review of the BCDR Plan pursuant to paragraph 7.1 of this Schedule shall be a review of the procedures and methodologies set out in the BCDR Plan and shall

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assess their suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within the period required by the BCDR Plan or, if no such period is required, within such period as the Authority shall reasonably require. The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Authority a report (a **Review Report**) setting out:

- 7.2.1 the findings of the review;
 - 7.2.2 any changes in the risk profile associated with the provision of Services; and
 - 7.2.3 the Supplier's proposals (the **Supplier's Proposals**) for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any goods, services or systems provided by a third Party.
- 7.3 Following receipt of the Review Report and the Supplier's Proposals, the Authority shall:
- 7.3.1 review and comment on the Review Report and the Supplier's Proposals as soon as reasonably practicable; and
 - 7.3.2 notify the Supplier in writing that it approves or rejects the Review Report and the Supplier's Proposals no later than twenty (20) Working Days after the date on which they are first delivered to the Authority.
- 7.4 If the Authority rejects the Review Report and/or the Supplier's Proposals:
- 7.4.1 the Authority shall inform the Supplier in writing of its reasons for its rejection; and
 - 7.4.2 the Supplier shall then revise the Review Report and/or the Supplier's Proposals as the case may be (taking reasonable account of the Authority's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Supplier's Proposals to the Authority for the Authority's approval within twenty (20) Working Days of the date of the Authority's notice of rejection. The provisions of paragraphs 7.3 and 7.4 of this Schedule shall apply again to any resubmitted Review Report and Supplier's Proposals, provided that either Party may refer any disputed matters for resolution by the Resolution Procedure at any time.
- 7.5 The Supplier shall as soon as is reasonably practicable after receiving the Authority's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures

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necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

8 TESTING OF THE BCDR PLAN

- 8.1 The Supplier shall test the BCDR Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to paragraph 8.2 of this Schedule, the Authority may require the Supplier to conduct additional tests of some or all aspects of the BCDR Plan at any time where the Authority considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the BCDR Plan.
- 8.2 If the Authority requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Authority's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Authority unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 8.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Authority a report setting out:
- 8.3.1 the outcome of the test;
 - 8.3.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 8.3.3 the Supplier's proposals for remedying any such failures.
- 8.4 Following each test, the Supplier shall take all measures requested by the Authority, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Authority, by the date reasonably required by the Authority and set out in such notice.
- 8.5 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Supplier of any of its obligations under this Contract.
- 8.6 The Supplier shall also perform a test of the BCDR Plan in the event of any major reconfiguration of the Services or as otherwise reasonably requested by the Authority.

9 INVOCATION OF THE BCDR PLAN

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

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APPENDIX A

[SUPPLIER'S OUTLINE BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN REDACTED]

Schedule 6

Implementation and Testing

Part A: Implementation

- 1 PURPOSE
 - 1.1 The purpose of this Schedule is to describe the requirements, activities and outcomes to be performed by the Supplier to ensure smooth commencement of the Services with effect from the Commencement Date and ensuring the timely and effective commencement of the Development Services in accordance with the Implementation Plan;
 - 1.2 define a process for the preparation, agreement and implementation of the detailed Implementation Plan to deliver the Services; and
 - 1.3 to identify the Milestones (and associated Deliverables)
 - 1.4 to provide an overview of Testing of the Service and Deliverables.
- 2 OUTLINE IMPLEMENTATION PLANS
 - 2.1 The Supplier provided an Outline Implementation Plan as part of its Tender, which is attached at Appendix A of this Schedule 6.
 - 2.2 All changes to the Outline Implementation Plan shall be subject to the Variation Procedure provided that the Supplier shall not attempt to postpone any of the Milestones using the Variation Procedure or otherwise.
- 3 APPROVAL OF THE DETAILED IMPLEMENTATION PLAN
 - 3.1 The Supplier shall submit a draft of the detailed Implementation Plan to the Authority for approval within fifteen (15) Working Days of the Commencement Date
 - 3.2 The Supplier shall ensure that the draft detailed Implementation Plan:
 - 3.2.1 incorporates all of the Milestones and Milestone Dates set out in the Outline Implementation Plan;
 - 3.2.2 includes (as a minimum) the Supplier's proposed Deliverables, timescales and activities and Testing in respect of each of the Milestones;
 - 3.2.3 clearly outlines all the steps required to implement the Milestones and/or any other implementation activity to be achieved (including roles, responsibilities and resources of the Parties and of third Parties) together with a plan for the rest of the programme, in conformity with the Authority's requirements;
 - 3.2.4 is produced using a software tool as specified, or agreed by the Authority;
 - 3.2.5 sets out all proposed approval/closure criteria for all Milestones;

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- 3.2.6 includes a "Risk, Issues and Assumptions Log" which identifies and explains any underpinning issues, assumptions and risks associated with the detailed Implementation Plan;
 - 3.2.7 sets out a list of Authority responsibilities;
 - 3.2.8 sets out full details of all migration and transition activity that need to be completed; along with details of any additional governance arrangements which will be applied during the implementation phase;
 - 3.2.9 includes details of how the Supplier will co-ordinate and implement activity and knowledge transfer from the Authority's existing operational and service management teams (including Authority third Parties and the incumbent Supplier) and training for the Authority and its users; and
 - 3.2.10 includes a Test Plan for each Milestone (and where applicable, each Deliverable within that Milestone).
- 3.3 The Authority shall have the right to require the Supplier to include any reasonable changes or provisions in the detailed Implementation Plan before it is submitted to the Authority in accordance with this Schedule.
- 3.4 Following receipt of the draft detailed Implementation Plan from the Supplier, the Authority shall:
- 3.4.1 review and comment on the draft detailed Implementation Plan as soon as reasonably practicable; and
 - 3.4.2 notify the Supplier in writing that it approves or rejects the draft detailed Implementation Plan no later than fifteen (15) Working Days after the date on which the draft detailed Implementation Plan is first delivered to the Authority.
- 3.5 If the Authority rejects the draft detailed Implementation Plan:
- 3.5.1 the Authority shall inform the Supplier in writing of its reasons for its rejection; and
 - 3.5.2 the Supplier shall then revise the draft detailed Implementation Plan (taking reasonable account of the Authority's comments) and shall re-submit a revised draft detailed Implementation Plan to the Authority for the Authority's approval within ten (10) Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 3.4 and this Paragraph 3.5 shall apply again to any resubmitted draft detailed Implementation Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 3.6 If the Authority approves the draft detailed Implementation Plan, it shall replace the Outline Implementation Plan from the date of the Authority's notice of approval.
- 4 UPDATES TO AND MAINTENANCE OF THE DETAILED IMPLEMENTATION PLAN
- 4.1 After approval of the detailed Implementation Plan in accordance with paragraph 3 of this Schedule, it shall be maintained and updated on a weekly basis by the Supplier

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as may be necessary to reflect the then current state of the implementation of the Services.

- 4.2 Save for any amendments which are of a type identified and notified by the Authority (at the Authority's discretion) to the Supplier in writing as not requiring approval, any material amendments to the detailed Implementation Plan shall be subject to the Variation Procedure (and for the avoidance of doubt any amendments to elements of the detailed Implementation Plan which reflect the contents of the Outline Implementation Plan shall be deemed to be material amendments).
 - 4.3 Until such time as the updated detailed Implementation Plan is approved by the Authority, the detailed Implementation Plan then existing (that is to say prior to the update) shall apply.
 - 4.4 In addition to maintaining and updating the detailed Implementation Plan in accordance with this schedule, the Supplier shall submit an updated detailed Implementation Plan within twenty (20) Working Days of receiving notification from the Authority, or such longer period as the Parties may agree (provided that any failure to agree such longer period shall be referred to the Dispute Resolution Procedure), of being advised by the Authority of an event reasonably identified by the Authority as requiring a revised detailed Implementation Plan.
 - 4.5 Any such revised detailed Implementation Plan shall be submitted by the Supplier for approval in accordance with the procedure set out in this paragraph 4.
 - 4.6 The Parties shall consider and review the detailed Implementation Plan and progress towards its successful implementation at regular meetings to be held at a frequency to be agreed between them and at such shorter frequency as may be required in respect of any governance arrangements that are established for the purposes of Implementation in accordance with paragraph 3.2.8 of this Schedule. In preparation for such meetings, the current detailed Implementation Plan shall be provided by the Supplier to the Authority not less than five Working Days in advance of each meeting.
- 5 Milestones and Milestone Dates
- 5.1 The Supplier shall perform its obligations so as to Achieve each Milestone by the Milestone Date and comply with the Implementation Plan.
 - 5.2 Changes to the Milestones events set out in the Implementation Plan after it has been Approved shall only be made in accordance with the Variation Procedure and provided that the Supplier shall not attempt to postpone any of the Milestones events using the Variation Procedure or otherwise.
 - 5.3 Where specified by the Authority in the Implementation Plan, time in relation to compliance with a date, Milestone Date or period shall be of the essence and failure of the Supplier to comply with such date, Milestone Date or period shall be a material Default unless the Parties expressly agree otherwise.

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Part B: Testing

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

Component means any constituent parts of the Services, bespoke or COTS, hardware or software;

COTS means commercially available off the shelf software, being software that is commonly used and is provided in a standard form and on standard licence terms which are not typically negotiated by the licensor;

Test means any tests required to be carried out pursuant to this Contract as set out in the Test Plan (where used) and **Testing** and **Tested** shall be construed accordingly;

Test Issue means any variance or non-conformity of the Services or Deliverables from their requirements as set out in the Order Form;

Test Plan means a plan:
(a) for the Testing of Deliverables; and
(b) setting out other agreed criteria related to the achievement of Milestones,
as described further in this Schedule;

Test Reports means the reports to be produced by the Supplier setting out the results of Tests;

Test Success Criteria means, in relation to a Test, the test success criteria for that Test as referred to in paragraph 6 of this Schedule;

2 INTRODUCTION

2.1 This Part B sets out the approach to Testing and the different Testing activities to be undertaken, including the preparation and agreement of the Testing Plans.

3 RISK

3.1 The issue of a Milestone Achievement Certificate shall not:

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

3.1.2 affect the Authority's right subsequently to reject:

(a) all or any element of the Deliverables; or

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- (b) any Milestone to which the Milestone Achievement Certificate relates.
- 3.2 Notwithstanding the issuing of any Milestone Achievement Certificate, the Supplier shall remain solely responsible for ensuring that:
 - 3.2.1 the Services are Implemented in accordance with this Contract; and
 - 3.2.2 each Service Level is met.
- 4 TESTING OVERVIEW
 - 4.1 All Tests conducted by the Supplier shall be conducted in accordance with the Testing Plans.
 - 4.2 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.
 - 4.3 The Authority shall be entitled to review the relevant Test Reports and logs on request.
 - 4.4 Any disputes between the Supplier and the Authority regarding this Testing shall be referred to the Dispute Resolution Procedure.
- 5 TEST PLAN
 - 5.1 The Supplier shall develop a Test Plan as soon as practicable after the Commencement Date but in any case no later than fifteen (15) Working Days (or such other period as the Parties may agree) after the Commencement Date.
 - 5.2 The Test Plan shall include an overview of how Testing will be conducted in accordance with the Implementation Plan and will set out the processes and procedures used to capture, record and classify Test Issues and Test results including use of Test Reports and logs and details of any personnel, assets, technical environments and configurations which will be used to support Testing and how they will be used.
 - 5.3 Each Test Plan shall also include as a minimum:
 - 5.3.1 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;
 - 5.3.2 a detailed procedure for the Tests to be carried out
 - 5.4 The Authority shall not unreasonably withhold or delay its Approval of the Testing Plans provided that the Supplier shall implement any reasonable requirements of the Authority in the Test Plans.
- 6 TEST SUCCESS CRITERIA
 - 6.1 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to paragraph 5 of this Schedule.
- 7 TESTING

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- 7.1 The Supplier shall manage the progress of Testing in accordance with the relevant Test Plans.
- 7.2 The Supplier shall provide to the Authority in relation to each Test the final Test Report within 5 Working Days (or such other period as the Parties may agree in writing) of completion of Testing.
- 7.3 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including an overview of the Testing conducted, identification of the Test Success Criteria which have been satisfied or not (including reasons why a Test may have failed); details of incomplete or postponed Tests; and specifications of any hardware and software used when Testing (and changes that may have been applied for the purpose of Testing):
- 7.4 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 7.5 Each Party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved, the Authority 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.
- 7.6 Notwithstanding the issuing of any Milestone Achievement Certificate, the Supplier shall remain solely responsible for ensuring that the Services are provided in accordance with this Contract.
- 7.7 The Authority 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.

8 ISSUE OF MILESTONE ACHIEVEMENT CERTIFICATE

- 8.1 The Authority shall issue a Milestone Achievement Certificate in respect of a given Milestone as soon as is reasonably practicable following:
- 8.1.1 the successful completion of all Tests in respect of all Deliverables related to that Milestone; and
- 8.1.2 performance by the Supplier to the reasonable satisfaction of the Authority of any other tasks identified in the Implementation Plan as associated with that Milestone (which may include the submission of a Deliverable that is not due to be Tested, such as the production of Documentation).
- 8.2 If a Milestone is not Achieved, the Authority shall promptly issue a report to the Supplier setting out:
- 8.2.1 the issues in relation to the Test;
- 8.2.2 any other reasons for the relevant Milestone not being Achieved.

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8.3 Provided there are no Test Issues which would, in the reasonably opinion of the Authority, adversely affect the provision of the Services, the Authority shall issue a Milestone Achievement Certificate.

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Appendix A

MILESTONE ACHIEVEMENT CERTIFICATE

To: [Insert name of Supplier]

From: [insert name of Authority]

[insert Date dd/mm/yyyy]

Dear Sirs,

MILESTONE ACHIEVEMENT CERTIFICATE

Milestone:

[Guidance Note: insert description of the relevant Milestones]

We refer to the agreement (**Contract**) relating to the provision of the Services between the [insert Authority name] (**Authority**) and [insert Supplier name] (**Supplier**) dated [insert Commencement Date dd/mm/yyyy].

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

[We confirm that all the Deliverables relating to Milestone [number] have been tested successfully in accordance with the Testing Plan relevant to this Milestone]

[Guidance Note: delete as appropriate]

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Authority]

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Schedule 7

Standards

1 Contract Standards

- 1.1 The Supplier shall at all times during the Term comply with the Standards including but not limited to the following:

Service Management Standards

- 1.2 BS EN ISO 9001:2015 Quality Management System standard or equivalent.
- 1.3 ITIL v3 2011 IT Service Management.
- 1.4 ISO/IEC 20000:2011 Parts 1-4 ITSM Specification for Service Management.
- 1.5 ISO 10007 Quality management systems – Guidelines for configuration management.
- 1.6 ISO 22301 - "Societal Security — Business continuity management systems — Requirements" and ISO 22313 - "Societal Security — Business continuity management systems — Guidance"

Environmental Standards

- 1.7 BS EN ISO 14001 Environmental Management System standard or equivalent.
- 1.8 Directive 2012/19/EU on Waste Electrical and Electronic Equipment (or equivalent) and Directive 2011/65/EU on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (or equivalent).

Portfolio, Programme and Project Management Standards

- 1.9 PRINCE2 and MSP methodologies. ISO 21500:2012 Guidance on project management. ISO/IEC/IEEE 16326-2009 Systems and Software Engineering—Life Cycle Processes—Project Management or equivalent methodology.

Infrastructure Safety Standards

- 1.10 BS EN 60950-1:2006+A12:2011 or subsequent replacements for hardware.
- 1.11 BS EN 60065:2002+A12:20011 or subsequent replacements for audio, video and similar electronic apparatus.
- 1.12 BS EN 60825-1:2007 or subsequent replacement for laser printers or scanners using lasers.
- 1.13 BS EN 41003:2009 or subsequent or subsequent replacements for apparatus for connection to any telecommunications network.

Accessible IT Standards

- 1.14 the World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI) Web Content Accessibility Guidelines (WCAG) 2.0 Conformance Level AA.

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1.15 ISO/IEC 13066-1:2011 Information Technology - Interoperability with assistive technology (AT) – Part 1: Requirements and recommendations for interoperability.

1.16 BS 8878:2010 Web Accessibility Code of Practice.

Information Technology Standards

1.17 <https://www.gov.uk/government/publications/open-standards-principles>

1.18 Government Open Data Standards -
<https://www.gov.uk/government/publications/open-standards-for-government>

1.19 Technology Code of Practice -
<https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>

1.20 <https://www.gov.uk/public-services-network#psn-standards>

1.21 <https://www.gov.uk/government/publications/greening-government-ict-strategy>

1.22 <https://www.gov.uk/government/publications/open-source-open-standards-and-re-use-government-action-plan>

1.23 Government Security Policy Framework -
<https://www.gov.uk/government/publications/security-policy-framework>

Architecture and Design Standards

1.24 COBIT 5 and TOGAF 9.1 Architecture Framework and Standards.

1.25 BS 7000-1:2008 Design management systems. Guide to managing innovation

1.26 BS 7000-3:1994 Design management systems. Guide to managing service design

Connectivity Standards

1.27 GSi v4.1 (although no new connections are being accepted by GSI after 12/12).

1.28 PCI DSS V3.2 (Card payment network)

1.29 e-Government Interoperability Framework (e-GIF v6.1, 18/31/2005)

1.30 e-GIF Technical Standards Catalogue (v6.2, 2/9/2005)

1.31 e-Government Metadata Standard (e-GMS v3.1, 29/8/2008)

1.32 Information Age Government Security Framework or equivalent.

Information Security Management Standards

1.33 ISO 27001 Information Security Management standard or equivalent.

Manual of Protective Security Standards

1.34 Manual of Protective Security (MPS) or equivalent

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Cyber Essentials Scheme

- 1.35 Cyber Essentials Scheme Basic Certificate and/or Cyber Essentials Scheme Plus Certificate - <https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>

Miscellaneous

- 1.36 Off-payroll working in the public sector: reform of the intermediaries legislation (IR35) - <https://www.gov.uk/government/publications/off-payroll-working-in-the-public-sector-reform-of-the-intermediaries-legislation-technical-note>
- 1.37 The Suppliers shall comply with the Governments supplier standard for digital and technology service providers when it is published. A draft of the standard was published for consultation in September 2016 and the consultation closed in December 2016. The final standard is expected to be published in 2017 - <https://www.gov.uk/government/consultations/supplier-standard-for-digital-and-technology-service-providers>

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Schedule 8

Security

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

- Baseline Security Requirements** means those requirements outlined in Appendix A of this Schedule
- Breach of Security** means the occurrence of:
- (a) any unauthorised access to or use of the Services, the Sites, the ICT Environment and/or any ICT, information or data (including the Confidential Information and the Authority Data) used by the Authority 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 Authority Data), including any copies of such information or data, used by the Authority and/or the Supplier in connection with this Contract,
- in either case as more particularly set out in:
- (i) the Baseline Security Requirements in Appendix A to this Schedule; and
 - (ii) the Security Policy (as may be notified to the Supplier by the Authority and/or which is available on request from the Authority);
- ISMS** the information security management system developed by the Supplier in accordance with paragraph 2 (ISMS) as updated from time to time in accordance with this Schedule;
- Security Policy Framework** the HMG Security Policy Framework <https://www.gov.uk/government/publications/security-policy-framework>; and
- Security Tests** has the meaning given in paragraph 6.1 of this Schedule (Testing of the ISMS).

2 INTRODUCTION

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- 2.1 The Parties acknowledge that the purpose of the ISMS and the Security Management Plan are to ensure a good organisational approach to security under which the specific requirements of this Contract will be met.
- 2.2 Both Parties shall provide a reasonable level of access to any members of their personnel for the purposes of designing, implementing and managing security.
- 2.3 The Supplier shall use as a minimum, Good Industry Practice, in the day to day operation of any system holding, transferring or processing Authority Data and any system that could directly or indirectly have an impact on that information, and shall ensure that the Authority Data remains under the effective control of the Supplier at all times.
- 2.4 The Supplier shall ensure the up-to-date maintenance of a security policy relating to the operation of its own organisation and system and on request shall supply this document as soon as practicable to the Authority.
- 2.5 The Authority and the Supplier acknowledge that information security risks are shared between the Parties and that a compromise of either the Supplier or the Authority's security provisions represents an unacceptable risk to the Authority requiring immediate communication and co-operation between the Parties.

3 ISMS

- 3.1 If requested by the Authority, by the date specified in the Implementation Plan the Supplier shall, develop and submit to the Authority for the Authority's Approval an information security management system for the purposes of this Contract, which shall comply with the requirements of paragraphs 3.3 to 3.4 of this Schedule (Security).
- 3.2 The Supplier shall be responsible for the effective performance of the ISMS.
- 3.3 The ISMS shall:
- 3.3.1 unless otherwise specified by the Authority in writing, be developed to protect all aspects of the Services and all processes associated with the delivery of the Services, including the Authority Premises, the Sites, the Supplier System, the Authority System (to the extent that it is under the control of the Supplier) and any ICT, information and data (including the Authority's Confidential Information and the Authority Data) to the extent used by the Authority or the Supplier in connection with this Contract;
- 3.3.2 meet the relevant standards in ISO/IEC 27001 and ISO/IEC 27002 in accordance with Paragraph 7; and
- 3.3.3 at all times provide a level of security which:
- (a) is in accordance with Good Industry Practice, Law and this Contract;
- (b) complies with the Baseline Security Requirements;
- (c) complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4);

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- (d) addresses issues of incompatibility with the Supplier's own organisational security policies;
 - (e) complies with ISO/IEC27001 and ISO/IEC27002 in accordance with paragraph 7; and
 - (f) complies with the Authority's ICT policies.
- 3.3.4 document the security incident management processes and incident response plans;
- 3.3.5 document the vulnerability management policy including processes for identification of system vulnerabilities and assessment of the potential impact on the Services of any new threat, vulnerability or exploitation technique of which the Supplier becomes aware, prioritisation of security patches, testing of security patches; application of security patches, a process for Authority approvals of exceptions, and the reporting and audit mechanism detailing the efficacy of the patching policy; and
- 3.3.6 be certified by (or by a person with the direct delegated authority of) a Supplier's main board representative, being the Chief Security Officer, Chief Information Officer, Chief Technical Officer or Chief Financial Officer (or equivalent as agreed in writing by the Authority in advance of issue of the relevant Security Management Plan).
- 3.4 In the event that the Supplier becomes aware of any inconsistency in the provisions of the standards, guidance and policies set out in paragraph 3.3 of this Schedule, the Supplier shall immediately notify the Authority Representative of such inconsistency and the Authority Representative shall, as soon as practicable, notify the Supplier as to which provision the Supplier shall comply with.
- 3.5 If the ISMS submitted to the Authority pursuant to paragraph 3.1 of this Schedule is Approved by the Authority, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the ISMS is not Approved by the Authority, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Authority and re-submit it to the Authority for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days (or such other period as the Parties may agree in writing) from the date of the first submission of the ISMS to the Authority.
- 3.6 Approval by the Authority of the ISMS pursuant to paragraph 3.5 of this Schedule or of any change or amendment to the ISMS shall not relieve the Supplier of its obligations under this Schedule.
- 4 SECURITY MANAGEMENT PLAN
- 4.1 Within twenty (20) Working Days after the Commencement Date, the Supplier shall prepare and submit to the Authority for Approval in accordance with paragraph 4 of this Schedule a fully developed, complete and up-to-date Security Management Plan which shall comply with the requirements of paragraph 4.2 of this Schedule.
- 4.2 The Security Management Plan shall:

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- 4.2.1 comply with the Baseline Security Requirements and Security Policy;
- 4.2.2 identify the necessary delegated organisational roles defined for those responsible for ensuring this Schedule is complied with by the Supplier;
- 4.2.3 detail the process for managing any security risks from Sub-contractors and third Parties authorised by the Authority with access to the Services, processes associated with the delivery of the Services, the Authority Premises, the Sites, the Supplier System, the Authority System (to the extent that it is under the control of the Supplier) and any ICT, information and data (including the Authority Confidential Information and Authority Data) and any system that could directly or indirectly have an impact on that information, data and/or Services;
- 4.2.4 unless otherwise specified by the Authority in writing, be developed to protect all aspects of the Services and all processes associated with the delivery of the Services, including the Authority Premises, the Sites, the Supplier System, the Authority System (to the extent that it is under the control of the Supplier) and any ICT, information and data (including the Authority's Confidential Information and the Authority Data) to the extent used by the Authority or the Supplier in connection with this Contract;
- 4.2.5 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Services and all processes associated with the delivery of the Services and at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with the provisions of this Schedule (including the requirements set out in paragraph 4.2 of this Schedule);
- 4.2.6 demonstrate that the Supplier's approach to delivery of the Services has minimised the Authority and Supplier effort required to comply with this Schedule through consideration of available, appropriate and practicable pan-government accredited services (for example, 'platform as a service' offering from the G-Cloud catalogue);
- 4.2.7 set out the plans for transitioning all security arrangements and responsibilities from those in place at the Commencement Date to those incorporated in the ISMS at the date set out in the Implementation Plan for the Supplier to meet the full obligations of the security requirements set out in Appendix A (Security) to this Schedule;
- 4.2.8 set out the scope of the Authority System that is under the control of the Supplier;
- 4.2.9 be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and
- 4.2.10 be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Authority engaged in the Services and shall reference only documents which are in the possession of the Authority or whose location is otherwise specified in this Schedule.

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4.3 If the Security Management Plan submitted to the Authority pursuant to paragraph 4.1 of this Schedule is Approved by the Authority, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not approved by the Authority, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Authority and re-submit it to the Authority for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days (or such other period as the Parties may agree in writing) from the date of the first submission to the Authority of the Security Management Plan.

4.4 Approval by the Authority of the Security Management Plan pursuant to paragraph 4.3 of this Schedule or of any change or amendment to the Security Management Plan shall not relieve the Supplier of its obligations under this Schedule.

5 AMENDMENT AND REVISION OF THE ISMS AND SECURITY MANAGEMENT PLAN

5.1 The ISMS and Security Management Plan shall be fully reviewed and updated by the Supplier from time to time and at least annually to reflect:

5.1.1 emerging changes in Good Industry Practice;

5.1.2 any change or proposed change to the Supplier System, the Services and/or associated processes;

5.1.3 any new perceived or changed security threats; and

5.1.4 any reasonable request by the Authority.

5.2 The Supplier shall provide the Authority with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management Plan at no additional cost to the Authority and changes shall be implemented in accordance with the Variation Procedure.

6 TESTING OF THE ISMS

6.1 The Supplier shall conduct tests of the ISMS (Security Tests) from time to time and at least annually and additionally after any change or amendment to the ISMS or the Security Management Plan. Security Tests shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Services and the date, timing, content and conduct of such Security Tests shall be agreed in advance with the Authority.

6.2 Without prejudice to any other right of audit or access granted to the Authority pursuant to this Contract, the Authority and/or its authorised representatives shall be entitled, at any time and without giving notice to the Supplier, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the Supplier's compliance with the ISMS and the Security Management Plan. The Authority may notify the Supplier of the results of such tests after completion of each such test. If any such Authority test adversely affects the Supplier's ability to deliver the Services so as to meet the Service Levels, the Supplier shall be granted relief against any resultant under-performance for the period of the Authority test.

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6.3 Where any Security Test carried out pursuant to paragraphs 6.1 or 6.2 of this Schedule reveals any actual or potential Breach of Security, the Supplier shall promptly notify the Authority of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the Supplier proposes to make in order to correct such failure or weakness. Subject to the Authority's prior written Approval, the Supplier shall implement such changes to the ISMS and the Security Management Plan and repeat the relevant Security Tests in accordance with the timetable agreed with the Authority or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the ISMS or Security Management Plan is to address a non-compliance with the Security Policy or security requirements (as set out in Appendix A (Security) to this Schedule) or the requirements of this Schedule, the change to the ISMS or Security Management Plan shall be at no cost to the Authority.

6.4 If any repeat Security Test carried out pursuant to paragraph 6.3 of this Schedule reveals an actual or potential Breach of Security exploiting the same root cause failure, such circumstance shall constitute a material Default of this Contract.

7 COMPLIANCE OF THE ISMS WITH ISO/IEC 27001 AND ISO/IEC 27002

7.1 The Authority shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the ISMS maintains compliance with the principles and practices of ISO 27001 and ISO/IEC 27002.

7.2 If, on the basis of evidence provided by such security audits, it is the Authority's reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 or ISO/IEC 27002 is not being achieved by the Supplier, then the Authority shall notify the Supplier of the same and give the Supplier a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to become compliant with the principles and practices of ISO/IEC 27001 and ISO/IEC 27002. If the Supplier does not become compliant within the required time then the Authority shall have the right to obtain an independent audit against these standards in whole or in part.

7.3 If, as a result of any such independent audit as described in paragraph 7.2 of this Schedule the Supplier is found to be non-compliant with the principles and practices of ISO/IEC 27001 or ISO/IEC 27002 then the Supplier shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Authority in obtaining such audit.

8 BREACH OF SECURITY

8.1 Either Party shall notify the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

8.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 8.1 of this Schedule, the Supplier shall:

8.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Authority) necessary to:

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- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
- (b) remedy such Breach of Security or any potential or attempted Breach of Security or protect the integrity of the ISMS against any such Breach of Security or any potential or attempted Breach of Security;
- (c) apply a tested mitigation against any such Breach of Security or attempted Breach of Security and, provided that reasonable testing has been undertaken by the Supplier, if the mitigation adversely affects the Supplier's ability to deliver the Services so as to meet the Service Level Performance Measures, the Supplier shall be granted relief against any resultant under-performance for such period as the Authority, acting reasonably, may specify by written notice to the Supplier;
- (d) prevent a further Breach of Security or any potential or attempted Breach of Security in the future exploiting the same root cause failure;
- (e) supply any requested data to the Authority or the Computer Emergency Response Team for UK Government (GovCertUK) on the Authority's request within two (2) working days and without charge (where such requests are reasonably related to a possible incident or compromise); and
- (f) as soon as reasonably practicable provide to the Authority full details (using such reporting mechanism as defined by the ISMS) of the Breach of Security or the potential or attempted Breach of Security, including a root cause analysis where required by the Authority.

8.3 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 ISMS with the Security Policy or Baseline Security Requirements or the requirements of this Schedule, then any required change to the ISMS shall be at no cost to the Authority.

9 VULNERABILITIES AND CORRECTIVE ACTION

- 9.1 The Authority and the Supplier acknowledge that from time to time vulnerabilities in the ICT Environment will be discovered which unless mitigated will present an unacceptable risk to the Authority's information.
- 9.2 The severity of threat vulnerabilities for Supplier COTS Software and Third Party COTS Software shall be categorised by the Supplier as 'Critical', 'Important' and 'Other' by aligning these categories to the vulnerability scoring according to the agreed method in the ISMS and using the appropriate vulnerability scoring systems including:
 - 9.2.1 the 'National Vulnerability Database' 'Vulnerability Severity Ratings': 'High', 'Medium' and 'Low' respectively (these in turn are aligned to CVSS scores as set out by NIST <http://nvd.nist.gov/cvss.cfm>); and
 - 9.2.2 Microsoft's 'Security Bulletin Severity Rating System' ratings 'Critical', 'Important', and the two remaining levels ('Moderate' and 'Low') respectively.

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- 9.3 The Supplier shall procure the application of security patches to vulnerabilities within a maximum period from the public release of such patches with those vulnerabilities categorised as 'Critical' within 14 days of release, 'Important' within 30 days of release and all 'Other' within 60 Working Days of release, except where:
- 9.3.1 the Supplier can demonstrate that a vulnerability is not exploitable within the context of any Service (e.g. because it resides in a software Component which is not running in the service) provided vulnerabilities which the Supplier asserts cannot be exploited within the context of a Service must be remedied by the Supplier within the above timescales if the vulnerability becomes exploitable within the context of the Service;
 - 9.3.2 the application of a 'Critical' or 'Important' security patch adversely affects the Supplier's ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of 5 days, provided the Supplier had followed and continues to follow the security patch test plan agreed with the Authority; or
 - 9.3.3 the Authority agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the ISMS.
- 9.4 The Solution and Implementation Plan shall include provisions for major version upgrades of all Supplier COTS Software and Third Party COTS Software to be upgraded within 6 months of the release of the latest version, such that it is no more than one major version level below the latest release (normally codified as running software no older than the 'n-1 version') throughout the Term unless:
- 9.4.1 where upgrading such Supplier COTS Software and Third Party COTS Software reduces the level of mitigations for known threats, vulnerabilities or exploitation techniques, provided always that such upgrade is made within 12 months of release of the latest version; or
 - 9.4.2 is agreed with the Authority in writing.
- 9.5 The Supplier shall:
- 9.5.1 implement a mechanism for receiving, analysing and acting upon threat information supplied by GovCertUK, or any other competent Central Government Body;
 - 9.5.2 ensure that the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
 - 9.5.3 ensure it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the ICT Environment by actively monitoring the threat landscape during the Term;
 - 9.5.4 pro-actively scan the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) for vulnerable Components and address discovered vulnerabilities through the processes described in the ISMS as developed under Paragraph 3.3.5;

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- 9.5.5 from the date specified in the Security Management Plan provide a report to the Authority within five (5) Working Days of the end of each month detailing both patched and outstanding vulnerabilities in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and any elapsed time between the public release date of patches and either time of application or for outstanding vulnerabilities the time of issue of such report;
 - 9.5.6 propose interim mitigation measures to vulnerabilities in the ICT Environment known to be exploitable where a security patch is not immediately available;
 - 9.5.7 remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the ICT Environment); and
 - 9.5.8 inform the Authority when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the ICT Environment and provide initial indications of possible mitigations.
- 9.6 If the Supplier is unlikely to be able to mitigate the vulnerability within the timescales under this Paragraph 9, the Supplier shall immediately notify the Authority.

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Appendix A

Baseline Security Requirements

- 1 HIGHER CLASSIFICATIONS
 - 1.1 The Supplier shall not handle Authority information classified SECRET or TOP SECRET except if there is a specific requirement and in this case prior to receipt of such information the Supplier shall seek additional specific guidance from the Authority.
- 2 END USER DEVICES
 - 2.1 When Authority Data resides on a mobile, removable or physically uncontrolled device it must be stored encrypted using a product or system Component which has been formally assured through a recognised certification process of the UK Government Communications Electronics Security Group (CESG) to at least Foundation Grade, for example, under the CESG Commercial Product Assurance scheme (CPA).
 - 2.2 Devices used to access or manage Authority Data and services must be under the management authority of Authority or Supplier and have a minimum set of security policy configuration enforced. These devices must be placed into a 'known good' state prior to being provisioned into the management authority of the Authority. Unless otherwise agreed with the Authority in writing, all Supplier devices are expected to meet the set of security requirements set out in the CESG End User Devices Platform Security Guidance (<https://www.gov.uk/government/collections/end-user-devices-security-guidance--2>). Where the guidance highlights shortcomings in a particular platform the Supplier may wish to use, then these should be discussed with the Authority and a joint decision shall be taken on whether the residual risks are acceptable. Where the Supplier wishes to deviate from the CESG guidance, then this should be agreed in writing on a case by case basis with the Authority.
- 3 DATA PROCESSING, STORAGE, MANAGEMENT AND DESTRUCTION
 - 3.1 The Supplier and Authority recognise the need for the Authority's information to be safeguarded under the UK Data Protection regime or a similar regime. To that end, the Supplier must be able to state to the Authority the physical locations in which data may be stored, processed and managed from, and what legal and regulatory frameworks Authority Data will be subject to at all times.
 - 3.2 The Supplier shall agree any change in location of data storage, processing and administration with the Authority in advance where the proposed location is outside the UK. Such approval shall not be unreasonably withheld or delayed unless specified otherwise in this Contract and provided that storage, processing and management of any Authority Data is only carried out offshore within:
 - 3.2.1 the European Economic Area (EEA);
 - 3.2.2 in the US if the Supplier and or any relevant Sub-contractor have signed up to the US-EU Safe Harbour Agreement; or

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3.2.3 in another country or territory outside the EEA if that country or territory ensures an adequate level of protection by reason of its domestic law or of the international commitments it has entered into which have been defined as adequate by the EU Commission.

3.3 The Supplier shall:

3.3.1 provide the Authority with all Authority Data on demand in an agreed open format;

3.3.2 have documented processes to guarantee availability of Authority Data in the event of the Supplier ceasing to trade;

3.3.3 securely destroy all media that has held Authority Data at the end of life of that media in line with Good Industry Practice; and

3.3.4 securely erase any or all Authority Data held by the Supplier when requested to do so by the Authority.

4 NETWORKING

4.1 The Authority requires that any Authority Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device must be encrypted using a product or system Component which has been formally assured through a certification process recognised by CESG, to at least Foundation Grade, for example, under CPA or through the use of pan-government accredited encrypted networking services via the Public Sector Network (PSN) framework (which makes use of Foundation Grade certified products).

4.2 The Authority requires that the configuration and use of all networking equipment to provide the Services, including those that are located in secure physical locations, are at least compliant with Good Industry Practice.

5 SECURITY ARCHITECTURES

5.1 The Supplier shall apply the 'principle of least privilege' (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of IT systems which will process or store Authority Data.

5.2 When designing and configuring the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) the Supplier shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills and/or a CESG Certified Professional certification (<http://www.cesg.gov.uk/awarenesstraining/IA-certification/Pages/index.aspx>) for all bespoke or complex Components of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier).

6 PERSONNEL SECURITY

6.1 Supplier Personnel shall be subject to pre-employment checks that include, as a minimum: identity, unspent criminal convictions and right to work.

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- 6.2 The Supplier shall agree on a case by case basis Supplier Personnel roles which require specific government clearances including system administrators with privileged access to IT systems which store or process Authority Data.
- 6.3 The Supplier shall prevent Supplier Personnel who are unable to obtain the required security clearances from accessing systems which store, process, or are used to manage Authority Data except where agreed with the Authority in writing.
- 6.4 All Supplier Personnel that have the ability to access Authority Data or systems holding Authority Data shall undergo regular training on secure information management principles. Unless otherwise agreed with the Authority in writing, this training must be undertaken annually.
- 6.5 Where the Supplier or Sub-Contractors grants increased ICT privileges or access rights to Supplier Personnel, those Supplier Personnel shall be granted only those permissions necessary for them to carry out their duties. When staff no longer need elevated privileges or leave the organisation, their access rights shall be revoked within one (1) Working Day.

7 IDENTITY, AUTHENTICATION AND ACCESS CONTROL

- 7.1 The Supplier shall operate an access control regime to ensure all users and administrators of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) are uniquely identified and authenticated when accessing or administering the Services. Applying the 'principle of least privilege', users and administrators shall be allowed access only to those parts of the ICT Environment that they require. The Supplier shall retain an audit record of accesses.

8 AUDIT AND MONITORING

- 8.1 The Supplier shall collect audit records which relate to security events in the systems or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include:
- 8.1.1 Logs to facilitate the identification of the specific asset which makes every outbound request external to the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier). To the extent the design of the Services allows such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers.
- 8.1.2 Security events generated in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and shall include: privileged account logon and logoff events, the start and termination of remote access sessions, security alerts from desktops and server operating systems and security alerts from third Party security software.
- 8.2 The Supplier and the Authority shall work together to establish any additional audit and monitoring requirements for the ICT Environment.
- 8.3 The Supplier shall retain audit records collected in compliance with this paragraph 8 for a period of at least 6 months.

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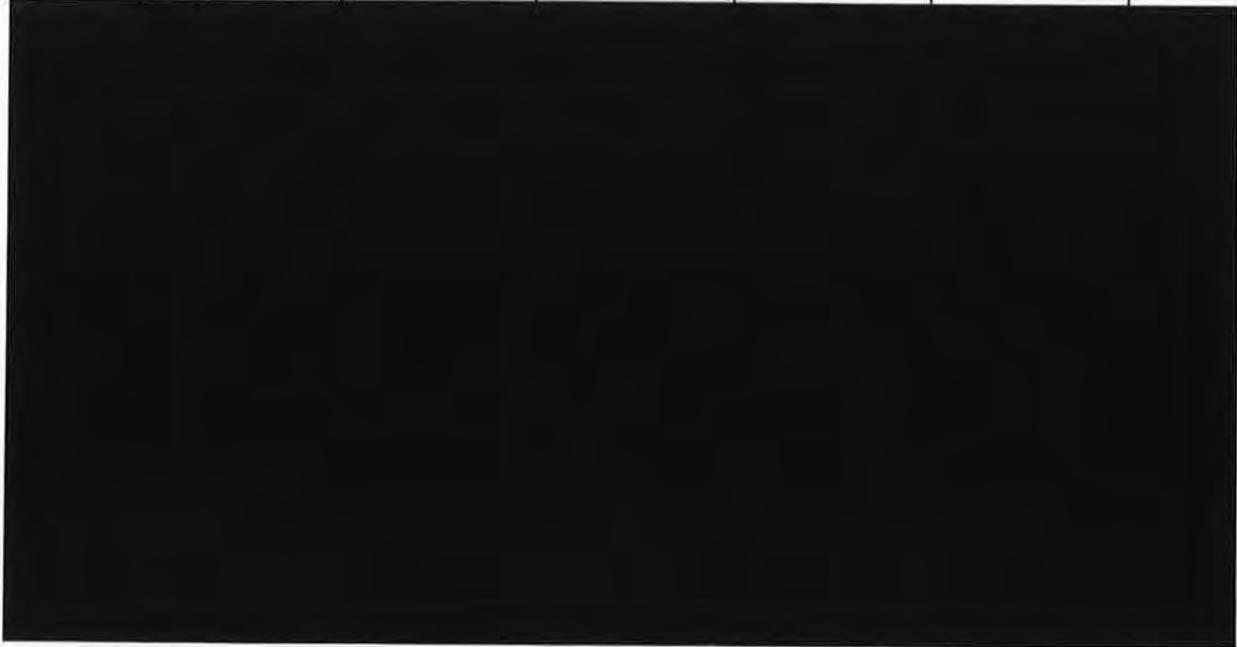
Schedule 9

Key Sub-Contractors

1 KEY SUBCONTRACTORS

- 1.1 In accordance with Clause 13.2 (Appointment of Key Sub-contractors) and 13.1.2, the Supplier is entitled to sub-contract its obligations under this Contract to the Key Sub-contractors listed in the table below
- 1.2 The Parties agree that they will update this Schedule periodically to record any Key Sub-contractors appointed by the Supplier with the consent of the Authority after the Commencement Date for the purposes of the delivery of the Services.

Key Sub-contractor name and address (if not the same as the registered office)	Registered office and company number	Related product/Service description	Key Sub-contract price expressed as a percentage of total projected Charges over the Term	Key role in delivery of the Services
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Schedule 10

Software

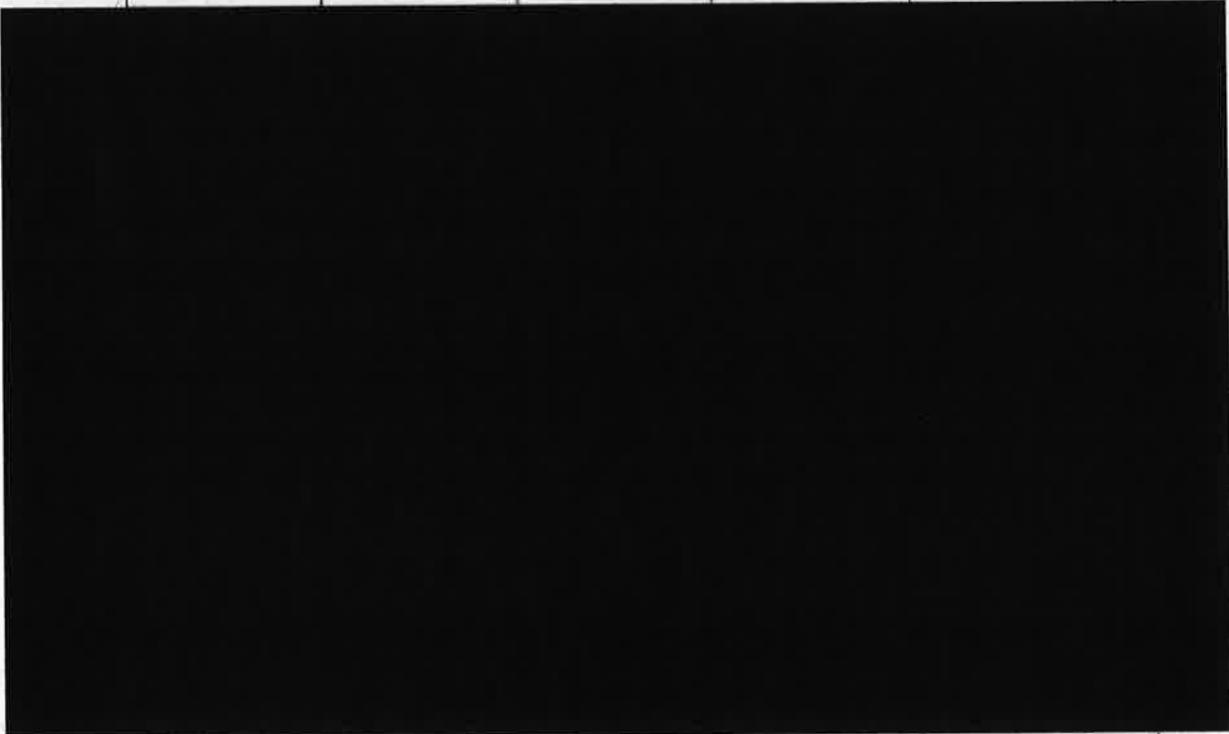
Supplier Software

Software	SUPPLIER (IF AN AFFILIATE OF THE SUPPLIER)	Purpose	Number Of Licences	DESCRIPTION AND FURTHER DETAILS
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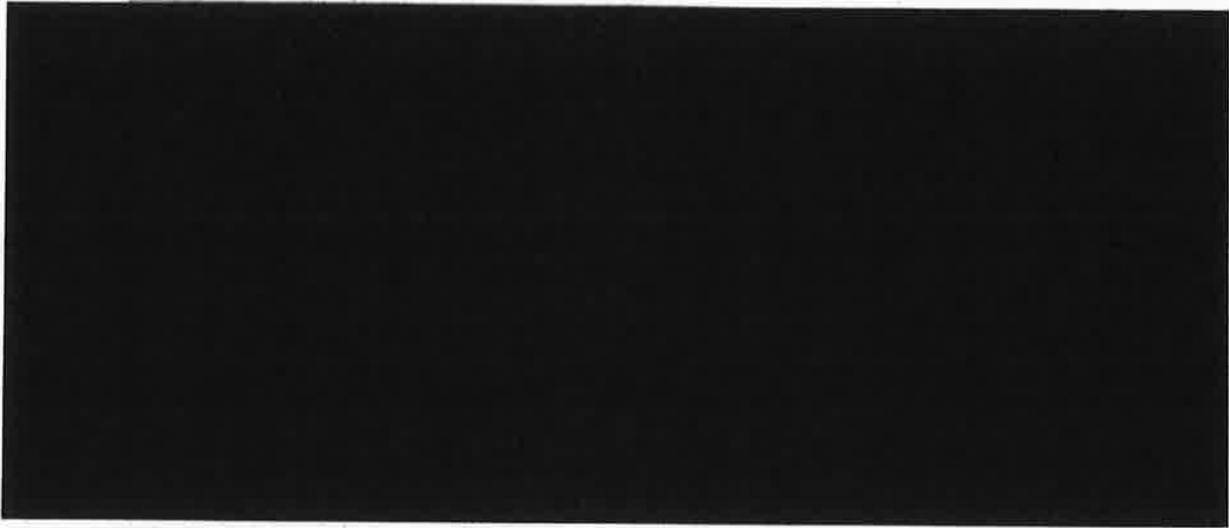


Third Party Software

Software	SUPPLIER	Purpose	Number Of Licences	DESCRIPTION AND FURTHER DETAILS
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