



**CONTRACT FOR THE PROVISION OF:**

Delivery of Official Controls in Approved Establishments in England and Wales

**Reference Number: FS101227 Lot 1 North Area 1 and 3**

This document forms the contract for the Services between:

**Food Standards Agency (“Authority”) having its main or registered office at Clive House,  
70 Petty France, Westminster, London SW1H 9EX**

and

**[Eville and Jones GB Ltd] (“Supplier”), [Century House, 1275 Century Way, Thorpe Park,  
Leeds. LS15 8ZB]**

to be effective from **[30<sup>th</sup> March 2020]** until **[26<sup>th</sup> March 2023]**  
unless varied by extension.

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## **CONTRACT**

### **WHEREAS**

(1) The Food Standards Agency has selected the Supplier to act as a Supplier in the performance of the services described on the title page of this Contract for the Food Standards Agency,

(2) the Supplier undertakes to provide the same on the terms and conditions as set out in this Contract.

(3) Unless and until directed otherwise, nothing in this Contract shall be construed as giving a guarantee of any remunerative work whatsoever unless and until such work is requested and confirmed by means of a duly authorised Purchase Order.

### **IT IS AGREED AS FOLLOWS:**

#### **1. INTERPRETATION**

1.1. As used in this Contract:

1.1.1. the terms and expressions set out in [Schedule 1](#) have the meanings set out therein;

1.1.2. the masculine includes the feminine and the neuter;

1.1.3. the singular includes the plural and vice versa; and

1.1.4. the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”.

1.2. A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof.

1.3. A reference to any document other than as specified in Clause 1.2 shall be construed as a reference to the document as at the date of execution of this Contract.

1.4. Headings are included in this Contract for ease of reference only and shall not affect the interpretation or construction of this Contract.

1.5. References to “Clauses” and “Schedules” are, unless otherwise provided, references to the Clauses of and Schedules to this Contract.

1.6. In the event and to the extent only of any conflict or inconsistency in the provisions of the Clauses of this Contract, the provisions of the Schedules, and the provisions of any Purchase Order, the following order of precedence shall prevail:

1.6.1. The Clauses;

1.6.2. the Purchase Order; and

1.6.3. the Schedules

## 2. THE SERVICES

2.1. This Contract shall govern the overall relationship of the Supplier and the Authority with respect to the provision of the Ordered Services.

2.2. The Supplier shall provide the Ordered Services and meet its responsibilities and obligations hereunder in accordance with the provisions of [Schedule 2](#) (Ordered Services) and [Schedule 3](#) (Review Meetings).

2.3. The Supplier acknowledges that the Authority seeks at all times to ensure that the Authority discharges its statutory functions within the premises of the persons it regulates at optimum efficiency, and that, among other things, fluctuations in the activities of those persons may impact the Services. The Authority has the right without alteration of the Charges and from time to time, on not less than one (1) Months' notice to the Supplier, to reduce or increase the total hours allocated to any Lot, and prescribed at [Schedule 5](#). The Supplier agrees to implement, on the date of expiry of a notice under this Clause, the reduction or increase in the total hours with immediate effect.

2.4. The Supplier shall notify the Authority as soon as it becomes aware of an event occurring or which it believes is likely to occur which will cause material delay to or materially impede the performance of any Ordered Services or any part thereof and the Supplier shall take all necessary steps consistent with good practice to obviate and/or minimise the delay to the Authority.

2.5. In the event that the Supplier fails due to its Default to fulfil an obligation by the date specified in any Purchase Order for such fulfilment, the Supplier shall, at the request of the Authority and without prejudice to the Authority's other rights and remedies, arrange all such additional resources as are necessary to either obviate the delay or to fulfil the said obligation as early as practicable, in agreement with the Authority thereafter, at no additional charge to the Authority.

2.6. In the event that any obligation of the Supplier specified in the Contract is delayed as a result of a Default by the Authority, then:

- 2.6.1. The date associated with the relevant obligation(s) as specified in the Purchase Order (and the dates similarly associated with any subsequent obligations specified in the Purchase Order) shall be amended by a period of time equal to the period of such Authority Default (or such other period as the parties agree in writing); and
- 2.6.2. Both parties shall use all reasonable endeavours to obviate and/or mitigate the impact of such delay and to recover any resultant delay to the performance of the Ordered Services.
- 2.7. Nothing in this Contract, or any Purchase Order, shall have the effect of making the Supplier, or any of its Staff, the employee of the Authority.
- 2.8. Nothing in this Contract or any Purchase Order shall constitute the parties as partners of each other nor shall the Contract or any Purchase Order constitute or imply any joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Contract. Neither Party has, nor shall it represent that it has, any authority to make any commitments on the other Party's behalf.

### **3. STANDARDS AND REGULATIONS**

- 3.1. The Supplier shall at all times comply with the Health and Safety provisions, security requirements and personal conduct obligations, of any premises it visits or occupies and shall exercise all due care and attention when visiting or occupying such premises.
- 3.2. The Supplier shall comply with all applicable national and local Laws and regulations (including Employment Law and Data Protection Requirements) and obtain and maintain at its own cost throughout the duration of the Contract all the consents (including Data Protection Requirements), licences, permits and approvals which are necessary for the Supplier to perform its duties under this Contract and to enable the provision of the Ordered Services.
- 3.3. Without prejudice to the provisions of Clause 3.2, the Supplier shall ensure that none of its workers work in excess of the working time limits specified in the Working Time Regulations 1998. The Supplier shall maintain appropriate records regarding their working hours. Without prejudice to the obligations under this Clause 3.3, the Supplier shall make available to the Authority any information of which it is aware concerning appointments held by an individual concurrently with the obligations of this Contract.

- 3.4. The Supplier shall be responsible for the administration and deduction of any income tax and national insurance in respect of payments made to such individuals, including in respect of any obligations under the Pay As You Earn system. The Supplier will, or procure that its Sub-Contractors will, account to the appropriate authorities for any income tax, national insurance (if any), VAT and all other liabilities, charges and duties arising out of any payment made to the Supplier under any Purchase Order. The Supplier will indemnify and keep indemnified the Authority against any income tax, national insurance (if any), VAT or any other tax liability including any interest, penalties or costs incurred in connection with the same which may at any time be levied, demanded or assessed on the Authority by any statutory Agency in respect of payments made to the Supplier.
- 3.5. Nothing in this Contract shall be construed or have effect as constituting any relationship of employer and employee between the Authority and any worker engaged by the Supplier or its Sub-Contractors. The Supplier shall indemnify and keep indemnified the Authority, its officers, employees and agents against all actions, claims, demands, reasonable costs, charges and reasonable expenses incurred by or made against the Authority, its officers, employees or agents arising out of or in connection with any claim by any such worker that they are an employee of the Authority or otherwise alleging any breach of any employment related legislation except where such claim arises as a result of any breach of obligations (whether contractual, statutory, at common Law or otherwise).

#### **4. NON-SOLICITATION**

The Supplier undertakes that, during the Term of this Contract and for a period of twelve (12) months thereafter, it will not, whether directly or indirectly, solicit with a view to offering employment to the Authority's employees or workers. In the event of breach of this Clause, the Supplier shall pay to the Authority all unavoidable and reasonable costs incurred by the Authority including a sum equal to the gross salary of the employee or the worker due under any relevant notice.

#### **5. CHARGES FOR ORDERED SERVICES**

- 5.1. All engagements of the Supplier by the Authority, of whatever nature, under the Term of this Contract must be confirmed by means of a Purchase Order before commencement of the work.
- 5.2. All Charges on any Purchase Order placed under the terms and conditions of this Contract shall utilise the rates prescribed by [Schedule 4](#) as their basis and shall be calculated having applied any Service Credits due to the Authority.

- 5.3. In consideration of the performance of the Ordered Services in accordance with this Contract, the Authority shall pay the Charges in accordance with the Invoicing Procedure.
- 5.4. Payment shall be made within thirty (30) days of receipt by the Authority (at its nominated address for invoices) of a valid invoice (which shall be issued in arrears) from the Supplier.
- 5.5. The Charges are exclusive of Value Added Tax. The Authority shall pay the Value Added Tax on the Charges at the rate and in the manner prescribed by Law, from time to time.
- 5.6. Interest shall be payable on any late payments under the Contract in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.7. The Supplier shall follow the Purchase Order and Invoicing Procedure as set out in [Schedule 5](#). All invoices must reference the duly authorised Purchase Order number. Any invoices which do not reference the Purchase Order number shall be returned as unacceptable.
- 5.8. The Supplier shall continuously indemnify the Authority against any liability, including any interest, penalties or reasonable costs incurred which is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any Value Added Tax relating to payments made to the Supplier under this Contract. Any amounts due under this Clause 8 shall be paid in cleared funds by the Supplier to the relevant authority not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Authority.
- 5.9. The Supplier shall accept the Government Procurement Card (GPC) as a means of payment for Ordered Services where GPC is agreed with the Authority to be a suitable means of payment.
- 5.10. The Supplier shall accept payment electronically via the BACS Payment Schemes Limited.
- 5.11. The Supplier shall, prior to commencing any work under this Contract, enter into a Self- Billing Agreement in the form prescribed at [Schedule 12](#)

#### Efficiency

- 5.12. The Supplier shall continuously seek to improve its efficiency in providing Services to the Authority and shall regularly review the level of Charges in light of possible efficiency gains. Where such improved efficiency is achieved the Supplier shall propose a reduction in the level of Charges and effect such reduction by agreement with the Authority.

## **6. STAFF TRANSFER**

The Parties agree that the provisions relating to the transfer of staff and the application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 prescribed at Schedule 8 have effect.

## **7. AMENDMENTS and VARIATIONS TO THIS CONTRACT**

- 7.1. No amendment to the provisions of this Contract or Special Terms specified in any Purchase Order shall be effective unless agreed in writing on a Variation form by both Parties in accordance with the Variation procedure prescribed at [Schedule 9](#)

### **NOTICES**

- 7.2. Any notice to be given under this Contract shall be in writing and may be served by personal delivery, first class recorded or, subject to Clause 9.2, e-mail to the address of the relevant Party set out above, or such other address as that Party may from time-to-time notify to the other Party in accordance with this Clause
- 7.3. Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An e-mail shall be deemed delivered when sent unless an error message is received.

## **8. TERM AND TERMINATION**

- 8.1. This Contract shall commence on [30 March 2020] and shall continue for a period of three (3) Years unless terminated or extended in accordance with the provisions of this Clause 8.
- 8.2. The Authority has the right, on notice to the Supplier to be served no later than [30 September 2022], to extend this Contract by a period of one (1) Year. The Authority has the right, on notice to the Supplier to be served no later than [30 September 2023], to further extend this Contract by a period of one (1) year (3 +1 + 1). The maximum duration of this Contract is five (5) years.
- 8.3. The Charges applicable to the period of any extension of the Contract under the provisions of this Clause 8 shall be calculated using the rates set out in Schedule 4, with any fixed costs described in [Schedule 4](#) being applied to the period of extension of the Contract on a pro-rata basis.

- 8.4. The Authority has the right, on notice to the Supplier to be served no later than six (6) months prior to the date upon which termination for convenience is to take effect, to terminate this Contract for convenience without liability for compensation or damages.
- 8.5. The Authority has the right (in addition to any other rights), on notice to the Supplier, to terminate this Contract immediately and without liability for compensation or damages if any one or more of the following apply:
- 8.5.1. the Supplier fails to comply with any of its obligations under this Contract and the failure (if capable of being remedied) remains unremedied for ten (10) Working Days after being called to its attention by notice from the Authority;
  - 8.5.2. the Supplier fails or ceases to perform its duties under this Contract to the Authority's reasonable satisfaction;
  - 8.5.3. any circumstances arise, including the financial standing of the Supplier, which give reasonable grounds in the Authority's opinion for the Authority's belief that the Supplier has or may become incapable of performing its obligations under this Contract;
  - 8.5.4. the Supplier convenes a meeting of its creditors or suffers a petition to be presented or a meeting to be convened or other action to be taken with a view to its liquidation except for the purposes of and followed by solvent amalgamation or reconstruction;
  - 8.5.5. for any reason anything is done or is omitted to be done as a result of which the Supplier is or is liable to be struck off the Register of Companies;
  - 8.5.6. an administration order is made or an administrator appointed in relation to the Supplier;
  - 8.5.7. control (as defined by section 450 of the Corporation Tax Act 2010) of the Supplier passes from the person or persons presently exercising it;
  - 8.5.8. there is any change in the Supplier's capital, objects or articles of association;
  - 8.5.9. a receiver or administrative receiver is appointed of any of the Supplier's property;
  - 8.5.10. a creditor takes control of the Supplier's goods or real property;
  - 8.5.11. the Supplier is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

8.5.12. the Supplier purports to assign the burden or benefits or charge the benefits of this Contract;

8.5.13. the Supplier is guilty of any act which brings the Authority into disrepute or which in the Authority's reasonable opinion is prejudicial to its interests.

## **9. CONSEQUENCES OF TERMINATION AND EXPIRY**

9.1. In the event of termination in accordance with Clauses 8 the Authority shall reimburse the Supplier any Charges incurred prior to termination which are wholly, reasonably and properly chargeable by the Supplier in accordance with the Contract. The Authority shall not be liable to pay any severance payment or compensation to the Supplier for loss of profits suffered as a result of the termination.

9.2. Termination or expiry of this Contract shall not prejudice or affect any right of action or remedy that shall have accrued or shall thereafter accrue to either party.

9.3. On termination or expiry of the Contract, the Supplier shall:

9.3.1. return to the Authority all Authority Property and all Authority Data and other items belonging to the Authority in its possession;

9.3.2. subject to the payment of the appropriate portion for work completed, provide the Authority with a copy of all records and data created for and on behalf of the Authority in delivery of the Services; and

9.3.3. render reasonable assistance to the Authority (and any third parties appointed by the Authority) if requested, to the extent necessary to effect an orderly cessation or transfer of the Services.

## **10. STEP IN RIGHTS**

10.1. The Authority may take action under this Clause in the one or more of following circumstances:

10.1.1. there is a Default or other circumstance entitling the Authority to terminate this Contract in accordance with Clause 8 (Term and Termination);

10.1.2. there is a Default by the Supplier that is materially preventing or materially delaying the performance of the Services or Project or any part of the Services or Project;

10.1.3. there is a Delay that has or the Authority reasonably anticipates will result in the Supplier's failure to deliver part or all of the Services.

- 10.1.4. a Force Majeure Event occurs which materially prevents or materially delays the performance of the Services or Project or any part of the Services or Project;
- 10.1.5. where the Supplier is not in breach of its obligations under this Contract, but the Authority, acting reasonably, considers that the circumstances constitute an emergency;
- 10.1.6. where a Regulatory Body has advised the Authority that the exercise by the Authority of its rights under this Clause is necessary;
- 10.1.7. because a serious risk exists to the health or safety of persons, property or the environment; or
- 10.1.8. to discharge a statutory duty.

**Action To Be Taken Prior To Exercise Of The Right Of Step-in**

- 10.2. Before the Authority exercises its right of step-in under this Clause 10 it shall permit the Supplier the opportunity to demonstrate to the Authority's reasonable satisfaction within 5 Working Days that the Supplier is still able to provide the Services or Project in accordance with the terms of this Contract and/or remedy the circumstances giving rise to the right to step-in without the requirement for the Authority to take action.
- 10.3. If the Authority is not satisfied with the Supplier's demonstration pursuant to clause 10.2, the Authority may do one of the following:
  - 10.3.1. where the Authority considers it expedient to do so, require the Supplier by notice in writing to take those steps that the Authority considers necessary or expedient to mitigate or rectify the state of affairs giving rising to the Authority's right to step-in;
  - 10.3.2. appoint any person to work with the Supplier in performing all or a part of the Services or Project (including those provided by any Sub-contractor); or
  - 10.3.3. take the steps that the Authority considers appropriate to ensure the performance of all or part of the Services or Project (including those provided by any Sub-contractor).
- 10.4. The Supplier shall co-operate fully and in good faith with the Authority, or any other person appointed in respect of clause 10.3.2 and shall adopt any reasonable methodology in providing the Services or Project recommended by the Authority or that person.

## Exercise of the Right of Step-in

10.5. If the Supplier:

- 10.5.1. fails to confirm within 10 Working Days of a notice served pursuant to clause 10.3.1 that it is willing to comply with that notice; or
- 10.5.2. fails to work with a person appointed in accordance with clause 10.3.2; or
- 10.5.3. fails to take the steps notified to it by the Authority pursuant to clause 10.3.1,

then the Authority may take action under this clause either through itself or with the assistance of third party contractors, provided that the Supplier may require any third parties to comply with any confidentiality undertaking

10.6. If the Authority takes action pursuant to clause 10.5, the Authority shall serve notice ("Step-in Notice") on the Supplier. The Step-in Notice shall set out the following:

- 10.6.1. the action the Authority wishes to take and in particular the Services it wishes to control;
- 10.6.2. the reason for and the objective of taking the action and whether the Authority reasonably believes that the primary cause of the action is due to the Supplier's Default;
- 10.6.3. the date the Authority intends to commence the action;
- 10.6.4. the time period which the Authority believes will be necessary for the action;
- 10.6.5. whether the Authority will require access to the Supplier's premises;
- 10.6.6. to the extent practicable, the effect on the Supplier and its obligations to provide the Services during the period the action is being taken.

10.7. Following service of a Step-in Notice, the Authority shall:

- 10.7.1. take the action set out in the Step-in Notice and any consequential additional action as it reasonably believes is necessary to achieve (together, the "Required Action");
- 10.7.2. keep records of the Required Action taken and provide information about the Required Action to the Supplier;

- 10.7.3. co-operate wherever reasonable with the Supplier in order to enable the Supplier to continue to provide any Services in relation to which the Authority is not assuming control; and
- 10.7.4. act reasonably in mitigating the cost that the Supplier will incur as a result of the exercise of the Authority's rights under this Clause.
- 10.8. For so long as and to the extent that the Required Action is continuing, then:
  - 10.8.1. the Supplier shall not be obliged to provide the Services or Project to the extent that they are the subject of the Required Action;
  - 10.8.2. subject to clause 10.9, the Authority shall pay to the Supplier the Charges after the deduction of any applicable Service Credits, Delay Payments and the Authority's costs of taking the Required Action.
- 10.9. If the Required Action results in:
  - 10.9.1. the degradation of any Services or Project not subject to the Required Action; or
  - 10.9.2. the non-achievement of a milestone,  
  
beyond that which would have been the case had the Authority not taken the Required Action, then the Supplier shall be entitled to an agreed adjustment of the Charges, provided that the Supplier can demonstrate to the reasonable satisfaction of the Authority that the Required Action has led to the degradation or non-achievement.
- 10.10. Before ceasing to exercise its step in rights under this clause the Authority shall deliver a written notice to the Supplier ("Step-Out Notice"), specifying:
  - 10.10.1. the Required Action the Authority has taken; and
  - 10.10.2. the date on which the Authority plans to end the Required Action ("Step-Out Date") subject to the Authority being satisfied with the Supplier's ability to resume the provision of the Services or Project and the Supplier's plan developed in accordance with clause 10.11.
- 10.11. The Supplier shall, following receipt of a Step-Out Notice and not less than 20 Working Days prior to the Step-Out Date, develop for the Authority's approval a draft plan ("Step-Out Plan") relating to the resumption by the Supplier of the Services or Project, including any action the Supplier proposes to take to ensure that the affected Services or Project satisfy the requirements of this Contract.

10.12. If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Supplier of its reasons for not approving it. The Supplier shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Authority for the Authority's approval. The Authority shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.

10.13. The Supplier shall bear its own costs in connection with any step-in by the Authority under this Clause 10, provided that the Authority shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Authority under:

10.13.1. clauses 10.1.4 or 10.1.7; or

10.13.2. clauses 10.1.8, 10.1.9 and 10.1.10 (insofar as the primary cause of the Authority serving the Step-In Notice is identified as not being the result of a Supplier's Default).]

## **11. WARRANTIES AND REPRESENTATIONS**

11.1. The Supplier warrants and represents that:

11.1.1. it has full capacity and all necessary consents to enter into this Contract and to provide the Services;

11.1.2. this Contract shall be performed in compliance with all applicable Laws, enactments, orders, regulations and other similar instruments;

11.1.3. the Services shall be provided and carried out by appropriately experienced, qualified and trained personnel with all due skill, care and diligence;

11.1.4. it shall discharge its obligations hereunder with all due skill, care and diligence including good industry practice and (without limiting the generality of this Clause 11, in accordance with its own established internal procedures;

11.1.5. it owns, has obtained or shall obtain valid licences for all Intellectual Property Rights that are necessary for the performance of this Contract;

11.1.6. it has taken and shall continue to take all reasonable steps, in accordance with good industry practice, to prevent the introduction, creation or propagation of any disruptive element (including any virus, worm and/or trojan horse) into systems, data, software or Confidential Information (held in electronic form) owned by or under the control of, or used by, the Authority;

- 11.1.7. it shall take all reasonable measures to avoid any and all data loss and data corruption during the provision of the Services in accordance with good industry practice;

## 12. LIMITATION OF LIABILITY

- 12.1. Neither the Authority nor the Supplier excludes or limits liability to the other for death or personal injury arising from its negligence or any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982 or for fraud or fraudulent misrepresentation.
- 12.2. Nothing in this Clause 12 shall be taken as limiting the liability of the Supplier in respect of Clause 13, Clause 14 and Clause 15.
- 12.3. Subject always to the provisions of Clauses 12.1 and 12.2, the aggregate liability of the Authority and the Supplier for each Year for all Defaults whether arising under contract, tort (including negligence) or otherwise in connection with this Contract shall in no event exceed whichever is the greater of Five hundred thousand pounds or a sum equivalent to one hundred and twenty five percent (125%) of the Charges paid or payable to the Supplier during a twelve (12) Month period specified by the claiming party, such twelve (12) Month period including the date on which at least one such Default arose.
- 12.4. Subject always to the provisions of Clauses 12.1 and 12.2 and 11.3 in no event shall either the Authority or the Supplier be liable to the other for:
  - 12.4.1. indirect or consequential loss or damage; and/or
  - 12.4.2. loss of profits, business, revenue, goodwill or anticipated savings.
- 12.5. Subject always to the provisions of Clauses 12.1, 12.2 and 12.3, the provisions of Clause 12.4 shall not be taken as limiting the right of either the Authority or the Supplier to claim from the other for:
  - 12.5.1. reasonable additional operational and administrative costs and expenses;
  - 12.5.2. any reasonable costs or expenses rendered nugatory; and
  - 12.5.3. damage due to the loss of data, but only to the extent that such losses relate to the costs of working around any loss of data and the direct costs of recovering or reconstructing such data, resulting directly from the Default of the other party.

### 13. DATA PROTECTION

- 13.1. The Supplier shall comply at all times with the Data Protection Requirements and shall not perform its obligations under this Contract in such a way as to cause the Client to breach any of its applicable obligations under the Data Protection Requirements.
- 13.2. The Supplier shall be liable for and shall indemnify (and keep indemnified) the Client against each and every action, proceeding, liability, reasonable cost, claim, loss, reasonable expense (including reasonable legal fees and disbursements on a solicitor and Agency basis) and demand incurred by the Client which arise directly or in connection with the Supplier's data processing activities under this Contract, including without limitation those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, willful misconduct, breach of statutory duty or non-compliance with any part of the Data Protection Requirements by the Supplier or its employees, servants, agents or Sub-Suppliers.
- 13.3. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the Controller and the Supplier is the Processor unless otherwise specified in Schedule 13. The only processing that the Processor is authorised to do is listed in Schedule 13 by the Controller and may not be determined by the Processor.
- 13.4. The Processor shall notify the Client immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 13.5. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
  - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 13.6. The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- (a) process that Personal Data only in accordance with Schedule 13,

unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:

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

(c) ensure that :

- (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 13;
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
  - (A) are aware of and comply with the Processor's duties under this clause;
  - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
  - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
  - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

- (v) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
- (vi) the Data Subject has enforceable rights and effective legal remedies;

- (vii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
- (viii) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.

13.7. Subject to clause 1.6, the Processor shall notify the Controller immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

13.8. The Processor's obligation to notify under clause 1.5 shall include the provision of further information to the Controller in phases, as details become available.

13.9. Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:

- (a) the Controller with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access

Request within the relevant timescales set out in the Data Protection Legislation;

- (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Controller following any Data Loss Event;
- (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.

13.10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:

- (a) the Controller determines that the processing is not occasional;
- (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

13.11. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.

13.12. The Processor shall designate a data protection officer if required by the Data Protection Legislation.

13.13. Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:

- (a) notify the Controller in writing of the intended Sub-processor and processing.
- (b) obtain the written consent of the Controller;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause such that they apply to the Sub-processor; and
- (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

13.14. The Processor shall remain fully liable for all acts or omissions of any Sub-processor.

- 13.15. The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 13.16. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 13.17. Where the Parties include two or more Joint Controllers as identified in Schedule 12 in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Schedule 13a in replacement of Clauses 13.3-13.16 for the Personal Data under Joint Control.

#### **14. INTELLECTUAL PROPERTY RIGHTS**

- 14.1. Save as granted under this Contract, neither the Authority nor the Supplier shall acquire any right, title or interest in the other's Pre-Existing Intellectual Property Rights respectively save that each party hereby grants a licence to the other party to use its Pre-Existing Intellectual Property Rights to the extent necessary to perform its obligations under this Contract.
- 14.2. All Intellectual Property Rights that are created by the Supplier in the provision of the Services to the Authority shall be proprietary to and owned by the Authority and the Supplier shall enter into such documentation and perform such acts as the Authority shall request to properly vest such Intellectual Property Rights in the Authority. Accordingly, the Supplier hereby assigns (by way of present assignment of future rights) all such Intellectual Property Rights.
- 14.3. The Supplier shall procure that the provision of the Ordered Services shall not infringe any Intellectual Property Rights of any third party.
- 14.4. The Supplier shall indemnify the Authority against all claims, demands, actions, costs, expenses (including legal costs and disbursements), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right in connection with the provision of the Ordered Services, except to the extent that such liabilities have resulted directly from the Authority failure properly to observe its obligations under this Clause 13.

- 14.5. Each of the parties shall notify the other if it receives notice of any claim or potential claim relating to the other party's Pre-Existing Intellectual Property Rights.

## 15. CONFIDENTIALITY

- 15.1. Without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information, the Authority and the Supplier acknowledge that any Confidential Information originating from:

15.1.1. the Authority, its servants or agents is the property of the Authority;  
and

15.1.2. the Supplier, its employees, servants or agents is the property of the Supplier.

- 15.2. The Supplier and the Authority shall procure that:

15.2.1. any person employed or engaged by them (in connection with this Contract in the course of such employment or engagement) shall only use Confidential Information for the purposes of this Contract;

15.2.2. any person employed or engaged by them in connection with this Contract shall not, in the course of such employment or engagement, disclose any Confidential Information to any third party without the prior written consent of the other party;

15.2.3. they shall take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (save as aforesaid) or used other than for the purposes of this Contract by their employees, servants, agents or Sub-Contractors;  
and

15.2.4. without prejudice to the generality of the foregoing neither the Authority nor the Supplier nor any person engaged by them whether as a servant or a consultant or otherwise shall use the Confidential Information for the solicitation of business from the other or from any third party.

- 15.3. The provisions of Clause 15.1 and Clause 15.2 shall not apply to any information which:

15.3.1. is or becomes public knowledge other than by breach of this Clause 15; or

15.3.2. is in the possession of the recipient without restriction in relation to disclosure before the date of receipt from the disclosing party; or

- 15.3.3. is received from a third party who Lawfully acquired it and who is under no obligation restricting its disclosure; or
  - 15.3.4. is independently developed without access to the Confidential Information; or
  - 15.3.5. must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
  - 15.3.6. is required to be disclosed by a competent regulatory Agency (including the Law Society or Solicitors Disciplinary Tribunal) or pursuant to any applicable rules of professional conduct.
- 15.4. Nothing in this Clause 15 shall be deemed or construed to prevent the Authority from disclosing any Confidential Information obtained from the Supplier:
- 15.4.1. to any other department, office or agency of Her Majesty's Government ("Crown Bodies"), provided that the Authority has required that such information is treated as confidential by such Crown Bodies and their servants, including, where appropriate, requiring servants to enter into a confidentiality agreement prior to disclosure of the Confidential Information and the Authority shall have no further liability for breach of confidentiality in respect of the departments, offices and agencies. All Crown Bodies in receipt of such Confidential Information shall be considered as parties to this Contract within Section 1(1) of the Contracts (Rights of Third Parties) Act 1999 for the purpose only of being entitled to further disclose the Confidential Information to other Crown Bodies on such terms; and
  - 15.4.2. to any consultant, contractor or other person engaged by the Authority in connection herewith, provided that the Authority shall have required that such information be treated as confidential by such consultant, contractor or other person, together with their servants including, where appropriate, the execution of a confidentiality agreement prior to disclosure of the Confidential Information and the Authority shall have no further liability for breach of confidentiality in respect of consultants, contractors or other people.
- 15.5. The Supplier shall, prior to commencing any work, enter into a confidentiality undertaking in the form set out in [Schedule 7](#).

- 15.6. If required by the Authority, the Supplier shall procure that any of its Staff or associates enters into a confidentiality undertaking in the form set out in [Schedule 7](#) or such alternative form as the Authority may substitute from time to time.
- 15.7. Nothing in this Clause 15 shall prevent the Supplier or the Authority from using data Processing techniques, ideas and know-how gained during the performance of this Contract in the furtherance of its normal business, to the extent that this does not involve a disclosure of Confidential Information or an infringement by the Authority or the Supplier of any Intellectual Property Rights.

## **16. PUBLICITY**

- 16.1. The Supplier shall not make any press announcements about or relating to this Contract or publicise this Contract in any way without the Authority's prior written consent.
- 16.2. Notwithstanding the provisions of Clause 16.1, the Supplier shall be entitled to make any announcement required by any securities exchange or regulatory Agency or government body to which it subscribes whether or not the requirement has the force of Law.

## **17. DISPUTE RESOLUTION**

- 17.1. Subject to the provisions of Clause 17.2 and Clause 26.3 (corrupt gifts and payment of commission), any dispute arising under, or in connection with this Contract shall be dealt with in accordance with this Clause 17, and neither the Authority nor the Supplier shall be entitled to commence or pursue any legal proceedings under the jurisdiction of the courts in connection with any such dispute, until the procedures set out in this Clause 17 have been exhausted.
- 17.2. Clause 17.1 shall be without prejudice to the rights of termination stated in Clause 8 and in addition shall not prevent the Authority or the Supplier from applying for injunctive relief in the case of:
- 17.2.1. breach or threatened breach of confidentiality; or
  - 17.2.2. infringement or threatened infringement of its Intellectual Property Rights; or
  - 17.2.3. infringement or threatened infringement of the Intellectual Property Rights of a third party, where such infringement could expose the Authority or the Supplier to liability.
- 17.3. All disputes between the Authority and the Supplier arising out of, or relating to, any Purchase Order shall be referred by the Authority's Representative or the Supplier's Accountant Management Team to the other for resolution.

- 17.4. If any dispute cannot be resolved pursuant to the provisions of Clause 17.3 within ten (10) Working Days of such referral, then the provisions of [Schedule 6](#) (Dispute Resolution Procedure) apply.

## **18. INSURANCE**

- 18.1. The Supplier shall effect and maintain policies of insurance to provide a level of cover sufficient for all risks which may be incurred by the Supplier under this Contract, including death or personal injury, or loss of, or damage to, property.
- 18.2. The Supplier shall hold employer's liability insurance in respect of its employees in accordance with any legal requirement for the time being in force.
- 18.3. The Supplier shall produce to the Authority's Representative, within five (5) Working Days of request, copies of all insurance policies referred to in Clause 18.1 and Clause 18.2 or such other evidence as agreed between the Authority and the Supplier that will confirm the extent of the cover given by those policies, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 18.4. The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under this Contract. It shall be the responsibility of the Supplier to ensure that the amount of insurance cover is adequate to enable it to satisfy all its potential liabilities subject to the limit of liability specified in Clause 12 of this Contract.

## **19. RECOVERY OF SUMS DUE**

If any sum of money is recoverable from, or payable by, the Supplier under the Contract (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of the Contract) that sum may be deducted unilaterally by the Authority from any sum then due or which may become due to the Supplier under the Contract, or any other agreement or contract with the Authority.

## **20. STATUTORY REQUIREMENTS**

- 20.1. The Supplier shall notify the Authority of all statutory provisions and approved safety standards applicable to the Ordered Services and their provision and shall be responsible for obtaining all licences, consents or permits required for the performance of this Contract.
- 20.2. The Supplier shall inform the Authority if the Ordered Services are hazardous to health or safety and of the precautions that should be taken in respect thereto.

- 20.3. The Supplier shall, and shall ensure that its personnel, agents and Sub-Contractors, take all measures necessary to comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to those involved in the performance of this Contract.

## **21. STATUTORY INVALIDITY**

The Authority and the Supplier expressly agree that should any limitation or provision contained in this Contract be held to be invalid under any particular statute or Law, or any rule, regulation or bye-Law having the force of Law, it shall to that extent be deemed to be omitted but, if either the Authority or the Supplier thereby becomes liable for loss or damage which would have otherwise been excluded, such liability shall be subject to the other limitations and provisions set out herein.

## **22. ENVIRONMENTAL REQUIREMENTS**

- 22.1. 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.
- 22.2. The Supplier shall meet all reasonable requests by the Authority for Information evidencing compliance with the provisions of this Clause 22 by the Supplier.

## **23. DISCRIMINATION**

- 23.1. The Supplier shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010, the Human Rights Act 1998 or other relevant or equivalent legislation. The Supplier shall take all reasonable steps to secure the observance of this Clause by all Staff.
- 23.2. The Supplier shall take all reasonable steps to secure the observance of the provisions of Clause 23.1 by any Sub-Contractor(s) employed in the execution of this Contract.

## **24. SUPPLIER'S SUITABILITY**

- 24.1. The Authority reserves the right under this Contract to refuse to admit Staff to any premises occupied by or on behalf of the Authority, whose admission has become, in the opinion of the Authority, undesirable.

- 24.2. If the Supplier shall fail to comply with Clause 24.1 and if the Authority (whose decision shall be final and conclusive) shall decide that such failure is prejudicial to the interests of the State and if the Supplier does not comply with the provisions of Clause 24.1 within a reasonable time of written notice so to do, then the Authority may terminate any Purchase Order provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

## **25. OFFICIAL SECRETS ACTS**

The Supplier shall take all reasonable steps to ensure that its Staff and Sub-Contractors in connection with this Contract are aware of the Official Secrets Acts 1911 to 1989, and that these Acts apply to them during the execution of this Contract and after the expiry or termination of this Contract.

## **26. CORRUPT GIFTS AND PAYMENTS OF COMMISSION**

- 26.1. The Supplier shall not:

26.1.1. offer or give or agree to give any person in Her Majesty's Service any gift or consideration of any kind as an inducement or reward for doing, forbearing to do, or for having done or forborne to do any act in relation to the obtaining or execution of this Contract or any other contract for Her Majesty's Service or for showing favour or disfavour to any person in relation to this or any other contract for Her Majesty's Service;

26.1.2. enter into this Contract or any other contract with a person in Her Majesty's Service 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 this Contract are accepted, made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Authority.

- 26.2. Any breach of Clause 26.1 by the Supplier or its Staff (whether with or without the knowledge of the Supplier) or the commission of any offence by the Supplier or its Staff under the Prevention of Corruption Acts 1889 to 1916, in relation to this Contract or any other contract with Her Majesty's Service shall entitle the Authority to terminate any Purchase Order and recover from the Supplier the amount of any direct loss resulting from such termination and/or to recover from the Supplier the amount or value of any such gift, consideration or commission.

- 26.3. Any dispute, difference or question arising in respect of the interpretation of this Clause 266, the right of the Authority to terminate any Purchase Order or the amount or value of any such gift, consideration or commission shall be decided by the Authority, whose decision shall be final and conclusive and shall not be subject to Clause 17 (Dispute Resolution).
- 26.4. Either Party may terminate this Contract and recover all its losses if the other Party, their employees or anyone acting on their behalf:
  - 26.4.1. Corruptly offers, gives or agrees to give to anyone any inducement or reward in respect of this Contract; or
  - 26.4.2. Commits an offence under the Bribery Act 2010.

## **27. TRANSFER AND SUB-CONTRACTING**

- 27.1. To the extent to which the Supplier is permitted to sub-contract, the Authority shall be entitled to nominate sub-contractors at its discretion.
- 27.2. The Supplier shall be entitled to Sub-Contract its obligations under this Contract, or any resultant Purchase Order, solely with the express permission of the Authority Representative; such permission shall not be unreasonably withheld.
- 27.3. The provisions of Clause 42 (Transparency) Clause 37 (Open Book Accounting) and the rights of the Authority under these Clauses shall extend (making the necessary modifications) to the provisions and content of any sub contract.
- 27.4. The Authority shall be entitled to assign or otherwise dispose of its rights and obligations under this Contract and/or any relevant Purchase Order to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Authority.

## **28. RIGHTS OF THIRD PARTIES**

- 28.1. To the extent that this Contract confers rights or benefits on a party who is not a party to this Contract, that party shall by virtue of the Contracts (Rights of Third Parties) Act 1999, be entitled to enforce those rights as if it was a party to this Contract.
- 28.2. Except as provided in Clause 28.1, a person who is not a party to this Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. This Clause 28.2 does not affect any right or remedy of any person that exists or is available otherwise than pursuant to that Act.

## **29. AUTHORITY PROPERTY**

- 29.1. All Authority Property shall remain the property of the Authority and shall be used only for the purposes of the Contract.
- 29.2. The Supplier undertakes the safe custody of and the due return of all Authority Property and shall be responsible for all reasonably foreseeable loss thereof from whatever cause and shall indemnify the Authority against such loss.
- 29.3. Neither the Supplier, nor any Subcontractor nor any other person shall have a lien on any Authority Property for any sum due to the Supplier, Subcontractor or other person and the Supplier shall take all reasonable steps to ensure that the title of the Authority and the exclusion of any such lien are brought to the notice of all Subcontractors and other persons dealing with any Authority Property.

## **30. SEVERABILITY**

Subject to the provisions of Clause 21, if any provision of this Contract is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Contract had been accepted with the invalid provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Contract, the Authority and the Supplier shall immediately commence good faith negotiations to remedy such invalidity.

## **31. FREEDOM OF INFORMATION**

- 31.1. The Supplier acknowledges that the Authority is subject to the requirements of the Code of Practice on Government Information, FOIA and the Environmental Information Regulations and shall assist and cooperate with the Authority to enable the Authority to comply with these requirements.
- 31.2. The Supplier shall, and shall procure that its Sub-contractors shall:
  - 31.2.1. transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
  - 31.2.2. 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's request; and

- 31.2.3. provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to the Request for Information within the time for compliance set out in the FOIA or the Environmental Information Regulations.
- 31.3. The Authority shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other contract whether information in any way related to this Contract is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.
- 31.4. In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by the Authority.
- 31.5. The Supplier shall ensure that all Information in any way related to this Contract is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

## **32. FORCE MAJEURE**

- 32.1. For the purposes of this Contract the expression "Force Majeure" shall mean any cause affecting the performance by either the Authority or the Supplier of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control including (but without limiting the generality thereof) governmental regulations, fire, flood, or any disaster or an industrial dispute affecting a third party for which a substitute third party is not reasonably available. Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the affected party, its employees, servants or agents or the failure of either the Authority or the Supplier to perform its obligations under any Purchase Order.
- 32.2. It is expressly agreed that any failure by the Supplier to perform or any delay by the Supplier in performing its obligations under any Purchase Order which results from any failure or delay in the performance of its obligations by any person, firm or company with which the Supplier shall have entered into any contract, supply arrangement or Sub-Contract or otherwise shall be regarded as a failure or delay due to Force Majeure only in the event that such person firm or company shall itself be prevented from or delayed in complying with its obligations under such Purchase Order, supply arrangement or Sub-Contract or otherwise as a result of circumstances of Force Majeure.

- 32.3. Neither the Authority nor the Supplier shall in any circumstances be liable to the other for any loss of any kind whatsoever including but not limited to any damages or abatement of Charges whether directly or indirectly caused to or incurred by the other party by reason of any failure or delay in the performance of its obligations which is due to Force Majeure. Notwithstanding the foregoing, both the Authority and the Supplier shall use all reasonable endeavours to continue to perform, or resume performance of, (and having resumed to catch up to the required level of performance existing immediately prior to the Force Majeure event), such obligations hereunder for the duration of such Force Majeure event.
- 32.4. If either the Authority or the Supplier become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period which it is estimated that such failure or delay shall continue.
- 32.5. It is hereby expressly declared that the only events that shall afford relief from liability for failure or delay shall be any event qualifying for Force Majeure hereunder.

### **33. LEGISLATIVE CHANGE**

- 33.1. The Supplier shall bear the cost of ensuring that the Services comply with all applicable statutes, enactments, orders, regulations or other similar instruments and any amendments thereto, except where any such amendment could not in the opinion of the Authority reasonably have been foreseen by the Supplier at the date hereof.
- 33.2. Where, in the opinion of the Authority, such amendments could not reasonably have been foreseen by the Supplier at the date hereof, the Parties shall negotiate a variation to this Contract in accordance with the procedure prescribed at [Schedule 9](#).

### **34. CONFLICTS OF INTEREST**

The Supplier shall disclose to the Authority's Representative as soon as is reasonably practical after becoming aware of any actual or potential conflict of interest relating to provision of the Services by the Supplier or any event or matter (including without limitation its reputation and standing) of which it is aware or anticipates may justify the Authority taking action to protect its interests.

### **35. ASSIGNED STAFF**

- 35.1. As soon as the Supplier becomes aware of any intended changes to the Account Management Team, they shall inform the Authority Representative.

- 35.2. The Authority may require the Supplier to attend a meeting and/or submit written notification of the steps it intends to take to mitigate any issues which may result from such changes.

### **36. INVESTIGATIONS**

The Supplier shall immediately notify the Authority Representative in writing if any investigations are instituted unto the affairs of the Supplier, its partners or key managers under the Companies, Financial Services or Banking Acts, or in the event of any police or Serious Fraud Office enquiries, enquires into possible fraud, any involvement in the Department for Business, Energy and Industrial Strategy (BEIS) investigations or any other investigations which might result in public criticism of the Supplier.

### **37. OPEN BOOK ACCOUNTING**

#### **Audits**

- 37.1. The Authority may, at its discretion, conduct an audit for the following purposes:
- 37.1.1. to verify the accuracy of Charges (and proposed or actual variations to them in accordance with this Contract), and/or the costs of the Services;
  - 37.1.2. to review any books of account kept by the Supplier in connection with the provision of the Services; or
  - 37.1.3. to carry out the audit and certification of the Authority's accounts;
- 37.2. The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.
- 37.3. Subject to the Authority undertaking obligations of confidentiality in a form agreed by the Supplier (agreement not to be unreasonably withheld or delayed), the Supplier shall on demand provide the Authority (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, which shall include providing or procuring:
- 37.3.1. all information requested by the Authority within the permitted scope of the audit;
  - 37.3.2. reasonable access to any premises occupied and controlled by the Supplier.

- 37.3.3. that Staff provide reasonable assistance to the Authority in relation to the audit.
- 37.4. The Supplier shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Supplier's performance of the Services against the applicable requirements of the Contract at a level of detail sufficient to verify compliance with the Contract.
- 37.5. The Authority shall endeavour to (but is not obliged to) provide at least 15 Working Days' notice of its intention to conduct an audit.
- 37.6. The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause, unless the audit identifies a Default by the Supplier in which case the Supplier shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.
- 37.7. If an audit identifies that:
- 37.7.1. the Supplier has failed to perform its obligations under this Contract in any material manner, the parties shall agree and implement a remedial plan. The Supplier shall notify the Authority once the remedial plan has been completed and the identified failure(s) rectified. If the Supplier's failure relates to a failure to provide any information to the Authority about the Charges or the Supplier's costs, then the remedial plan shall include a requirement for the provision of all such information;
  - 37.7.2. the Authority has overpaid any Charges, the Supplier shall pay to the Authority the amount overpaid within 20 Working Days of the signing of a report of the audit; and
  - 37.7.3. the Authority has underpaid any Charges, the Authority shall pay to the Supplier the amount of the under-payment within 20 Working Days of the signing of a report of the audit.

### **Open Book Accounting**

- 37.8. Open book accounting applies to this Contract. The Supplier shall provide to the Authority, or its appointed third party representatives, eg external auditors, all reasonable assistance to examine and verify Supplier's accounts and costing data. This will include, but not be limited to, financial and management accounts, employment and payroll records.
- 37.9. The Supplier shall, within one Month of the end of each Year, provide the Authority with a report ("Annual Report"), in respect of its provision of the Services which shall include the following information:

- 37.9.1. the Supplier's performance in the period since the last Annual Report;
  - 37.9.2. the Supplier's cumulative performance during the Term;
  - 37.9.3. the revenue received by the Supplier from the Authority in the period since the last Annual Report. The revenue will be broken down to show Charges for the Lots and other revenue received (for example for Project Work);
  - 37.9.4. the direct costs (excluding VAT and the Supplier's overhead costs) incurred by the Supplier by Lot in the period since the last Annual Report. The direct costs will be broken down to show labour and other costs;
  - 37.9.5. the contribution this Contract makes to the Supplier's overheads; and
  - 37.9.6. the profit made by the Supplier in relation to this Contract since the last Annual Report. The profit will be calculated as revenue less direct costs less overhead contribution.
- 37.10. The Annual Report shall be drawn up in accordance with the Supplier's accounting standards (which at the Effective Date are UK Generally Accepted Accounting Principles) and shall be certified by the Supplier's Finance Director as a true reflection of the information contained in it and the performance of this Contract for the period that it covers.
- 37.11. The Annual Report shall be subject to the confidentiality provisions contained in Clause 15 (Confidentiality).
- 37.12. The Supplier shall, by the end of the following month, provide the Authority with two reports ("Monthly Profit and Loss Statement" & "Daily Cashflow Statement"), in respect of its provision of the Services which shall include the following information:
- 37.12.1. Monthly Profit and Loss Statement to include a monthly detailed breakdown of the Sales, Purchases and Overheads;
  - 37.12.2. Monthly Profit and Loss Statement to reflect the monthly Net Profit / Loss;
  - 37.12.3. Daily Cashflow Statement to provide a daily breakdown of the cashflow position including all income and expenditure items.
- 37.13. This information will be used to manage the risk around a single supplier for the delivery of these services.

**38. STATUTORY AUDITORS' ACCESS**

For the purposes of the examination and certification of the Authority accounts or any examination, pursuant if appropriate to Section 6(1) of the National Audit Act 1983, or pursuant to any equivalent legislation, of the economy, efficiency and effectiveness with which the Authority has used its resources, the Authority's statutory auditors may examine such documents as they may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to produce such oral or written explanations as they consider necessary. For the avoidance of doubt it is hereby declared that the carrying out of an examination, if appropriate, under section 6(3) (d) of the National Audit Act 1983, or under any equivalent legislation, in relation to the Supplier is not a function exercisable under this Clause 38.

**39. ELECTRONIC INSTRUCTION**

The Supplier shall use its reasonable endeavours to interface with any system introduced by the Authority for issuing electronic instructions, in particular the Authority's Purchase Order system, and to accept such instruction.

**40. WAIVER**

- 40.1. The failure of the Supplier or the Authority to insist upon strict performance of any provision of this Contract or to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this Contract.
- 40.2. A waiver of any default shall not constitute a waiver of any other default.
- 40.3. No waiver of any of the provisions of this Contract shall be effective unless it is communicated by notice.

**41. LAW AND JURISDICTION**

This Contract is subject to the exclusive jurisdiction of the courts of England and Wales and the Parties agree that this Contract is to be governed by and construed according to the Law of England and Wales.

**42. TRANSPARENCY**

- 42.1. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract including any Purchase Order is not Confidential Information.

- 42.2. The Authority shall be responsible for determining in its absolute discretion whether any content of this Contract including any Purchase Order is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of this Contract, the Supplier gives consent for the Authority to publish the Contract including any Purchase Order in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), to the general public.
- 42.3. The Authority may consult with the Supplier to inform its decision regarding any redactions, but the Authority shall have the final decision in its absolute discretion.

#### **43. SECURITY PROVISIONS**

##### **43.1. Security Classification of Information**

If the provision of the Services requires the Supplier to Process Authority Data which is classified as OFFICIAL-SENSITIVE, the Supplier shall implement such additional measures as agreed with the Authority from time to time in order to ensure that such information is safeguarded in accordance with the applicable Standards.

##### **43.2. End User Devices**

- 43.2.1. The Supplier shall ensure that any Authority Data which resides on a mobile, removable or physically uncontrolled device is stored encrypted using a product or system component which has been formally assured through a recognised certification process agreed with the Authority except where the Authority has given its prior written consent to an alternative arrangement.
- 43.2.2. The Supplier shall ensure that any device which is used to Process Authority Data meets all of the security requirements set out in the NCSC End User Devices Platform Security Guidance, a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security>.

##### **43.3. Networking**

The Supplier shall ensure that any Authority Data which it causes to be transmitted over any public network (including the Internet, mobile networks or unprotected enterprise network) or to a mobile device shall be encrypted when transmitted.

##### **43.4. Personnel Security**

- 43.4.1. All Supplier Personnel shall be subject to a pre-employment check before they may participate in the provision and or management of the Services. Such pre-employment checks must include all pre-employment checks which are required by the HMG Baseline Personnel Security Standard including: verification of the individual's identity; verification of the individual's nationality and immigration status; and, verification of the individual's employment history; verification of the individual's criminal record.
- 43.4.2. The Authority and the Supplier shall review the roles and responsibilities of the Supplier Personnel who will be involved in the management and/or provision of the Services in order to enable the Authority to determine which roles require additional vetting and a specific national security vetting clearance (e.g. a Counter Terrorist Check; a Security Check). Roles which are likely to require additional vetting and a specific national security vetting clearance include system administrators whose role would provide those individuals with privileged access to IT systems which Process Authority Data or data which is classified as OFFICIAL-SENSITIVE.
- 43.4.3. The Supplier shall not permit Supplier Personnel who fail the security checks required by Paragraphs 43.4.1 and 43.4.2 to be involved in the management and/or provision of the Services except where the Authority has expressly agreed in writing to the involvement of the named individual in the management and/or provision of the Services.
- 43.4.4. The Supplier shall ensure that Supplier Personnel are only granted such access to Authority Data as is necessary to enable the Supplier Personnel to perform their role and to fulfil their responsibilities.
- 43.4.5. The Supplier shall ensure that Supplier Personnel who no longer require access to the Authority Data (e.g. they cease to be employed by the Supplier or any of its Sub-contractors), have their rights to access the Authority Data revoked within 1 Working Day.
- 43.5. Identity, Authentication and Access Control
  - 43.5.1. The Supplier shall operate an access control regime to ensure:
  - 43.5.2. all users and administrators of the Supplier System are uniquely identified and authenticated when accessing or administering the Services; and
  - 43.5.3. all persons who access the Sites are identified and authenticated before they are allowed access to the Sites.

43.5.4. The Supplier shall apply the 'principle of least privilege' when allowing persons access to the Supplier System and Sites so that such persons are allowed access only to those parts of the Sites and the Supplier System they require.

43.5.5. The Supplier shall retain records of access to the Sites and to the Supplier System and shall make such record available to the Authority on request.

#### 43.6. Data Destruction/Deletion

43.6.1. The Supplier shall:

43.6.2. prior to securely sanitising any Authority data or when requested the Supplier shall provide the Authority with all Authority Data in an agreed open format;

43.6.3. have documented processes to ensure the availability of Authority Data in the event of the Supplier ceasing to trade;

43.6.4. securely erase in a manner agreed with the Authority any or all Authority Data held by the Supplier when requested to do so by the Authority;

43.6.5. securely destroy in a manner agreed with the Authority all media that has held Authority Data at the end of life of that media in accordance with any specific requirements in this Agreement and, in the absence of any such requirements, in accordance with Good Industry Practice as agreed by the Authority; and

43.6.6. implement processes which address the CPNI and NCSC guidance on secure sanitisation.

#### 43.7. Audit and Protective Monitoring

43.7.1. The Supplier shall collect audit records which relate to security events in Information Management System 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 regular reports and alerts setting out details of access by users of the Information Management System, to enable the identification of (without limitation) changing access trends, any unusual patterns of usage and/or accounts accessing higher than average amounts of Authority Data.

43.7.2. The Supplier and the Authority shall work together to establish any additional audit and monitoring requirements for the Core Information Management System.

- 43.7.3. The retention periods for audit records and event logs must be agreed with the Authority and documented in the Information Security Management Document Set.

43.8. Location of Authority Data

The Supplier shall not and shall procure that none of its Sub-contractors Process Authority Data outside the EEA without the prior written consent of the Authority and the Supplier shall not change where it or any of its Sub-contractors Process Authority Data without the Authority's prior written consent may be subject to conditions.

43.9. Vulnerabilities and Corrective Action

- 43.9.1. The Authority and the Supplier acknowledge that from time to time vulnerabilities in the Information Management System will be discovered which unless mitigated will present an unacceptable risk to the Authority Data.

- 43.9.2. The severity of 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 Information Security Management Document Set and using the appropriate vulnerability scoring systems including:

- I. 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 at <http://nvd.nist.gov/cvss.cfm>); and
- II. Microsoft's 'Security Bulletin Severity Rating System' ratings 'Critical', 'Important', and the two remaining levels ('Moderate' and 'Low') respectively.

- 43.9.3. Subject to Paragraph 43.43.9.4, the Supplier shall procure the application of security patches to vulnerabilities in the Core Information Management System within:

- I. 7 days after the public release of patches for those vulnerabilities categorised as 'Critical';
- II. 30 days after the public release of patches for those vulnerabilities categorised as 'Important'; and
- III. 60 days after the public release of patches for those vulnerabilities categorised as 'Other'.

43.9.4. The timescales for applying patches to vulnerabilities in the Core Information Management System set out in Paragraph 43.43.9.3 shall be extended where:

- I. the Supplier can demonstrate that a vulnerability in the Core Information Management System is not exploitable within the context of the Services (e.g. because it resides in a Software component which is not involved in running in the Services) provided such vulnerabilities shall be remedied by the Supplier within the timescales set out in Paragraph 43.43.9.3 if the vulnerability becomes exploitable within the context of the Services;
- II. 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
- III. the Authority agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the Information Security Management Document Set.

43.9.5. The Information Security Management Document Set shall include provisions for major version upgrades of all Supplier COTS Software and Third Party COTS Software to be kept up to date such that all Supplier COTS Software and Third Party COTS Software are always in mainstream support throughout the Term unless otherwise agreed by the Authority in writing.

#### 43.10. Secure Architecture

43.10.1. The Supplier shall design the Core Information Management System in accordance with:

- (i) the NCSC "Security Design Principles for Digital Services", a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/security-design-principles-digital-services-main>;
- (ii) the NCSC "Bulk Data Principles", a copy of which can be found at <https://www.ncsc.gov.uk/guidance/protecting-bulk-personal-data-main>; and
- (iii) the NSCS "Cloud Security Principles", a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles> and which are summarised below:

- (a) "Cloud Security Principle 1: data in transit protection" which, amongst other matters, requires that user data transiting networks should be adequately protected against tampering and eavesdropping;
- (b) "Cloud Security Principle 2: asset protection and resilience" which, amongst other matters, requires that user data, and the assets storing or processing it, should be protected against physical tampering, loss, damage or seizure;
- (c) "Cloud Security Principle 3: separation between users" which, amongst other matters, requires that a malicious or compromised user of the service should not be able to affect the service or data of another;
- (d) "Cloud Security Principle 4: governance framework" which, amongst other matters, requires that the Supplier should have a security governance framework which coordinates and directs its management of the Services and information within it;
- (e) "Cloud Security Principle 5: operational security" which, amongst other matters, requires that the Services need to be operated and managed securely in order to impede, detect or prevent a Breach of Security;
- (f) "Cloud Security Principle 6: personnel security" which, amongst other matters, requires that where Supplier Personnel have access to Authority Data and/or the Authority System that those personnel be subject to appropriate security screening and regular security training;
- (g) "Cloud Security Principle 7: secure development" which, amongst other matters, requires that the Services be designed and developed to identify and mitigate threats to their security;
- (h) "Cloud Security Principle 8: supply chain security" which, amongst other matters, requires the Supplier to ensure that appropriate security controls are in place with its Sub-contractors and other suppliers;
- (i) "Cloud Security Principle 9: secure user management" which, amongst other matters, requires the Supplier to make the tools available for the Authority to securely manage the Authority's use of the Service;
- (j) "Cloud Security Principle 10: identity and authentication" which, amongst other matters, requires the Supplier to implement appropriate controls in order to ensure that access to Service interfaces is constrained to authenticated and authorised individuals;
- (k) "Cloud Security Principle 11: external interface protection" which, amongst other matters, requires that all external or less trusted interfaces with the Services should be identified and appropriately defended;

- (l) "Cloud Security Principle 12: secure service administration" which, amongst other matters, requires that any ICT system which is used for administration of a cloud service will have highly privileged access to that service;
- (m) "Cloud Security Principle 13: audit information for users" which, amongst other matters, requires the Supplier to be able to provide the Authority with the audit records it needs to monitor access to the Service and the Authority Data held by the Supplier and/or its Sub-contractors; and
- (n) "Cloud Security Principle 14: secure use of the service" which, amongst other matters, requires the Supplier to educate Supplier Personnel on the safe and secure use of the Information Management System.

#### **44. EXIT MANAGEMENT**

On receipt of notice to terminate this Contract or to terminate a Purchase Order or expiration of this Contract, the Parties shall comply with the Exit Management Requirements prescribed at [Schedule 10](#).

#### **45. INDEMNITY**

45.1. The Supplier agrees with the Authority throughout the Term to indemnify the Authority and keep the Authority indemnified from and against any and all loss, damage or liability suffered and legal fees and costs incurred by the Authority resulting from a breach of this Contract by the Supplier including:

45.1.1. any act, neglect or default of the Supplier and Staff;

45.1.2. breaches in respect of any matter arising from the supply or non-supply of the Services resulting in any successful claim against the Authority by any third party.

45.1.3. For the purpose of this Clause 45, a claim is successful if:

- a) a court of competent jurisdiction upholds the claim against the Authority; or
- b) the Authority, acting reasonably, concludes that the claim, if heard by a court of competent jurisdiction, has a realistic prospect of success and should be settled on reasonable commercial terms.

#### **46. FURTHER ACTION**

Each Party agrees to execute, acknowledge and deliver such further instruments, and do all further similar acts, as may be necessary or appropriate to carry out the purposes and intent of this Contract.

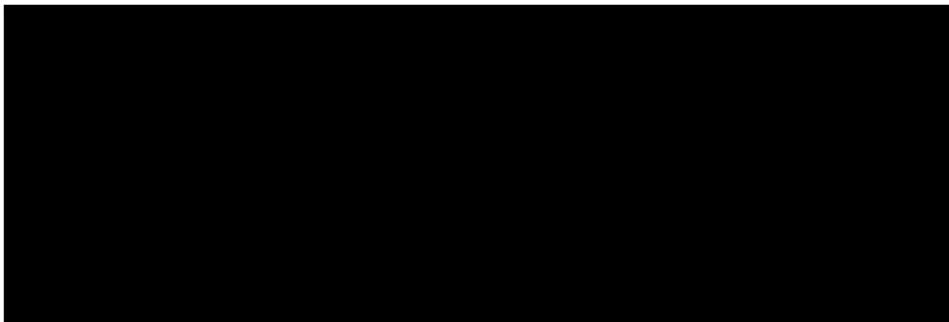
#### 47. ENTIRE AGREEMENT

This Contract constitutes the entire understanding between the Authority and the Supplier relating to the subject matter of the Contract.

- 47.1. Neither the Authority nor the Supplier has relied upon any representation or promise except as expressly set out in this Contract.
- 47.2. Both the Authority and the Supplier unconditionally waive any rights it may have to claim damages against the other on the basis of any statement made by the other (whether made carelessly or not) not set out or referred to in this Contract (or for breach of any warranty given by the other not so set out or referred to) unless such statement or warranty was made or given fraudulently.
- 47.3. Both the Authority and the Supplier unconditionally waive any rights it may have to seek to rescind this Contract on the basis of any statement made by the other (whether made carelessly or not) whether or not such statement is set out or referred to in this Contract unless such statement was made fraudulently.

This Contract is deemed to have commenced at the date given on page 1.

Signed for and on behalf of the **Foods Standards Agency**:

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ed:

**SCHEDULE 1 INTERPRETATION**

Account Management Team	means the Supplier's personnel who have been designated by the Supplier as its point(s) of contact for management of this Contract
Authority	is Food Standards Agency
Authority Data	<p>means the data, text, drawings, diagrams, images or sounds (together with any database made up on any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>Provided to the supplier by or on behalf of the Authority, or</p> <p>Which the supplier is required to generate process, store or transmit pursuant to this Contract.</p> <p>Within the meaning of the Data Protection Act 1998, any Personal Data for which the Authority is the Data Controller.</p>
Authority Property	means anything issued or otherwise furnished in connection with the Contract by or on behalf of the Authority, other than any real property.
Authority's Representative	means the member of the Authority staff who shall be the main contact point under the Contract or any relevant Purchase Order
Breach of Security	<p>an event that results, or could result, in:</p> <p>any unauthorised access to or use of the Authority Data, the Services and/or the Information Management System; and/or</p> <p>the loss, corruption 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 Agreement;</p>

Certification Requirements	means the information security requirements set out in Paragraph 5 of Schedule 14 (Security Management);
Charges	means charges payable by the Authority to the Supplier for the delivery of the Services, which must be itemised in full on any relevant Purchase Order. The charges for the provision of the Services set out in and derived in accordance with schedule 2, including any Milestone Payment, Stage Payment or Service Charge;
CHECK service Provider	means a company which has been certified by the National Cyber Security Centre, holds "Green Light" status and is authorised to provide the ITHC services required by the Paragraph 6.2 of Schedule 14 (Security Management);;
Compliant	has the meaning set out in Annex 10 - Performance Management Framework
Confidential Information	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential.
Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer	take the meaning given in the GDPR
Data Loss Event	means any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach

Data Protection Impact Assessment	means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
Data Protection Legislation	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy.
Data Protection Requirements	means the Data Protection Act 2018, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable Laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.
Data Subject Access 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.
Default	means any breach of the obligations of any party (including but not limited to fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of any party, it's employees, agents or Sub-Contractors in connection with or in relation to the subject matter of this Contract and in respect of which such party is liable to the other.
Delay	the period of time by which the implementation of the Services by reference to the Implementation Plan is delayed arising from a failure to Achieve a Milestone;

DPA 2018	Data Protection Act 2018
Environmental Information Regulations	means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations.
Equipment	means any computers, laptops, servers, networks, internet broadband, wireless or other connections, other computer associated equipment or presentation equipment.
FOIA	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.
Force Majeure Event	any cause affecting the performance by a party of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or Regulatory Bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Supplier, the Supplier Personnel or any other failure in the Supplier or the Sub-contractor's supply chain;
GDPR	the General Data Protection Regulation (Regulation (EU) 2016/679)
Government Accounting	means HM Treasury's manual of accounting principles for government as updated from time to time.
Government Procurement Card (GPC)	means the UK Government's Mastercard purchasing card.

Incident Management Process	is the process which the Supplier shall implement immediately after it becomes aware of a Breach of Security which is intended to restore normal operations as quickly as possible, minimising any adverse impact on the Authority Data, the Authority, the Services and/or users of the Services and which shall be prepared by the Supplier in accordance with Clause 43 (Security Management) using the template set out in Annex 16 (Security Management Document Set Template);
Industry Regulator	means any statutory or non-statutory body with responsibility for regulating (or promoting self-regulation) of the provision on the type of services being provided by the Supplier.
Information	has the meaning given under section 84 of the Freedom of Information Act 2000.
Information Management System	comprises: (i) the Supplier Equipment; (ii) the Supplier System; and (ii) the Sites at which Authority Data;
Information Security Approval Statement	a notice issued by the Authority which sets out the information risks which the Supplier has identified as being associated with using the Information Management System and confirms that the Authority: (i) is satisfied that the identified risks have been adequately and appropriately addressed; and (ii) the Supplier may use the Information Management System to Process Authority Data;
Information Assurance Assessment	is the set of policies, procedures, systems and processes which the Supplier shall implement, maintain and update in accordance with Paragraph 3 of Schedule 14 (Security Management) in order to manage, mitigate and, where possible, avoid information security risks including cyber attacks, hacks, data leaks, Personal Data Breaches and/or theft and which shall be prepared by the Supplier using the template set out in Annex 16 (Security Management Document Set Template);

Information Security Management Document Set	comprises: (i) the Information Assurance Assessment; (ii) the Personal Data Processing Statement; (iii) the Required Changes Register; and, (iv) the Incident Management Process, which shall be prepared by the Supplier using the templates set out in Annex 16 (Security Management Document Set Template;
Insolvency Event	<p>the occurrence of any of the following events (or any event analogous to any of the following in a jurisdiction other than England and Wales) in relation to the relevant entity:</p> <p>the entity passing a resolution for its winding up or a court of competent jurisdiction making an order for the entity to be wound up or dissolved or the entity being otherwise dissolved;</p> <p>the appointment of an administrator of or, the making of an administration order in relation to the entity or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or part of the entity's undertaking, assets, rights or revenue;</p> <p>the entity entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them or takes steps to obtain a moratorium or makes an application to a court of competent jurisdiction for protection from its creditors;</p> <p>the entity being unable to pay its debts or being [capable of being] deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or</p> <p>the entity entering into any arrangement, compromise or compromise or composition in satisfaction of its debts with its creditors;</p> <p>However, a resolution by the relevant entity or a court order that such entity be wound up for the purpose of a bona fide reconstruction or amalgamation shall not amount to an Insolvency Event; amalgamation shall not amount to an Insolvency Event;</p>

Intellectual Property Rights	means patents, trademarks, service marks, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, trade or business names and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom).
Invoicing Procedure	means the procedure by which the Supplier invoices the Authority, as set out in <a href="#">Schedule 5</a> .
ITHC	has the meaning given in Paragraph 6.1 of Schedule 14 (Security Management);
Joint Controllers	where two or more Controllers jointly determine the purposes and means of processing.
Key Performance Indicator	Has the meaning set out in Appendix N – Performance Management Framework.
Law	means any applicable Law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body.
Mediator	means a third party to assist both the Supplier and the Authority to resolve a dispute. See <a href="#">Schedule 6</a> .
Month	means a calendar month and “Monthly” shall be similarly construed.
Nominated Sub-Contractor	means any sub-contractor engaged by the Supplier, at the direction of the Authority, in connection with the provision of Ordered Services.
Non-Compliant	has the meaning set out in Annex 10 Performance Management Framework.
Ordered Services	means the services which the Authority has instructed the Supplier to carry out in any Purchase Order.

Personal Data	has the meaning set out in the Data Protection Act 2018.
Personal Data Breach	has the meaning set out in the Data Protection Act 2018.
Personal Data Processing Statement	sets out: (i) the types of Personal Data which the Supplier and/or its Sub-contractors are Processing on behalf of the Authority; (ii) the categories of Data Subjects whose Personal Data the Supplier and/or its Sub-contractors are Processing on behalf of the Authority; the nature and purpose of such Processing; (iii) the locations at which the Supplier and/or its Subcontractors Process Authority Data; and, (iv) the Protective Measures that the Supplier and, where applicable, its Subcontractors have implemented to protect the Authority Data against a Security Breach including a Personal Data Breach, which shall be prepared by the Supplier in accordance with Paragraph 3 of Schedule 14 (Security Management) and included in the Information Security Management Document Set ;
Pre-Existing Intellectual Property Rights	means any Intellectual Property Rights vested in or licensed to the Supplier or Authority prior to or independently of the performance by the Supplier or Authority of their obligations under this Contract.
Private Agency	means a commercial organisation to which service provision has been outsourced by a Contracting Agency, which assumes the role and responsibilities of the Agency under a Contract.
Process Authority Data	any operation which is performed on Authority Data, whether or not by automated means, including adapting, altering, collecting, combining, copying, destroying, erasing, organising, publishing retrieving, storing, structuring, transmitting or otherwise using Authority Data;

Processor Personnel	means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement.
Protective Measures	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
Purchase Order	means the document in which the Authority specifies the goods and services it requires to be supplied or performed by the Supplier.
Quarter	means a three (3) month period beginning on 1st January, 1st April, 1st July or 1st October. The term 'Quarterly' shall be similarly construed.
Regulatory Body	means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Authority and "Regulatory Body" shall be construed accordingly.
Requests for Information	means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.
Required Action	has the meaning given in clause 10 (Step-In Rights);

Required Changes Register	is the register within the Information Security Management Document Set which is to be maintained and updated by the Supplier and which shall record each of the changes that the Supplier shall make to the Information Management System and/or the Information Security Management Document Set as a consequence of the occurrence of any of the events set out in Paragraph 4.2 of Schedule 14 (Security Management) together with the date by which such change shall be implemented and the date on which such change was implemented;
Risk Register	is the risk register within the Information Assurance Assessment which is to be prepared and submitted to the Authority for approval in accordance with Paragraph 3 of Schedule 14 (Security Management);
Services	means services which the Supplier has agreed to provide under any Purchase Order.
Service Credits	means the sums payable by the Supplier to the Authority in respect of a failure by the Supplier to meet a Key Performance Indicator as more particularly described in <a href="#">Schedule 2</a> The Ordered Services
Sites	comprise: (i) those premises from which the Services are to be provided; (ii) those premises from which Supplier manages, organises or otherwise administers the provision of the Services; and, (iii) those premises at which any Supplier Equipment or any party of the Supplier System is located.
Special Terms	means additional Authority specific terms, to which the Supplier has agreed.
Staff	means officers, employees, agents and contractors of the Supplier.
Sub-Contractor	means any sub-contractor engaged by the Supplier in connection with the provision of Ordered Services.
Supplier	means the person identified in the Contract and its Staff.

Supplier Equipment	the hardware, computer and telecoms devices and equipment used by the Supplier or its Subcontractors (but not hired, leased or loaned from the Authority) for the provision of the Services;
Supplier System	the information and communications technology system used by the Supplier in implementing and performing the Services, including the Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Authority System);
Term	means the period from and including 30 March 2020 until and including 26 March 2023, together with any period by which the Contract is extended.
Variation	means an amendment of the Contract made in accordance with the Variation Procedure prescribed at <a href="#">Schedule 9</a> .
Working Days	means Monday to Friday inclusive, excluding public and bank holidays.
Year	means a calendar year.

## **SCHEDULE 2 THE ORDERED SERVICES**

**This Schedule specifies the Ordered Services to be provided to the Authority by the Supplier in the services required for FS101227.**

**This specification is set out as:**

1. Background & Intention
2. Specification overview
3. Technical requirements
4. FSA management structure
5. Performance and governance
6. Contract terms and pricing
7. Supplementary requirements
8. Supporting material

### **1. BACKGROUND & INTENTION**

- 1.1.** The Food Standards Agency (FSA) is a non-ministerial government department governed by a Board appointed to act in the public interest, with the task of protecting consumers in relation to food. It is a UK-wide body with offices in London, Cardiff, Birmingham, Belfast and York.
- 1.2.** The FSA's main objective is to 'ensure food is safe and is what it says it is' and to protect the public from risks that may arise in connection with the consumption of food, (including risks that are associated with the way food produced or supplied). The FSA puts the consumer first and operates to a strategy to be an excellent, modern, accountable regulator.
- 1.3.** This contract will support this objective through the provision of services in relation to the implementation of Official Controls in FSA Approved Meat and Dairy Establishments.

## **2. SPECIFICATION OVERVIEW**

- 2.1.** This contract is for the provision of contract Official Veterinarians (cOV) and contract Official Auxiliaries (cOA) to undertake the delivery of Official Controls in accordance with EU and UK law in FSA Approved Premises. These are meat establishments (slaughterhouses, cutting plants and approved game handling establishments), and dairy establishments (farms). On occasion attendance at premises under local authority control may be required.
- 2.1.1.** FSA requirement is for cOA to undertake UAI and DHI duties unless by exception and prior approval a cOV is deployed to such duties.
- 2.2.** All cOV and cOA resources are required to deliver services in accordance with the FSA Manual for Official Controls (MOC). This is subject to amendments which can change operational procedures and guidance which the supplier would need to adapt to. In the unlikely event of an amendment having a material impact on service delivery, contract variation discussions may be required.
- 2.3.** Suppliers should provide cOV and cOA capable and competent to deliver the service. The FSA reserves the right to assess the capability and competency of cOV and cOA in line with the standards set out in the “Technical Requirements” section below. Where the FSA has concerns and/or evidence about the effectiveness of the cOA/cOV in relation to carrying out their duties and/or following instructions as per the MOC, the supplier will be expected to address the personal performance of the individual, which may include rotating their deployment or replacing them with a more suitable cOA/cOV with the agreement of the FSA, or removal of the individual altogether from delivering these services until the supplier can demonstrate to the FSA that the individual has the required capability..
- 2.4.** Rotation of cOA and cOV staff to share good practice may be requested by the FSA and will be in agreement with the supplier.
- 2.5.** Any changes made by the supplier which impact on the delivery of the services under this contract must be agreed by FSA prior to implementation. Failure to do so will be considered within the performance management of the contract and could be defined as a non-compliance or service failure under and the service credit regime invoked.

### 3. TECHNICAL REQUIREMENTS

#### 3.1. Contract Official Veterinarian Requirements

- 3.1.1. Staff supplied as cOVs under this contract must be appointed as an Official Veterinarian in accordance with EC 854/2004 Annex 1, Section 3, Chapter 4, Part A, or replacement legislation Regulation (EU) 2017/625 if implemented. It is the supplier's responsibility to ensure all staff are suitably qualified, experienced and competent to deliver services under this contract.
- 3.1.2. Staff supplied as cOVs under this contract must meet the Job Description (Annex 1) and Person Specification (Annex 2) requirements.
- 3.1.3. The cOV is required to carry out the delivery of Official Controls in accordance with EC 854/2004 or Regulation (EU) 2017/625, if implemented in approved premises subject to FSA Delivered Official Controls
- 3.1.4. Staff provided to work as cOVs should also have knowledge and experience of the Manual for Official Controls (volumes 1 & 2) and in particular the following additional areas when deployment requires appropriate subject controls:
- Ante and post mortem inspection procedures;
  - Emergency slaughter
  - Animal welfare controls
  - Hunted wild and farmed game processing;
  - Supervision of removal of vertebral column in Over Thirty Month (OTM) cattle in cutting plants
  - Removal, separation and handling of animal by-products
  - Sampling procedures for routine and non-routine purposes;
  - Management and control of health and identification marks and equipment;
  - Collection of evidence for audit and enforcement purposes; and to assist decisions on premises approvals;
  - Application of timely and proportionate enforcement for breaches of legislation;
  - Undertaking Food Business Operator audits as per MOC instructions.
  - Food chain information (traceability);
  - HACCP (Hazard Analysis Critical Control Point) procedures;
  - Record keeping and reporting systems;
  - Import and export requirements
  - Biosecurity controls – specifically cleaning and disinfection of livestock vehicles

**The supplier shall ensure that the competency of the cOV meets the requirements of the premises and associated operations they are being deployed to.**

- 3.1.5. The cOV may be required to liaise with Other Government Departments (OGD) when undertaking work on their behalf under a Service Level Agreement (SLA). Details of the services required by OGD are detailed in the MOC.

See Annex 15 more information.

**3.2. Supplementary Official Veterinarian requirements – *(not applicable to all cOVs)***

- 3.2.1. The cOV may be required to undertake unannounced inspections (UAI) in approved establishments. This may include the production and/or handling Ready To Eat (RTE) products. A cOV deployed to such premises will have to have completed the required appropriate training for such products. Where applicable the cOV will also provide assurance of the effectiveness of the FBO controls on critical limits for pasteurisation, cooking, cooling etc. for other products of animal origin (OPOAO).
- 3.2.2. When undertaking UAI duties the cOV must complete and submit the report within 5 days of the visit date. See Annex 23 for more information.
- 3.2.3. In specific geographic locations, appropriately trained and qualified cOV will be required to undertake FBO audit work in stand-alone cutting plants and game handling establishments (GHE).

**Experience**

- 2 years experience of official controls in variety of approved meat premises

**Qualification**

- Advanced HACCP (level 4)
- Completion of Food Safety lead auditor training course
- Completion of FSA audit systems training (provided by FSA)

- 3.2.4. The cOV will be operating under the responsibility of the Audit Veterinary Lead for auditing purposes and will liaise with the contract representative on the managerial issues. The cOV auditors will be required to attend some local team and technical meetings to keep in touch with the rest of the audit team and become familiar with the procedures and consistency exercises carried out as part of the development of the team. The FSA will provide training on the FSA audit systems and will support the cOV on any audit related issues throughout.

3.2.5. The supplier should ensure that qualified cOVs for auditing duties are sufficiently and suitably located to assist delivery of FBO audits (See Annex 22 for more information)

### **3.3. Contract Official Auxiliaries Requirements**

3.3.1. Staff supplied as cOAs under this contract must be appointed as an Official Auxiliary in accordance with EC 854/2004 Annex 1, Section 3, Chapter 4, Part B, or Regulation (EU) 2017/625 if implemented. It is the supplier's responsibility to ensure all staff are suitably qualified, experienced and competent to deliver services under this contract.

3.3.2. Staff supplied as cOAs under this contract must meet the job description (Annex 3) and the Person Specification (Annex 4).

3.3.3. Staff supplied as cOAs must have successfully completed the accredited knife skills training programme supported by a minimum of 2 weeks practical post mortem inspection and knife skills or appropriate skills for the species and speed of the line in the premises before being deployed to deliver chargeable services under this contract, The FSA will require assurance of training completion and satisfactory competence before authorizing supplier staff to deliver official controls.

3.3.4. Staff provided to work as cOAs should also have sound knowledge and experience of the Manual for Official Controls (MOC) and in particular the following additional areas when deployment requires appropriate subject controls:

- Ability to carry out post mortem inspection procedures as outlined in the MOC for the premises they are deployed;
- Animal welfare controls
- Hunted wild and farmed game processing;
- Supervision of removal of vertebral column in Over Thirty Month (OTM) cattle in cutting plants
- Removal, separation and handling of animal by-products
- Sampling procedures for routine and non-routine purposes;
- Collection of evidence for audit and enforcement purposes;
- Food chain traceability;
- HACCP (Hazard Analysis Critical Control Point) procedures;
- Administrative tasks such as record keeping and reporting systems;

**The supplier shall ensure that the competency of the cOA meets the requirements of the premises and associated operations they are being deployed to.**

### 3.4. Supplementary Official Auxiliary requirements

3.4.1. Completion of unannounced inspections (UAI) of stand-alone cutting premises between audit cycles (see Annex 23 for more information).

Additional criteria required:

*Experience*

- Detailed knowledge of Official Controls
- Competence and experience of conducting unannounced inspections and implementing enforcement actions within a food environment that follow the hierarchy of enforcement when breaches are identified.
- Prioritising of workloads and collaboration with colleagues
- High level of communication skills
- Competent use of IT software for the purposes of analysis and communication

*Technical*

Appropriate training and successful completion of assessment in UAIs.

3.4.2. Completion of low risk dairy hygiene inspections at registered dairy premises under FSA control. These inspections and premises will be defined by FSA Dairy Operational Team (see Annex 24 for more information)

Additional criteria required:

*Experience:*

- Detailed knowledge of the dairy industry and dairy hygiene official controls to ensure compliance with dairy regulations.
- Ability to provide advice and guidance to industry on dairy controls including any current legislative requirements.
- Reporting on visit outcomes with high quality reports detailing advice and recommendations, including review and adjustment to visit frequencies where appropriate.
- Collaboration with Local Authority and other key stakeholders to ensure policy is correctly implemented.
- Effective and efficient handling of dairy information and records updating IT systems when appropriate.

*Technical:*

- Appropriate training and successful completion of assessment in Dairy Hygiene Inspection.

### **3.5. Probationary OV (pOV) and trainee OA (tOA)**

3.5.1. Probationary OV: individuals who have completed the theoretical part of the cOV training but have not yet successfully completed a minimum of two hundred (200) hours practical training, and successfully complete the associated assessment. Individuals working in this capacity should only work under supervision and need to successfully pass the assessment within twelve (12) months of gaining the OV qualification before they are allowed to work independently.

- pOV supervision: should be carried out by a person with full cOV status and a minimum of six (6) months of experience. This supervision will be through local support including regular visits and not one to one provision.
- Assessment Process: This is as per the instructions in the MOC Chapter 10 Operational Training.

3.5.2. Trainee OAs: individuals who are in the process of acquiring the necessary skills to achieve a Meat Inspection qualification from an Awarding Body, or individuals who have completed the theoretical training required by the legislation in the delivery of Meat Inspection skills.

- tOA supervision: should be carried out by a fully authorised existing cOV or an existing cOA with a minimum experience of twelve months.

Assessment Process to meet FSA required standards

### **3.6. Authorisation Process**

3.6.1. cOV and cOA must be authorised by FSA to undertake the delivery of official controls in approved establishments under FSA supervision.

3.6.2. Where work is undertaken on behalf of OGD, cOV and cOA will also need to be additionally authorised by those government departments. Both of these processes are summarised in Annex 5.

3.6.3. cOV and cOA cannot work under this contract without authorisation. The authorisation process takes up to 10 working days.

3.6.4. Suppliers are required to have effective resource planning to ensure all authorisations are in place before staff are deployed to deliver the services under this contract.

### **3.7. Attendance Requirements**

- 3.7.1. cOV/cOA to attend FSA Approved Establishments to deliver veterinary and technical official controls on behalf of the FSA including audit, unannounced inspections and dairy hygiene inspections.
- 3.7.2. The attendance level will be defined in the Statement of Resource (SoR) and agreed between the FBO and the FSA with consultation with the supplier. This is subject to changes depending upon industry requirements and specified notice periods are required for additional or reductions in resource. The supplier will be included in discussions on any amendments. (See annex 9).
- 3.7.3. The majority of cOAs are required on a pre-determined and established basis and FSA will seek to provide the maximum notice aiming for a minimum of seven (7) working days. However there are often requirements that arise at short notice beyond the control of the FSA. Therefore the FSA will provide two (2) clear working days' notice in these circumstances. Any more urgent provision will be by local arrangement
- 3.7.4. The FSA will reimburse the supplier for the full amount of the requirement set out in the request form except where this is cancelled or reduced by the FSA giving two (2) clear working days' notice in writing to the supplier. Where notice of less than two clear working days is given the FSA will reimburse the supplier for the time initially requested, to a maximum of two (2) working days if not able to be redeployed elsewhere.
- 3.7.5. The complexity criteria for a premises is based on one or more of the following factors:
- Shift systems
  - Seasonal premises
  - Multi species premises
  - Multiple slaughter methods – stun and non-stun slaughter
  - Night working premises
  - Approved Game Handling Establishments
  - Third Country Export premises – approved or preparing for approval
  - Religious festivals
  - History of compliance

### **3.8. Provision of Equipment**

- 3.8.1. The FSA will provide a helmet with the FSA logo attached.
- 3.8.2. The FSA will provide the following on a cost recovery basis. Agreement on cost sharing will be recorded by individual lot.
- Single use PPE such as disposable gloves, hairnets and facemasks.

- Protective clothing (including a laundry service).
- 3.8.3. The supplier will be responsible for the provision of all other equipment required to deliver the services under this contract.
- 3.8.4. Further details of the minimum requirements for this equipment can be found at Annex 7 and 8.

### **3.9. Innovation and Efficiency**

The Supplier is required to provide full cooperation and support for future innovations and pilots of alternative delivery models that the Authority may wish to trial. Such pilots will have clear objectives, agreed timescales and measurable targets to ensure efficiencies are captured in quantifiable terms.

If pilots are identified that would see reduced operational activity for the supplier reasonable discussions to assess losses of income will be held, in line with the Variation process at Annex 13. The supplier is expected to take all reasonable actions to minimize any loss of income such as offsetting the forecast reduction through reasonable redeployment or alternative duties.

Any change to the definition of a pilot, including extension of timescale will be communicated to the supplier in advance. The objectives and measurable benefits would still be captured as outlined above.

Innovation that improves efficiency and service delivery will be considered for reward under the “gainshare incentive” at Annex 19.

The FSA reserves the right to bring in additional expertise where necessary. The Supplier is required to identify and implement ways to improve effectiveness and efficiency within its own organisation as part of demonstrating the supplier’s commitment to continuously improve services.

### **3.10. Future legislative changes**

In the event of any changes to legislation, specifically related to official controls on the production of meat the FSA acknowledges that this may require changes to operational delivery models and the competency profile required for delivery of official controls tasks. In the event of specific legislation changes The FSA would discuss the impact of any changes with suppliers and where material changes are identified, and agreed, the FSA may be willing to enter into reasonable discussions to contract variation, in line with the process identified in Annex 13. The FSA would expect the supplier to undertake work to minimise the impact of any changes to legislation.

### 3.11. Recruitment and replenishment of resources

3.11.1. The supplier will need to demonstrate a system or evidence a route of recruiting suitable individuals to both cOv and cOA roles. This will include pre-qualified staff and individuals to be subject to training provisions.

3.11.2. Statistics on monthly turnover will be supplied to FSA (central contracts management nominated contact) to allow monitoring. This information to include numbers of starters and leavers, vacancies, recruitment activity including forward plans.

## 4. FSA OPERATIONS MANAGEMENTSTRUCTURE

4.1. The FSA Field Operations structure is split into 3 regions with subsequent areas and clusters forming a geographic organizational framework for both technical and administrative governance and reporting.

National	Head of Field Operations					
	North		East		Wales and West	
	Head of Operational Delivery		Head of Operational Delivery		Head of Operational Delivery	
Regional	Operations Manager	Field Veterinary Leader	Operations Manager	Field Veterinary Leader	Operations Manager	Field Veterinary Leader
Area	Area Manager	Field Veterinary Coordinator	Area Manager	Field Veterinary Coordinator	Area Manager	Field Veterinary Coordinator
Cluster	Plant based teams led by Inspection Team Leaders (ITLs)					

- Head of Operational Delivery (HOD) is accountable to the Head of Field Operations (England and Wales) for all aspects of the operational and financial performance of the services delivered under this contract.
- Operations Manager (OM) is accountable to the HOD and is responsible for managing the delivery of official controls and overall contract management in the region.
- Field Veterinary Leaders (FVLs) are accountable to the HOD and provide technical advice and input into the management of the technical performance of the supplier for the area in accordance with the Performance Management Framework.

- Area Manager (AM) is accountable to the OM and is responsible for the management of the administrative and operational performance of the contractor for the area in accordance with the Performance Management Framework.
- Field Veterinary Co-ordinators (FVCs) are accountable to the FVLs and manage the technical performance of the contractor for their region in accordance with the performance management framework. The FVCs will carry out on site visits to assess standards and operations in meat establishments and will provide input, guidance and advice into enforcement decisions made by OV's. All Slaughterhouses will be subject to at least 1 FVC visit per year.
- Inspection Team Leader (ITL) provides leadership to plant based teams within a cluster within each area and provides local level administration and is accountable to the AM.

**4.2.** The delivery of other services within this contract includes management and support structures that sit alongside the above field operations structure. The table below outlines the additional delivery structure.

Other areas of Operations		
Audit	Unannounced Inspections	Dairy Hygiene
Audit Veterinary lead	Regional UAI Leads	Dairy Operational Lead
Veterinary auditors		Regional DHIs

The FSA contact with suppliers for the delivery of the additional services will ensure performance is recognised through the monthly contract management process that is owned by the field operations teams for each region.

**4.3.** The supplier shall provide adequate management resource that will interface with FSA management structure to provide technical and personal supervision support. There is no requirement for the supplier management structure to mirror that of the FSA.

## 5. PERFORMANCE AND GOVERNANCE

### 5.1. Performance Management

5.1.1. The FSA has a Performance Management Framework (Annex 10) that has been designed around the FSA's key objectives, which also details the outcomes, key performance indicators (KPIs) expected from this

service and a Performance Credit regime that will be applied where there is non-compliance or service failure. The performance of the supplier is measured monthly throughout the life of the contract and will be based on this Framework.

- 5.1.2. The Performance Management Framework includes recognition for positive service delivery through an incentive mechanism that will reward efficiency or identified over performance. This will be agreed and recorded within the monthly contract review meetings and offset against the service credit regime.
- 5.1.3. Where a review of the performance management framework is undertaken, a review of the service credit regime will be undertaken in parallel.
- 5.1.4. Performance credits will be determined by the value of the monthly invoice for the individual lot. They will be applied as follows:
  - 5.1.4.1. Non-Compliant – A Performance Credit of 0.25% of the value of the monthly invoice of the supplier for the Lot, in which the non-compliance has occurred, will be applied for every repeated instance of non-compliance in a rolling 3 month period within the same category within the Lot.
  - 5.1.4.2. Service Failures – A Performance Credit of 0.5% of the value of the monthly invoice of the supplier for the Lot will be applied for every instance of a service failure.
  - 5.1.4.3. Capping of Performance Credits – Performance Credits raised as result of both non-compliances and service failures, will be limited to 5% of the lot value for relevant quarter.
  - 5.1.4.4. Over-performance – create incentive for delivery of services exceeding required standard e.g. same day supply of cover staff; incident response with increased hours for enforcement.  
OM/AM/FVL to identify incidences and record – to be used to offset same category non-compliances and subsequently Performance Credits. (Not used to counter service failures)
  - 5.1.4.5. If supplier disputes the assessment of performance and application of non-compliances and/or service failures the dispute should be escalated to the regional quarterly review meeting. If a resolution still cannot be achieved the escalation shall continue to the national quarterly review meeting for a decision. The FSA decision on disputed performance assessments and resulting Performance Credits is final. The national contracts management team will monitor and record disputes and subsequent discussions to resolution or a final decision.
  - 5.1.4.6. The FSA and the supplier will make all reasonable efforts to agree on the quantum of any claim received from a FBO arising from a failure by the supplier to meet the expected standard of service delivery. If this is not possible the FSA will determine the value in discussions with supplier. Payments to be made to FBOs (submitted using the proforma at Annex 11) arising from such non-compliances or failures will be paid by the FSA and the amount will

be recovered from the supplier by the FSA from the next available payment to the supplier.

## 5.2. Governance Arrangements

- 5.2.1. Supplier performance will be formally monitored on a monthly basis at a local level, using the Performance Management Framework (Annex 10).
- 5.2.2. Any performance issues which cannot be agreed at the monthly meeting will be escalated up to the quarterly meeting for resolution or to the HOD, if the matter cannot wait until the quarterly meeting.
- 5.2.3. An annual review meeting will be held to review the contract from a strategic perspective.
- 5.2.4. All meetings are to be face to face. The table below details the levels of meetings and suggested discussion items.

Meeting	Local (Per Area AMT)	Local (per lot)	Regional
Frequency	Monthly	Monthly	Quarterly
FSA attendees	Local management teams chaired by AM Including quarterly input from audit, UAI and dairy leads.	Consistency meeting for 3 regions chaired by OM with 1 FVL representative per region. FSA National contract team representative.	OM and FVL Chaired by HOD
Supplier attendees	Local management team	National contract management team	Regional Managers
Items	Local performance issues/ actions. Performance dashboard Populate proforma with proposed KPIs Supplier self reporting	Local performance against KPIs Local successes and challenges Performance dashboard	Regional performance and escalation of disputed issues. Relationships and engagement.

Meeting	National	Annual review
Frequency	Quarterly	Annual
FSA attendees	Head of RDOT (Chair) Head of Field Ops Finance Representative	As national with addition of Chief Operating Office (Chair) Director of Finance
Supplier attendees	National contract management team	National contract management team
Items	National performance and finance Innovations and efficiencies	Year end performance and financial status

## 6. CONTRACT TERM AND PRICING

### 6.1. Duration of the Contract

The contract term is for 3 years, with two separate possible extensions, of 1 year (i.e. 3+1+1). The maximum contract duration is 5 years.

### 6.2. Pricing

6.2.1. Prices are to be fixed for the duration of the initial contract term. Inflationary increases will be considered for the possible extension periods.

6.2.2. Pricing will be based on

- a. Direct Delivery Costs calculated as an hourly rate for both cOA and cOV. This will include front line management costs and overheads directly linked to service delivery (i.e. those that will broadly vary in line with volume of hours).
- b. Fixed Indirect and Corporate overhead that will be the supplier's annual cost for providing support to delivery service divided by 12 and payable in a lump sum per lot within each monthly invoice.
- c. Identified profit margin for both a) and b) paid as a percentage of each monthly invoice.
- d. Where applicable a gain share payment may also be made.

## 7. SUPPLEMENTARY REQUIREMENTS

### 7.1. Wellbeing

7.1.1. The supplier shall ensure that all OA and OV employees have access to support and resources to maintain and safeguard personal wellbeing in the form of an Employee Assistance Programme (EAP). The EAP is to support and improve the workforce performance, by supporting and guiding employees in dealing with personal wellbeing, work and home related problems and those of their immediate families which impact upon them.

7.1.2. The EAP scheme should give employees access to the following support:

- Include a confidential telephone/helpline support and counselling service that is both employee and manager focused.
- Provide documentation and resources explaining what service is available including a series of self-help tools via a web site or other media.

7.1.3. The annual review meeting will require supplier assurance of support and resources available.

## **7.2. Living wage**

The supplier shall provide assurance that a commitment to paying all employees the recommended and recognised living wage.

## **7.3. Raising a concern about wrongdoing and complaints**

7.3.1. The supplier shall provide assurance that internal arrangements for raising concerns, including qualifying disclosures under the Public Interest Disclosure Act 1998, are available for all employees and sub-contracted or locum employees. Where the content of an incident or issue raised under such arrangements is relevant to the service provided the supplier is required to inform the FSA through its nominated manager.

7.3.2. In relation to such concerns, together with complaints made by third parties to the FSA and about the supplier (which, where the complaint is made directly to the supplier, the supplier must immediately inform the FSA), the supplier is required to co-operate with any FSA investigation into alleged wrongdoing or complaint relating to service delivery. This may result in financial compensation to claimants paid directly by the supplier or by the FSA and subsequently recovered by the FSA from the supplier (para 5.1.5 refers). From time to time the FSA may consult with the supplier on specific guidance to support these arrangements.

#### **7.4. Welsh Language**

The supplier will be legally obliged to comply with the commitments and obligations outlined in the Agency's/FSA's statutory Welsh Language Scheme 2019-2022, specifically point 4.4 onwards, in all its undertakings in Wales. This scheme outlines how the FSA will provide a bilingual service of an equal standard to the public in Wales, a commitment that extends to third parties undertaking regulatory functions on its behalf. Should the supplier foresee that the provision of this service is not possible, they should engage the services of the Agency's Welsh Language Unit at the first possible opportunity.

#### **8. Supporting Material**

**8.1.** A table of abbreviations used in the specification can be found in Annex 20.

**8.2.** Legislative Requirements, Acts and Policies referred to in the Invitation To Tender can be found in Annex 21.

### SCHEDULE 3 REVIEW MEETINGS

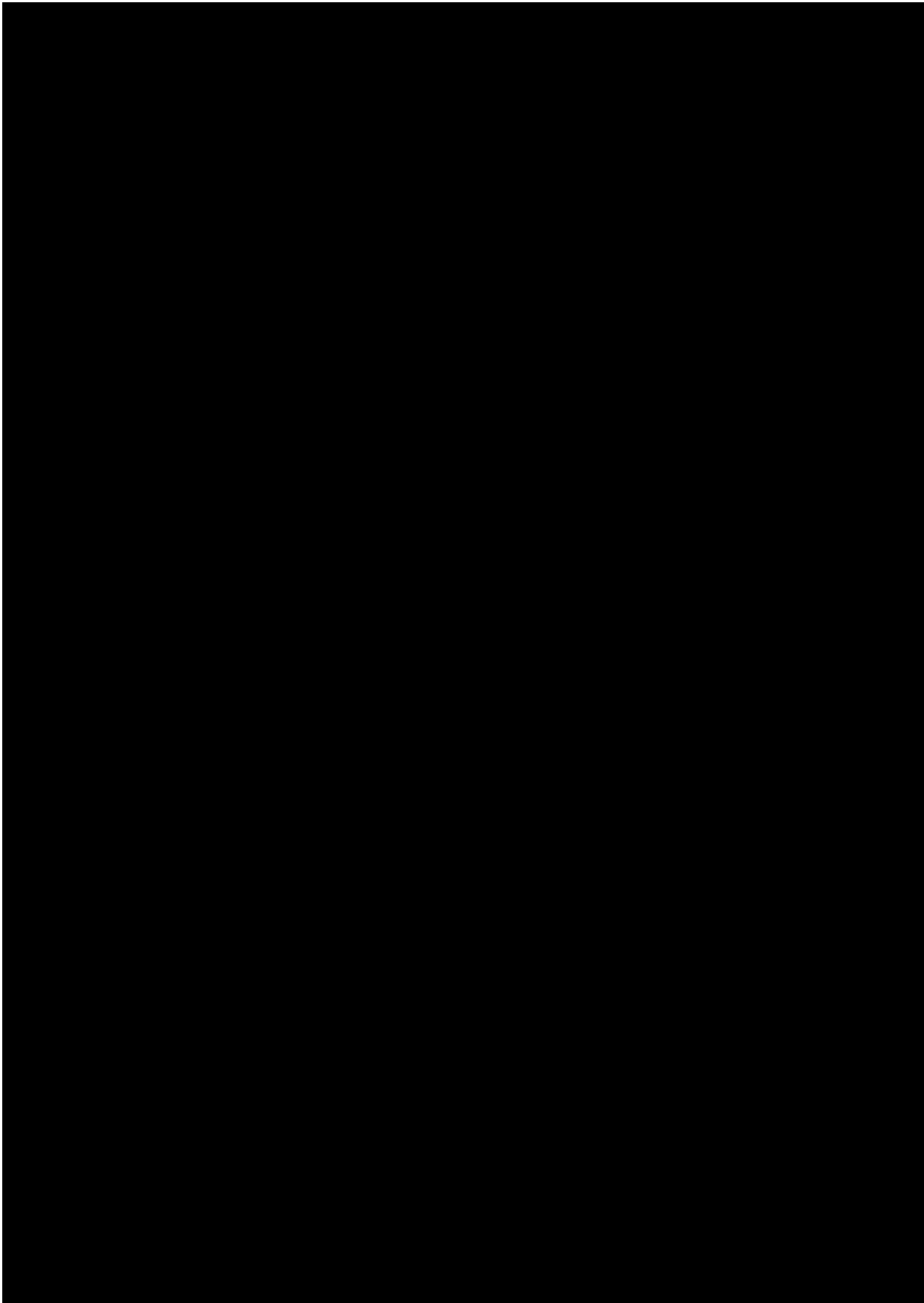
#### 3. REVIEW MEETINGS

The parties shall attend and fully participate in the undernoted meetings. Where governance meetings have been detailed in the Specification Document these take precedence over the suggested meetings below. All meetings are by preference to be face to face, but remote attendance is acceptable where needed.

These shall take place at the Authority's premises at Foss House, York, unless otherwise agreed.

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OFFICIAL



## SCHEDULE 4 CHARGING

1.1. This Schedule 4 sets out the Charges that apply to this Contract and any attendant Purchase Orders and self-billing invoices.

1.2. [REDACTED]  
[REDACTED]  
[REDACTED]

1.3. The hourly rates the Authority will pay the Supplier are as per the successful tender bid. The rates are:

[REDACTED]

1.4. [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

## SCHEDULE 5 INVOICING PROCEDURES, NO PO/NO PAY & SELF BILLING

- [illegible]

**2. INVOICES SHALL SPECIFY:**

- 
- A horizontal bar chart titled '1. Do you believe the U.S. should take action to address climate change?' The y-axis lists age groups: 18-29, 30-49, 50-64, 65+, and 'Total'. The x-axis represents the percentage of respondents, ranging from 0 to 100. The bars show the following approximate percentages: 18-29 (85%), 30-49 (80%), 50-64 (75%), 65+ (65%), and Total (82%).
- | Age Group | Percentage |
|-----------|------------|
| 18-29     | 85%        |
| 30-49     | 80%        |
| 50-64     | 75%        |
| 65+       | 65%        |
| Total     | 82%        |

### 3. INVOICE SUBMISSION

\_\_\_\_\_

[REDACTED]

[REDACTED]

**4. INVOICE PAYMENT**

4.1 [REDACTED]

[REDACTED]

**5. VALIDITY OF PURCHASE ORDER**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## **SCHEDULE 6 DISPUTE RESOLUTION PROCEDURE**

### **1. INTRODUCTION**

Nothing in this Schedule shall prevent the Authority or the Supplier from seeking from any court of the competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other to do any act.

### **2. MEDIATION**

2.1. The Parties shall attempt a mediated resolution of their dispute as follows:

2.1.1. a neutral adviser or mediator ('the Mediator') shall be chosen by agreement between the Authority and the Supplier or, if they are unable to agree upon the identity of the Mediator within ten (10) Working Days of the engagement of this Schedule in respect of that dispute either Party may apply to the Centre for Effective Dispute Resolution ('CEDR') for CEDR to appoint a Mediator;

2.1.2. the Authority and the Supplier shall within ten (10) Working Days of the appointment of the Mediator meet with the Mediator in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. The Parties may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure.

2.2. Unless otherwise agreed by the Authority and the Supplier, 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.

2.3. In the event that the Authority and the Supplier reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on both parties once it is signed by the Authority's Representative and the Supplier's Representative.

2.4. Failing agreement, either the Authority or Supplier may invite the Mediator to provide a non-binding but informative opinion in writing.

2.5. The Authority and the Supplier shall each bear their own costs in relation to any reference made to the Mediator and the fees and all other costs of the Mediator shall be borne jointly in equal proportions by both parties unless otherwise directed by the Mediator.

2.6. Work and activity to be carried out under this Contract shall not cease or be delayed during the mediation process.

2.7. In the event that the Authority and the Supplier fail to reach agreement in the structured negotiations within forty (40) Working Days of the Mediator being appointed, or such longer period as may be agreed, then any dispute or difference between them may be referred to the courts.

## SCHEDULE 7 CONFIDENTIALITY UNDERTAKING

This Schedule 7 contains the model confidentiality undertaking to be signed by Supplier.

### CONFIDENTIALITY UNDERTAKING

I ***The Successful Tenderer*** have been informed that I may be assigned to work as a Supplier in providing services to the Food Standards Agency (the "Authority").

I understand that information in the possession of the Authority and which becomes known to me or comes into my possession must be treated as confidential.

I hereby give a formal undertaking to the Authority, that:


- I will not communicate any of that information, or any other knowledge I acquire in the course of my work for the Authority to anyone who is not authorised by the Authority to receive it in connection with that work.
- I will not make use of any of that information or knowledge for any purpose outside that work.

I acknowledge that this applies to all information which is not already a matter of public knowledge and that it applies to both written and oral information.

I also acknowledge that this undertaking will continue to apply at all times in the future, even when the work has finished.

I have also been informed that I will be bound by the provisions of the Official Secrets Acts of 1911 and 1989. I am aware that under those provisions it is a criminal offence for any person employed by a Government contractor to disclose any document or information in the circumstances set out in those acts. I am aware that serious consequences may follow from any breach of those Acts.

I have also been informed that I will be bound by the provisions of the Official Secrets Acts of 1911 and 1989. I am aware that under those provisions it is a criminal offence for any person employed by a Government contractor to disclose any document or information in the circumstances set out in those acts. I am aware that serious consequences may follow from any breach of those Acts.



**SCHEDULE 8 STAFF TRANSFER – “TUPE”****1 DEFINITIONS**

In this Schedule, the following definitions, in addition to those set out at [Schedule 1](#), apply:

<b>Employment Regulations</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006;
<b>Former Supplier</b>	a supplier supplying services to the Authority before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor)
<b>Notified Sub-contractor</b>	a Sub-contractor identified in the Annex to this Schedule to whom Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
<b>Replacement Sub-contractor</b>	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);
<b>Relevant Transfer</b>	a transfer of employment to which the Employment Regulations applies;
<b>Service Transfer</b>	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-contractor to a Replacement Supplier or a Replacement Sub-contractor;
<b>Service Transfer Date</b>	the date of a Service Transfer;

<b>Staffing Information</b>	<p>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 , but including in an anonymised format:</p> <ul style="list-style-type: none"> <li>(a) their ages, dates of commencement of employment or engagement and gender;</li> <li>(b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;</li> <li>(c) the identity of the employer or relevant contracting Party;</li> <li>(d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;</li> <li>(e) their wages, salaries and profit sharing arrangements as applicable;</li> <li>(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;</li> <li>(g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);</li> <li>(h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;</li> <li>(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</li> <li>(j) any other “employee liability information” as such term is defined in regulation 11 of the Employment Regulations;</li> </ul>
<b>Supplier's Final Supplier Personnel List</b>	<p>a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Relevant Transfer Date;</p>

<b>Supplier's Provisional Supplier Personnel List</b>	a list prepared and updated by the Supplier of all Supplier Personnel who are engaged in or wholly or mainly assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
<b>Transferring Former Supplier Employees</b>	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and
<b>Transferring Supplier Employees</b>	those employees of the Supplier and/or the Supplier's Sub-contractors to whom the Employment Regulations will apply on the Service Transfer Date.

## 2 INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub- contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Former Supplier, Replacement Supplier or Replacement Sub-contractor, as the case may be.

### PART A: TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES

#### 1. RELEVANT TRANSFERS

1.1. The Authority and the Supplier agree that:

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

## 2. FORMER SUPPLIER INDEMNITIES

- 2.1 Subject to Paragraph 2.2, the Authority shall procure that each Former Supplier shall indemnify the Supplier and any Notified Sub-contractor against any Employee Liabilities in respect of any Transferring Former Supplier Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 2.1.1 any act or omission by the Former Supplier arising before the Relevant Transfer Date;
  - 2.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:
    - a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or
    - b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;
  - 2.1.3 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 Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
    - b) in relation to any employee who is not a Transferring Former 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 Former Supplier to the Supplier and/or any Notified Sub-contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
  - 2.1.4 a failure of the Former Supplier 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 Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
  - 2.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a

- Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Sub- contractor as appropriate may be liable by virtue of this Agreement and/or the Employment Regulations and/or the Acquired Rights Directive; and
- 2.1.6 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub- contractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub- contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:
- 2.2.1 arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Sub- contractor to occur in the period from (and including) the Relevant Transfer Date; or
- 2.2.2 arising from the failure by the Supplier and/or any Sub- contractor to comply with its obligations under the Employment Regulations.
- 2.3 If any person who is not identified by the Authority as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by the Authority as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub- contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
- 2.3.1 the Supplier shall, or shall procure that the Notified Sub- contractor shall, within 5 Working Days of becoming aware of that fact, give notice to the Authority and, where required by the Authority, to the Former Supplier; and
- 2.3.2 the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days

of the notification by the Supplier and/or the Notified Sub-contractor or take such other reasonable steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Authority, the Supplier shall, or shall procure that the Notified Sub-contractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5 If by the end of the 15 Working Day period specified in Paragraph 2.3.2 no such offer of employment has been made; such offer has been made but not accepted; or the situation has not otherwise been resolved, the Supplier and/or any Notified Sub-contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6 Subject to the Supplier and/or any Notified Sub-contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, the Authority shall procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-contractor (as appropriate) against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7 The indemnity in Paragraph 2.6:
- 2.7.1 shall not apply to:
- a) any claim for:
    - i. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
    - ii. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
- in any case in relation to any alleged act or omission of the Supplier and/or any Sub-contractor; or
- b) any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-contractor neglected to follow a fair dismissal procedure; and

- 2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Notified Sub-contractor (as appropriate) to the Authority and, if applicable, the Former Supplier, within 6 months of the Effective Date.
- 2.8 If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Notified Sub-contractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier or Notified Sub-contractor and the Supplier shall, or shall procure that the Notified Sub-Contractor shall, comply with such obligations as may be imposed upon it under the Law.

### **3. SUPPLIER INDEMNITIES AND OBLIGATIONS**

- 3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Authority and/or the Former Supplier against any Employee Liabilities in respect of any Transferring Former Supplier Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 3.1.1 any act or omission by the Supplier or any Sub-contractor whether occurring before, on or after the Relevant Transfer Date;
- 3.1.2 the breach or non-observance by the Supplier or any Sub-contractor on or after the Relevant Transfer Date of:
- a) any collective agreement applicable to the Transferring Former Supplier Employee; and/or
  - b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;
- 3.1.3 any claim by any trade union or other body or person representing any Transferring Former 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 after the Relevant Transfer Date;
- 3.1.4 any proposal by the Supplier or a Sub-contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Sub- contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or

decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

- 3.1.5 any statement communicated to or action undertaken by the Supplier or a Sub-contractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Authority and/or the Former Supplier in writing;
- 3.1.6 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 Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
  - b) in relation to any employee who is not a Transferring Former 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 Former Supplier to the Supplier or a Sub-contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7 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 Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date; and
- 3.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations.

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

3.3 The Supplier shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

#### **4. INFORMATION**

The Supplier shall, and shall procure that each Sub-contractor shall, promptly provide to the Authority and/or at the Authority's direction, the Former Supplier, in writing such information as is necessary to enable the Authority and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Authority shall procure that the Former Supplier shall promptly provide to the Supplier and each Notified Sub-contractor in writing such information as is necessary to enable the Supplier and each Notified Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

#### **5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE**

5.1 The Supplier shall, and shall procure that each Sub-contractor shall, comply with any requirement notified to it by the Authority relating to pensions in respect of any Transferring Former Supplier Employee as set down in:

5.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;

5.1.2 HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;

5.1.3 HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or

5.1.4 the New Fair Deal.

5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Change Control Procedure.

## 6. PROCUREMENT OBLIGATIONS

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

## PART B: EMPLOYMENT EXIT PROVISIONS

### 1. PRE-SERVICE TRANSFER OBLIGATIONS

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

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

- 1.2. At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Authority or at the direction of the Authority to any Replacement Supplier and/or any Replacement Sub-contractor:
  - 1.2.1. the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
  - 1.2.2. the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3. The Authority shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-contractor.
- 1.4. The Supplier warrants, for the benefit of the Authority, any Replacement Supplier, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.

- 1.5. From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Authority (not to be unreasonably withheld or delayed):
  - 1.5.1. replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
  - 1.5.2. make, promise, propose or permit any material changes to the terms and conditions of employment of the Supplier Personnel (including any payments connected with the termination of employment);
  - 1.5.3. increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
  - 1.5.4. introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
  - 1.5.5. increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
  - 1.5.6. terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Authority or, at the direction of the Authority, any Replacement Supplier and any Replacement Sub-contractor of any notice to terminate employment given by the Supplier or relevant Sub-contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.
- 1.6. During the Term, the Supplier shall provide, and shall procure that each Sub-contractor shall provide, to the Authority any information the Authority may reasonably require relating to the manner in which the Services are organised, which shall include:
  - 1.6.1. the numbers of employees engaged in providing the Services;

- 1.6.2. the percentage of time spent by each employee engaged in providing the Services; and
- 1.6.3. a description of the nature of the work undertaken by each employee by location.
- 1.7. The Supplier shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the Authority, any Replacement Supplier and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub- contractor shall provide, to the Authority or, at the direction of the Authority, to any Replacement Supplier and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:
  - 1.7.1. the most recent month's copy pay slip data;
  - 1.7.2. details of cumulative pay for tax and pension purposes;
  - 1.7.3. details of cumulative tax paid;
  - 1.7.4. tax code;
  - 1.7.5. details of any voluntary deductions from pay; and
  - 1.7.6. bank/building society account details for payroll purposes.

## **2. EMPLOYMENT REGULATIONS EXIT PROVISIONS**

- 2.1. The Authority and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-contractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Authority and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Supplier Employee.

- 2.2. The Supplier shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub- contractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub-contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-contractor.
- 2.3. Subject to Paragraph 2.4, the Supplier shall indemnify the Authority and/or the Replacement Supplier and/or any Replacement Sub-contractor 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:
- 2.3.1. any act or omission of the Supplier or any Sub-contractor whether occurring before, on or after the Service Transfer Date;
- 2.3.2. 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;
- 2.3.3. 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;
- 2.3.4. 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; and
  - 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 on or before the Service Transfer Date;

- 2.3.5. 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);
  - 2.3.6. 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
  - 2.3.7. 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 from the failure by the Authority and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4. The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- 2.4.1. arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or
  - 2.4.2. arising from the Replacement Supplier's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5. If any person who is not a Transferring Supplier Employee claims, or it is determined in relation to any person who is not a Transferring Supplier Employee, that his/her contract of employment has been transferred from the Supplier or any Sub-contractor to the Replacement Supplier and/or

Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

- 2.5.1. the Authority shall procure that the Replacement Supplier shall, or any Replacement Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
  - 2.5.2. 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 Sub-contractor 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.
- 2.6. 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 Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.7. If, after the 15 Working Day period specified in Paragraph 2.5.2 has elapsed, no such offer of employment has been made; such offer has been made but not accepted; or the situation has not otherwise been resolved, the Authority shall advise the Replacement Supplier and/or Replacement Sub-contractor, as appropriate that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.8. Subject to the Replacement Supplier and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.9. The indemnity in Paragraph 2.8:
- 2.9.1. shall not apply to:
    - a) any claim for:
      - i. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
      - ii. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
- in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-contractor; or

- b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and

2.9.2. shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Sub-contractor to the Supplier within 6 months of the Service Transfer Date .

2.10. If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Sub-contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee and the Replacement Supplier and/or Replacement Sub-contractor shall comply with such obligations as may be imposed upon it under applicable Law.

2.11. The Supplier shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of the Transferring Supplier Employees before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

2.11.1. the Supplier and/or any Sub-contractor; and

2.11.2. the Replacement Supplier and/or the Replacement Sub-contractor.

2.12. The Supplier shall, and shall procure that each Sub-contractor shall, promptly provide to the Authority and any Replacement Supplier and/or Replacement Sub- contractor, in writing such information as is necessary to enable the Authority, the Replacement Supplier and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Authority shall procure that the Replacement Supplier and/or Replacement Sub- contractor, shall promptly provide to the Supplier and each Sub-contractor in writing such information as is necessary to enable the Supplier and each Sub- contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

- 2.13. Subject to Paragraph 2.14, the Authority shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities in respect of each Transferring Supplier Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee) arising from or as a result of:
- 2.13.1. any act or omission of the Replacement Supplier and/or Replacement Sub- contractor;
  - 2.13.2. the breach or non-observance by the Replacement Supplier and/or Replacement Sub-contractor on or after the Service Transfer Date of:
    - a) any collective agreement applicable to the Transferring Supplier Employees; and/or
    - b) any custom or practice in respect of any Transferring Supplier Employees which the Replacement Supplier and/or Replacement Sub- contractor is contractually bound to honour;
  - 2.13.3. 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 Replacement Supplier and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
  - 2.13.4. any proposal by the Replacement Supplier and/or Replacement Sub- contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees on or after their transfer to the Replacement Supplier or Replacement Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
  - 2.13.5. any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-contractor to, or in respect of, any Transferring Supplier Employee on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
  - 2.13.6. 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 after the Service Transfer Date; and
- 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 or Sub-contractor, to the Replacement Supplier or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;

2.13.7. a failure of the Replacement Supplier or Replacement 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 from (and including) the Service Transfer Date; and

2.13.8. 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 Replacement Supplier or Replacement Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.

2.14. The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Relevant Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

## **SCHEDULE 9 VARIATION**

### **1 General principles of the Variation Procedure**

1.1 This Schedule sets out the procedure for Variations to the Contract.

1.2 Under this Variation procedure:

- 1.2.1 Either Party may seek to vary the Contract. Each party will use its best endeavours to give the other reasonable notice of any changes.
  - 1.2.2 Variation requests shall be submitted using the format at Annex 13
  - 1.2.3 Where a Variation is requested, the Supplier will provide an estimate of the financial/resource implications to the Authority, with an estimated timetable for implementation, for the Authority's approval. A full justification and impact assessment, including any supplementary evidence, must be provided.
  - 1.2.4 The evaluation of any Variation is the responsibility of the Authority's Representative, in consultation with the Supplier. Any Variation to which the Authority agrees will be confirmed in writing by the Authority within seven days of the completion of the evaluation using the Variation Form at Annex 14
  - 1.2.5 The Authority shall have the right to request amendments to a Variation request, to approve it or to reject it. The Supplier shall be under no obligation to make such amendments to the Variation Request; however, the Supplier shall not unreasonably refuse such a request.
- 1.3 Any discussions, negotiations or other communications which may take place between the Authority and the Supplier in connection with any proposed Variation shall be without prejudice to each party's other rights under this Contract.

### **2 Costs**

Each party shall bear its own costs in relation to the preparation and agreement of each Variation.

### **3 Change Authorisation**

The Variation is not effective until the Variation form at Annex 14 has been signed by the Parties.

## **SCHEDULE 10 EXIT MANAGEMENT**

1. Each Party will appoint an Exit Manager and notify the other Party of the identity of the Exit Manager and his or her contact details within three (3) Months of the date hereof. The Supplier's Exit Manager will be responsible for ensuring that the Supplier, its Staff and any Sub-Contractors comply with this Schedule. The Supplier will ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are necessary to enable the Supplier to comply with the requirements set out in this Schedule. The Parties' Exit Managers will liaise with one another in the relation to all issues relevant to the termination or expiry of this Contract and all matters connected with this Schedule and each Party's compliance with it.
2. The Supplier shall, at least three (3) Months before the expiry or termination of this Contract, deliver to the Authority an Exit Plan which sets out the Supplier's proposed methodology for achieving an orderly transition of Services from the Supplier to the Authority and/or its Replacement Supplier on the expiry or termination of this Contract and which complies with the requirements set out in Clause 1.3 below. Within thirty (30) Working Days after the submission of the Exit Plan, the Parties will use their respective endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan then such dispute shall be resolved in accordance with the Dispute Resolution Procedure prescribed at Schedule 6.
3. The Exit Plan will contain, as a minimum:
  - 3.1. The management structure to be employed during both transfer and cessation of the Services; and
  - 3.2. a detailed description, in a manner and form agreed by the Parties, of both the transfer and cessation processes, including timetable and details of how the Supplier will ensure that the Service will be transferred effectively, efficiently and in an orderly manner that will enable the Authority and the Replacement Supplier to continue the activities comprising the Service from the transfer date.
  - 3.3. A template for the Exit Plan can be found at Annex 17.
4. The Supplier will review and (if appropriate) update the Exit Plan in the first Month of each Year (commencing with the second Year) to reflect any changes to the Services. Following such update, the Supplier will submit the revised Exit Plan to the Authority for review. Within thirty (30) days following the submission of the revised Exit Plan, the Parties shall agree the contents of the revised Exit Plan, based on the principles set out in this Schedule and the changes that have occurred in the Services since the Exit Plan was last agreed. If the Parties are unable to agree the contents of the revised Exit Plan within that thirty (30) day period, such dispute shall be resolved in accordance with the Dispute Resolution Procedure prescribed at Schedule 6.
5. Within thirty (30) days after the service of notice of termination for convenience and no less than 3 Months prior to the expiry of this Contract, the Supplier shall submit

for the Authority's approval the Exit Plan in a final form that can be implemented immediately.

6. The Parties will agree the contents of the final Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within thirty (30) days following its delivery to the Authority, then such dispute shall be resolved in accordance with the Dispute Resolution Procedure prescribed at Schedule 6. Until the agreement of the final Exit Plan, the Supplier shall continue to provide the Services in accordance with the Contract.

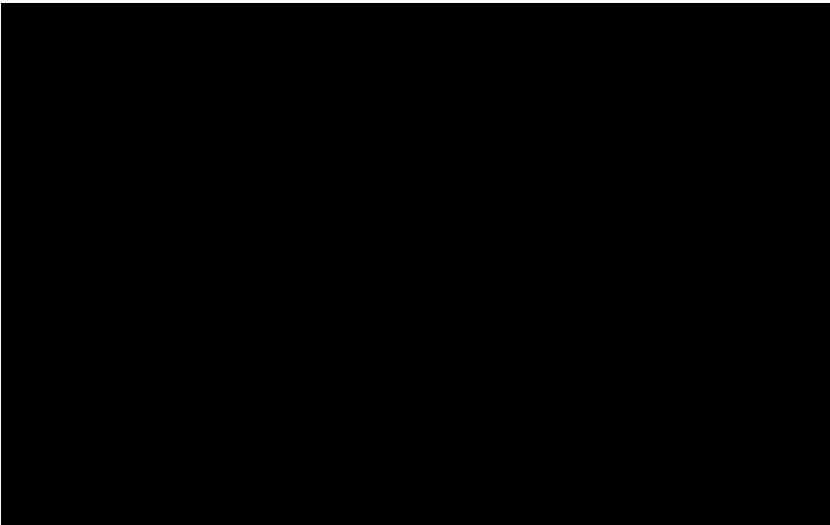
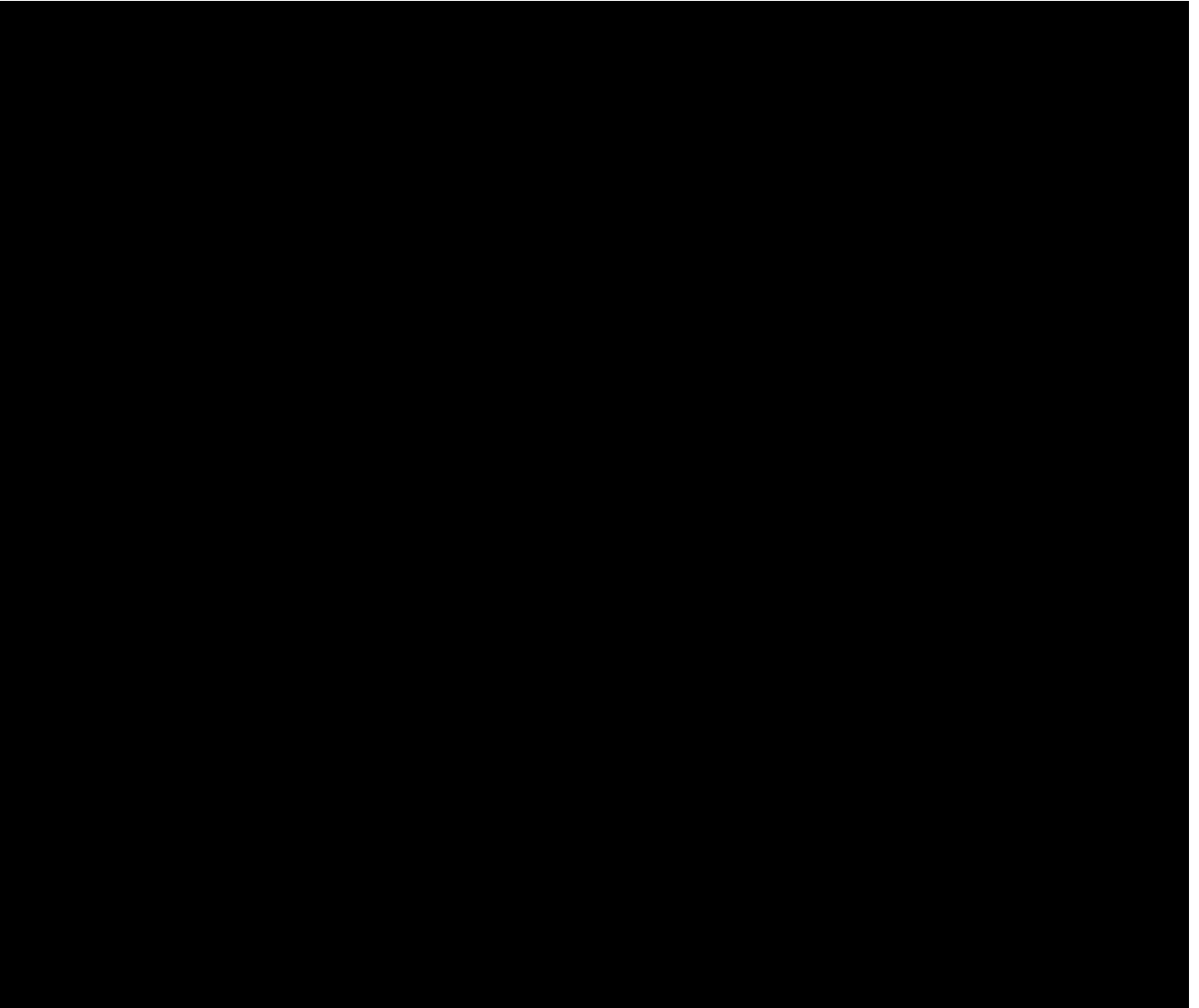
## **SCHEDULE 11 BUSINESS CONTINUITY AND DISASTER RECOVERY**

The Supplier will, within ninety (90) days of the date hereof, supply a first draft Business Continuity and Disaster Recovery Plan for approval by the Authority to demonstrate how the Supplier will deliver the Services in the event of serious disruption to any aspect of the operating environment within which the Services are ordinarily provided. The Supplier Business Continuity and Disaster Recovery plans must contain the following:

- Recovery Strategy
- Recovery Priorities
- IT System recovery
- Details of the Initial Response
- Business Recovery Details and Timescales
- Key Personnel Contact Details
- Emergency Communication Routes

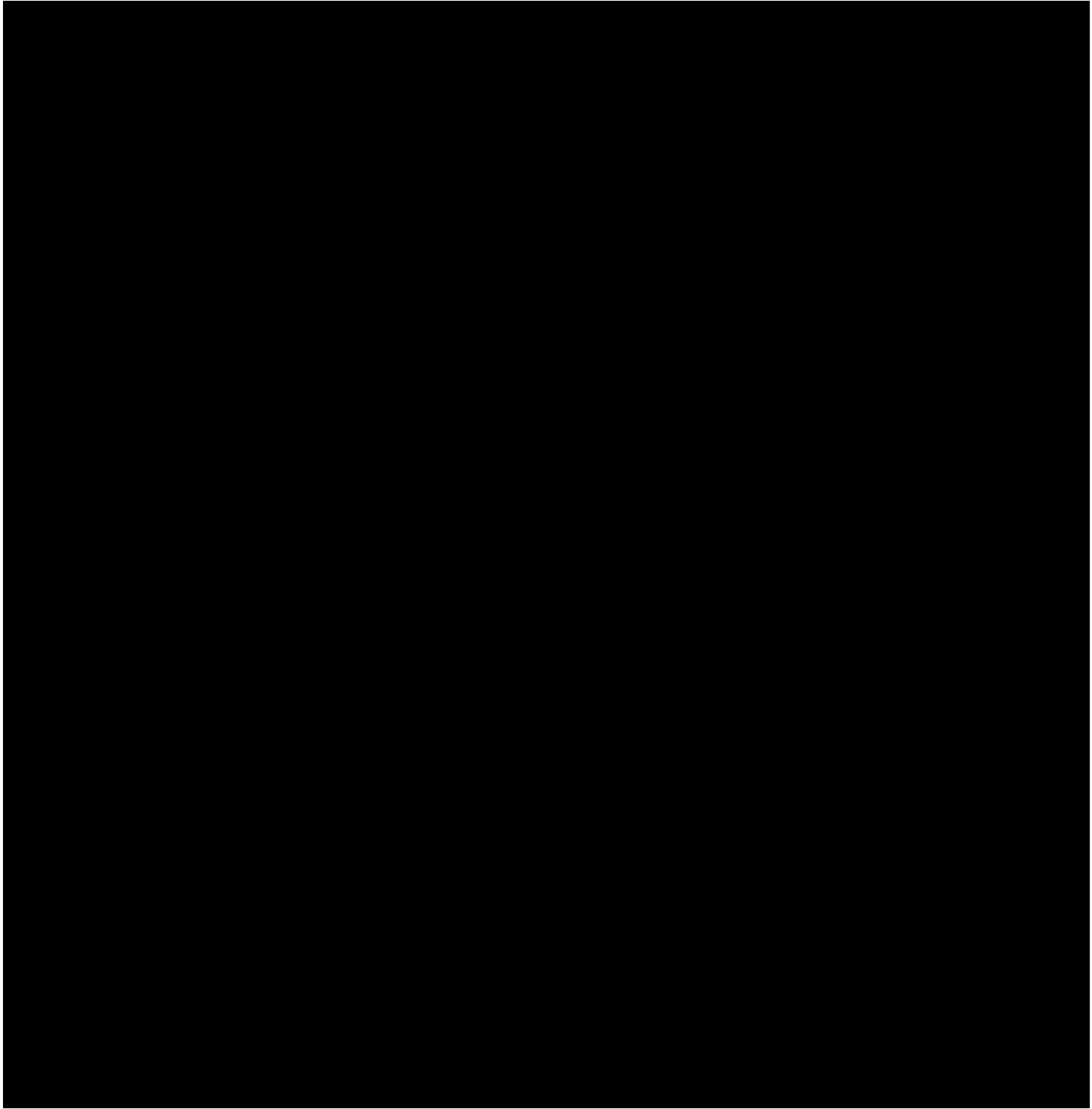
If the Parties are unable to agree the contents of the Business Continuity and Disaster Recovery Plan within thirty (30) days following its delivery to the Authority, then such dispute shall be resolved in accordance with the Dispute Resolution Procedure prescribed at [Schedule 6](#).

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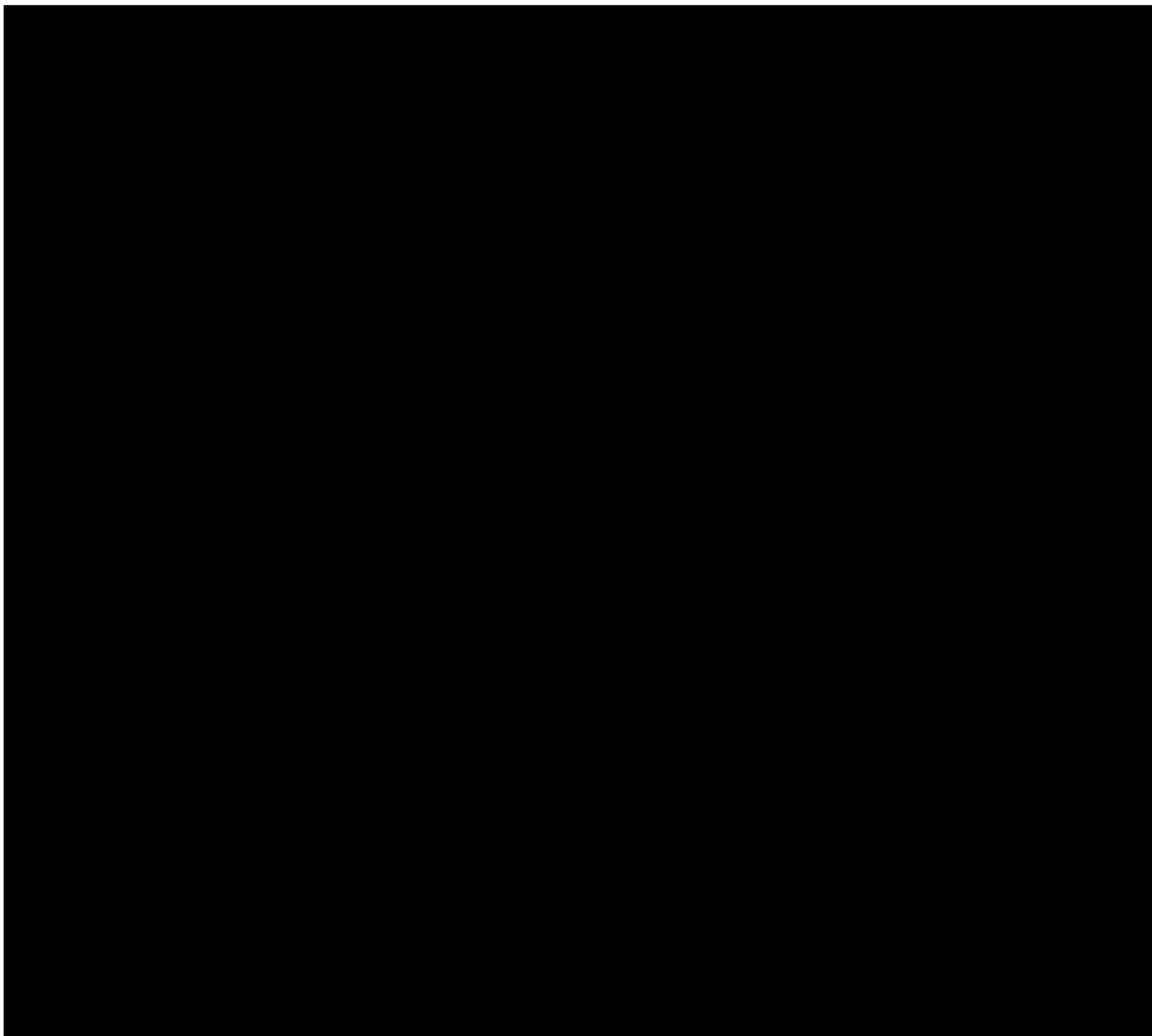


### **SCHEDULE 13 PROCESSING, PERSONAL DATA AND DATA SUBJECTS**

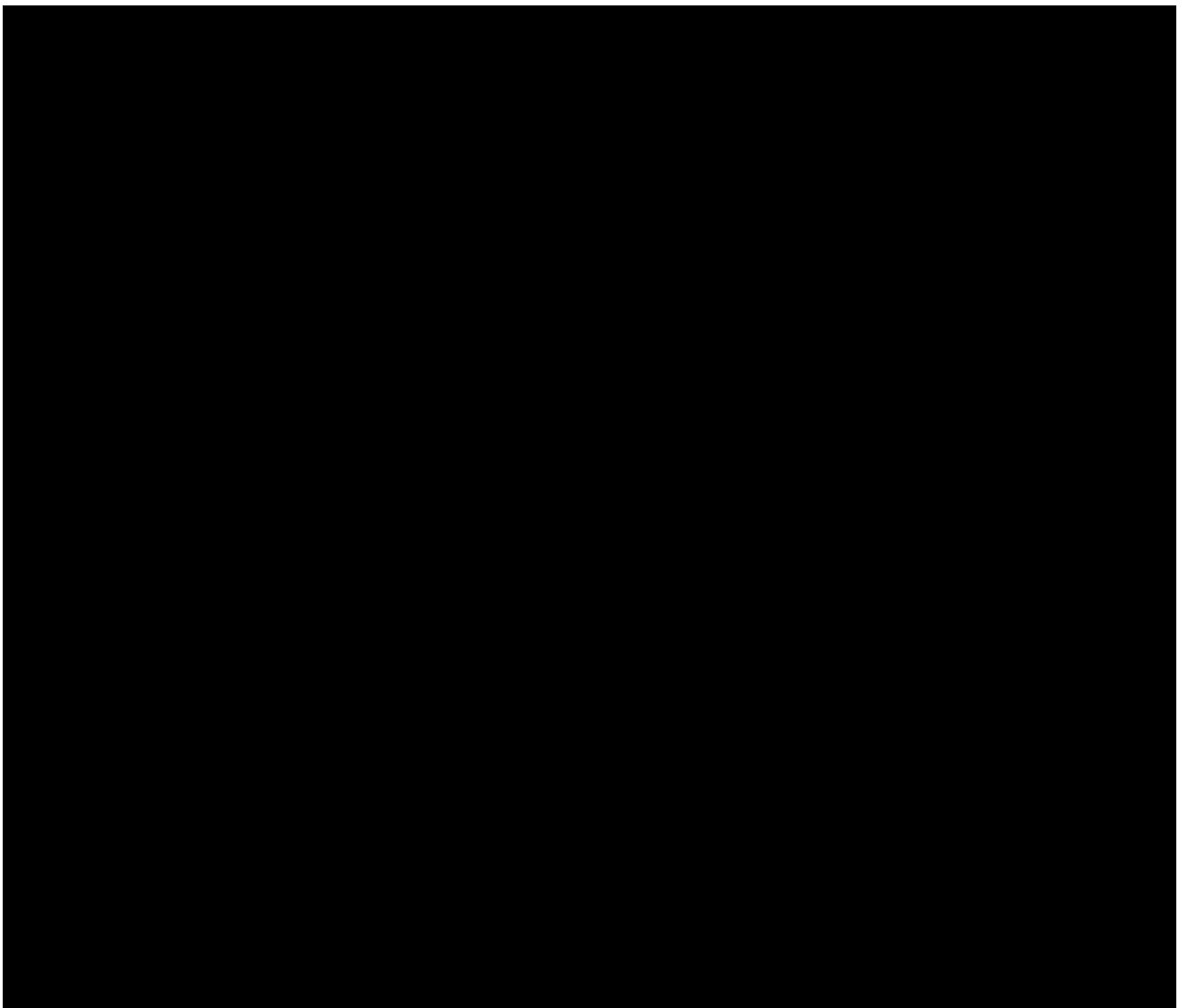
This Schedule shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.



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## **SCHEDULE 14 SECURITY REQUIREMENTS**

### **Introduction**

#### **This Schedule addresses: -**

- 1.1.2 the arrangements which the Supplier shall implement and comply with when performing its obligations under this Agreement and/or providing the Services in order to ensure the security of the Authority Data and the Information Management System.
- 1.1.3 the Certification Requirements applicable to the Supplier and each of those Sub-contractors which Processes Authority Data.
- 1.1.4 The security requirements in Clause 43 which the Supplier must comply with.
- 1.1.5 the tests which the Supplier shall conduct on the Information Management System during the Term in Paragraph 6;
- 1.1.6 the Supplier's obligations to:
  - (a) return or destroy Authority Data on the expiry or earlier termination of this Agreement; and
  - (b) prevent the introduction of Malicious Software into the Service and to scan for, contain the spread of, and minimise the impact of Malicious Software which is introduced into the Services in Paragraph 8; and
  - (c) report Breaches of Security to the Authority.

## **2. Principles of Security**

- 2.1 The Supplier acknowledges that the Authority places great emphasis on the confidentiality, integrity and availability of the Authority Data and, consequently on the security of:
  - 2.1.1 the Supplier System; [and]
  - 2.1.2 [the Supplier Solution; and]
  - 2.1.3 the Service.
- 2.2 Notwithstanding the involvement of the Authority in assessing the arrangements which the Supplier shall implement in order to ensure the security of the Authority Data and the Information Management System, the Supplier shall be, and shall remain, responsible for:

- 2.2.1 the security, confidentiality, integrity and availability of the Authority Data whilst that Authority Data is under the control of the Supplier or any of its Sub-contractors.
- 2.2.2 the security of the Information Management System.
- 2.3 The Supplier shall provide the Authority with access to members of its information assurance personnel to facilitate the Authority's assessment of the Supplier's compliance with its obligations set out in this Schedule at reasonable times on reasonable notice.

### **3. Information Security Approval Statement**

- 3.1 The Supplier may not use the Information Management System to Process Authority Data unless and until:
  - 3.1.1 the Supplier has conducted a CHECK IT Health Check of the Supplier System in accordance with Paragraph 6.1; and
  - 3.1.2 the Authority has issued the Supplier with an Information Security Approval Statement in accordance with the process set out in this Paragraph 3.
- 3.2 The Supplier shall document in the Information Security Management Document Set how the Supplier and its Subcontractors shall comply with the requirements set out in this Schedule 14 and the Agreement in order to ensure the security of the Authority Data and the Information Management System.
- 3.3 The Supplier shall prepare and submit to the Authority within 20 Working Days of the date of this Agreement, the Information Security Management Document Set, which comprises:
  - 3.3.1 an Information Assurance Assessment.
  - 3.3.2 the Required Changes Register.
  - 3.3.3 the Personal Data Processing Statement; and
  - 3.3.4 the Incident Management Process.
- 3.4 The Authority shall review the Supplier's proposed Information Security Management Document Set as soon as possible and, in any event within [20] Working Days of receipt and shall either issue the Supplier with:
  - 3.4.1 a Information Security Approval Statement, which shall confirm that the Supplier may use the Information Management System to Process Authority Data; or
  - 3.4.2 a rejection notice which shall set out the Authority's reasons for rejecting the Information Security Management Document Set.

If the Authority rejects the Supplier's proposed Information Security Management Document Set, the Supplier shall take the Authority's reasons into account in the preparation of a revised Information Security Management Document Set, which the Supplier shall submit to the Authority for review within [10] Working Days or such other timescale as agreed with the Authority.

3.5 The Authority may require, and the Supplier shall provide the Authority and its authorised representatives with:

3.5.1 access to the Supplier Personnel.

3.5.2 access to the Information Management System to audit the Supplier and its Sub-contractors compliance with this Agreement; and

3.5.3 such other information and/or documentation that the Authority or its authorised representatives may reasonably require,

to assist the Authority to establish whether the arrangements which the Supplier and its Subcontractors have implemented in order to ensure the security of the Authority Data and the Information Management System are consistent with the representations in the Information Security Management Document Set. The Supplier shall provide the access required by the Authority in accordance with this Paragraph within [10] Working Days of receipt of such request, except in the case of a Breach of Security in which case the Supplier shall provide the Authority with the access that it requires within 24 hours of receipt of such request.

#### **4. Compliance Reviews**

4.1 The Supplier shall regularly review and update the Information Security Management Document Set, and provide such to the Authority, at least once each year and as required by this Paragraph.

4.2 The Supplier shall notify the Authority within [2] Working Days after becoming aware of:

4.2.1 a significant change to the components or architecture of the Service.

4.2.2 a new risk to the components or architecture of the Service.

4.2.3 a vulnerability to the components or architecture of the Service which is classified 'Medium', 'High', 'Critical' or 'Important' in accordance with the classification methodology set out in clause 43.9.

4.2.4 a change in the threat profile.

4.2.5 a significant change to any risk component.

4.2.6 a significant change in the quantity of Personal Data held within the Service.

- 4.2.7 a proposal to change any of the Sites from which any part of the Services are provided; and/or
- 4.2.8 an ISO27001 audit report produced in connection with the Certification Requirements indicates significant concerns.

Within [10] Working Days of such notifying the Authority or such other timescale as may be agreed with the Authority, the Supplier shall make the necessary changes to the Required Changes Register and submit the updated Required Changes Register the Authority for review and approval.

- 4.3 Where the Supplier is required to implement a change, including any change to the Information Management System, in order to remedy any non-compliance with this Agreement, the Supplier shall effect such change at its own cost and expense.

## **5. Certification Requirements**

- 5.1 The Supplier shall be, and shall ensure that each Sub-contractor which Processes Authority Data is, certified as compliant with:

- 5.1.1 ISO/IEC 27001:2013 by a UKAS approved certification body or is included within the scope of an existing certification of compliance with ISO/IEC 27001:2013; and

- 5.1.2 Cyber Essentials PLUS,

and shall provide the Authority with a copy of each such certificate of compliance before the Supplier shall be permitted to receive, store or Process Authority's Data. Any exceptions to the flow-down of the certification requirements to third party suppliers and sub-contractors must be agreed with the Authority.

- 5.2 The Supplier shall ensure, at all times during the Term, that the Supplier and each Sub-contractor who is responsible for the secure destruction of Authority Data:

- 5.2.1 securely destroys Authority Data only on Sites which are included within the scope of an existing certification of compliance with ISO/IEC 27001:2013; and

- 5.2.2 are certified as compliant with the NCSC Assured Service (CAS) Service Requirement Sanitisation Standard or an alternative standard as agreed by the Authority.

- 5.3 The Supplier shall provide the Authority with evidence of its and its Sub-contractor's compliance with the requirements set out in this Paragraph before the Supplier or the relevant Sub-contractor (as applicable) may carry out the secure destruction of any Authority Data.

5.4 The Supplier shall notify the Authority as soon as reasonably practicable and, in any event within 2 Working Days, if the Supplier or any Sub-contractor ceases to be compliant with the Certification Requirements and, on request from the Authority, shall or shall procure that the relevant Sub-contractor shall:

5.4.1 immediately ceases using the Authority Data; and

5.4.2 procure that the relevant Sub-contractor promptly returns, destroys and/or erases the Authority Data in accordance with the requirements set out in this Paragraph.

## 6. Security Testing

6.1 The Supplier shall, at its own cost and expense procure and conduct:

6.1.1 an IT Health CHECK ("ITHC") of the Supplier System by a CHECK Service Provider; and

6.1.2 such other security tests as may be required by the Authority and which are set out in this Agreement,

The Supplier shall complete all of the above security tests before the Supplier submits the Information Security Management Document Set to the Authority for review in accordance with Paragraph 3; and it shall repeat the ITHC not less than once every 12 months during the Term and submit the results of each such test to the Authority for review in accordance with this Paragraph.

6.2 In relation to each ITHC, the Supplier shall:

6.2.1 agree with the Authority the aim and scope of the ITHC;

6.2.2 promptly, following receipt of each IT Health Check report, provide the Authority with a copy of the IT Health Check report;

6.2.3 in the event that the IT Health Check report identifies any vulnerabilities, the Supplier shall:

(a) prepare a remedial plan for approval by the Authority (each a "**Vulnerability Correction Plan**") which sets out in respect of each vulnerability identified in the IT Health Check report:

(i) how the vulnerability will be remedied;

(ii) the date by which the vulnerability will be remedied;

(iii) the tests which the Supplier shall perform or procure to be performed (which may, at the discretion of the Authority, include a further IT Health Check) to confirm that the vulnerability has been remedied;

- (b) comply with the Vulnerability Correction Plan; and
  - (c) conduct such further tests on the Service as are required by the Vulnerability Correction Plan to confirm that the Vulnerability Correction Plan has been complied with.
- 6.3 The Supplier shall ensure that any testing which could adversely affect the Supplier System 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 tests shall be agreed in advance with the Authority.
- 6.4 If any testing conducted by or on behalf of the Supplier identifies a [new risk, new threat, vulnerability or exploitation technique] that has the potential to affect the security of the Information Management System, the Supplier shall within [2] days of becoming aware of such risk, threat, vulnerability or exploitation technique provide the Authority with a copy of the test report and:
  - 6.4.1 propose interim mitigation measures to vulnerabilities in the Information System known to be exploitable where a security patch is not immediately available; and
  - 6.4.2 where and to the extent applicable, 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 Supplier System) within the timescales set out in the test report or such other timescales as may be agreed with the Authority.
- 6.5 The Supplier shall conduct such further tests of the Supplier System as may be required by the Authority from time to time to demonstrate compliance with its obligations set out this Schedule and the Agreement.
- 6.6 The Supplier shall notify the Authority immediately if it fails to, or believes that it will not, mitigate the vulnerability within the timescales set out in Annex 1 to this Schedule.

## **7. Security Monitoring and Reporting**

- 7.1 The Supplier shall:
  - 7.1.1 monitor the delivery of assurance activities;
  - 7.1.2 maintain and update the Information Security Management Document Set in accordance with Paragraph 4;
  - 7.1.3 agree a document which presents the residual security risks to inform the Authority's decision to give approval to the Supplier to process, store and transit the Authority's data;

- 7.1.4 monitor security risk impacting upon the operation of the Service;
- 7.1.5 report Breaches of Security in accordance with the approved Incident Management Process;
- 7.1.6 agree with the Authority the frequency and nature of the security reports to be prepared and submitted by the Supplier to the Authority within 30 days of the date of this Agreement.

## **8. Malicious Software**

- 8.1 The Supplier shall install and maintain anti-Malicious Software or procure that anti-Malicious Software is installed and maintained on any part of the Information Management System which may Process Authority Data and ensure that such anti-Malicious Software is configured to perform automatic software and definition updates as well as regular scans of the Information Management System to check for, prevent the introduction of Malicious Software or where Malicious Software has been introduced into the Information Management System, to identify, contain the spread of, and minimise the impact of Malicious Software.
- 8.2 If Malicious Software is found, the parties shall cooperate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Authority Data, assist each other to mitigate any Losses and to restore the Services to their desired operating efficiency.
- 8.3 Any cost arising out of the actions of the parties taken in compliance with the provisions of Paragraph 8.2 shall be borne by the parties as follows:
  - 8.3.1 by the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software supplied by the Supplier 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
  - 8.3.2 by the Authority, in any other circumstance.

## **9. Breach of Security**

- 9.1 If either party becomes aware of a Breach of Security it shall notify the other in accordance with the Incident Management Process.
- 9.2 The Incident Management Process shall, as a minimum, require the Supplier to do the following upon it becoming aware of a Breach of Security or attempted Breach of Security:
  - 9.2.1 Immediately take all reasonable steps necessary to:

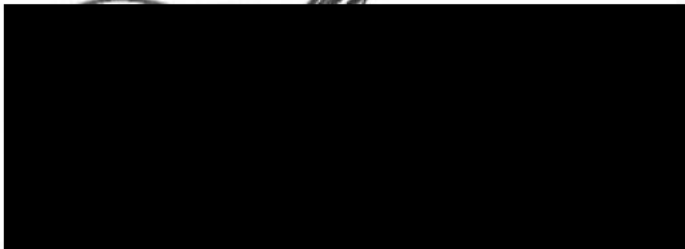
- (a) minimise the extent of actual or potential harm caused by such Breach of Security;
- (b) remedy such Breach of Security to the extent possible;
- (c) apply a tested mitigation against any such Breach of Security; and
- (d) prevent a further Breach of Security in the future which exploits the same root cause failure;

9.2.2 as soon as reasonably practicable and, in any event, within 2 Working Days, following the Breach of Security or attempted Breach of Security, provide to the Authority full details of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Authority.

9.3 In the event that any action is taken in response to a Breach of Security or attempted Breach of Security as a result of non-compliance by the Supplier, its Subcontractors and/or all or any part of the Information Management System with this Agreement, then such remedial action shall be completed at no additional cost to the Authority.

9.4 In accordance with the provisions of Clause 43.4.1, I [*insert name*] confirm that only staff who have passed the HMG Baseline Personal Security Standard check when employed will be involved in the delivery of the services required under this contract. The HMG Baseline Personal Security Standard requires the following and can be found at <https://www.gov.uk/government/publications/government-baseline-personnel-security-standard> :

1. verification of the individual's identity.
2. verification of the individual's nationality and immigration status.
3. verification of the individual's employment history.
4. verification of the individual's criminal record.



The FSA reserves the right to audit the evidence in relation to this requirement.

## ANNEX 1: CONTRACT OFFICIAL VETERINARIAN (cOV) JOB DESCRIPTION & PERSON SPECIFICATION

**Job Purpose:** The FSA's strategic plan commits to the development of alternative or complementary delivery models, including their sustainable funding – for meat and other food businesses.

The Official Veterinarian primarily

- Provides a technical and leadership role, in an approved premise providing technical advice and direction to the plant inspection team to ensure the efficient and consistent delivery of Official Controls and associated tasks, as defined within the Manual for Official Controls (MOC).
- Builds and manages effective relationships with the plant Food Business Operator (FBO) and other stakeholders and takes responsibility for health and safety management at plant level.

### **Key Responsibilities**

#### **Statutory duties:**

- Inspection tasks:
  - Assessment of food chain information.
  - Conducting ante-mortem inspection of animals for slaughter.
  - Verification of animal welfare compliance: including assessment of the suitability and competence of persons applying for a temporary Certificate of Competence (TCoC), and verification of Certificates of Competence (CoCs) for staff working at the premises
  - Conducting post mortem inspection: if this task is delegated to Official Auxiliaries, the post holder must regularly check the work of the OAs and in the case of animals having undergone emergency slaughter outside the slaughterhouse, carry out the inspection personally.
  - Verification of compliance with Transmissible Spongiform Encephalopathy and Animal By-Products requirements
  - Health marking
- Verification of slaughter hygiene standards
- Verification of FBO compliance the microbiological criteria
- Verification of FBO traceability systems
- Verification of food safety management systems

#### **Action following controls:**

- Collection and communication of inspection results
- Assessment of and decision making in relation to food chain information, live animals, animal welfare and meat

#### **Enforcement**

- Verify that the FBO complies with legislative requirements through their own food safety management procedures.
- Gather evidence to support targeted enforcement for the FSA and other enforcement agencies as required.
- Follow risk based procedures to take fair and proportionate enforcement actions to ensure compliance is achieved working with FBOs to create action plans to achieve compliance.
- Understanding of all areas of non-compliance, the stage of escalation and active monitoring through to compliance or with a view to taking further action to control the risks at the establishment
- Gathering and secure storage of evidence
- Responsibility for all timely enforcement and it's escalation
- Completion and collation of paperwork and electronic enforcement systems
- Delivery and recording of informal enforcement activity
- Drafting, service and recording of formal enforcement after consultation and direction from the FSA Field Veterinary Coordinator (FVC)
- Verify continued compliance with public health, animal health and animal welfare
- Collection of evidence of repetitive non-compliance or serious deficiency with public health, animal health and animal welfare To liaise and provide evidence to FVC in regard to all formal enforcement action;
- Carry out formal enforcement action under the direction of the FVC;

- To proactively liaise with other enforcement bodies as required
- Act as a witness of fact and professional witness in legal cases as required including producing a witness statement to the required standard.
- Knowledge of how to identify potential food fraud opportunities relevant to the meat industry and how to escalate and report suspicious activities.
- Encourage and support the use of “best practice” in all aspects of operations, giving appropriate and timely advice

#### **Verification of compliance with Third Country requirements (as/when required)**

- Carry out veterinarian activities in line with specific Third Country requirements and as requested by the FSA
- Certification of product

#### **Technical leadership of the plant inspection team:**

- Responsible for the technical leadership and performance of the plant inspection team by, providing appropriate advice, coaching, support, and ensuring technical compliance through supervision of tasks. - Seek direction for FSA field management where appropriate.
- Assessment of on-going technical, competencies of OAs, ensuring that they are demonstrating competency and supported to undertake all tasks associated with their role.
- Assessment of ongoing competencies of Plant Inspection Assistants (PIAs)
- Cascade technical information as required and discuss the practical implications with the plant inspection team.
- Participation on the practical training at the plant, of Trainee OA (tOA), probationary OV (pOV) and Veterinary Students' to ensure it is carried out appropriately.
- Awareness of and commitment to all relevant FSA policies
- Provide feedback to Inspection Team Leader (ITL) on OA competence and performance.
- Accurately input data and information (business and personal) into appropriate IT systems.

#### **Stakeholder management:**

- Establish and maintain productive working relationships with the FSA, plant FBOs and other stake holders (Other Government Departments, Local Authorities, etc).
- Raise any changes to the FBO operating patterns in relation to the Statement of Resources with the FSA manager in charge of this work.
- Inform FBOs of any legislative changes that have an impact on their operation.

#### **Health and Safety Management**

- Provide support to FSA field management in implementing the FSA Health and Safety Policy at plant level and provide support to the FSA Field management in completion of risk assessments and the implementation of control measures.
- Participate when required to investigate and document accidents and incidents involving the plant inspection team and make initial recommendations for preventative actions.
- Participate in plant inductions, ensuring plant inspection teams and visitors are aware of fire, first aid and other emergency procedures and provide them with health and safety information, instruction and coaching as necessary.

#### **FSA Service Level Agreements (SLAs)**

- Ensure FSA services at the plant are delivered in line with SLA targets.

#### **General**

- Maintain confidentiality of internal FSA communications and commercially sensitive information.
- Identify personal training needs to undertake continuing educational activities including appropriate uptake of FSA training and CPD
- Continued familiarisation with the MOC and other guidance documents as appropriate
- Any other reasonable requests

**Mandatory Qualifications / licences, and Membership of professional bodies:**

**Essential:**

- Membership of the Royal College of Veterinary Surgeons (MRCVS)
- Official Veterinarian Surgeon (red/white) or OV appointment
- Knife skills training

## ANNEX 2: CONTRACT OFFICIAL VETERINARIAN (cOV) COMPETENCY AND BEHAVIOUR PROFILE

### **Veterinary competencies - Knowledge and Experience (note different degrees of knowledge will be expected depending on pOV/OV status; refer to MOC for specifics)**

- Knowledge of the national and international legal/regulatory framework, as relevant to the role.
  - Professional knowledge and experience to allow independent leadership and impact in the role. A practical understanding of the range of issues associated with veterinary science information and knowledge development.
  - Ability to provide high-quality professional/technical advice, in a format suitable for officials. Ability to resolve complex veterinary problems swiftly based on a full range of considerations, including veterinary risk, legislation and uncertainty.
  - Understanding health risks to individuals and communities with special attention to zoonotic and emerging diseases, foodborne illness, and welfare issues of animals.
  - Knowledge and understanding of the aetiology, pathogenesis, clinical signs, diagnosis and treatment of the common endemic diseases and disorders that occur in the common domestic species in the UK.
  - Awareness of exotic diseases of international importance that pose a risk to national and international biosecurity and trade.
- 
- Knowledge and understanding of the businesses related to food producing animal breeding, production and keeping.
  - Understanding animal welfare and the related responsibilities of owners, keepers, handlers and slaughterers.
  - Understanding veterinary risk assessment.
  - Commitment to learning and professional development. (basic standards: RCVS 105 hours in 3 years)
  - OV general duties
  - Verification of good hygiene practices and hazard analysis and HACCP based procedures being applied continuously and properly
  - OV plant related duties

**IT Skills:** a minimum of basic knowledge and experience or working with IT packages (ie: Microsoft Word, Excel and e-mails)

### **Building capability for all:**

- Identify and address team or individual capability requirements and gaps to deliver current and future work
- Identify and develop all talented team members to support succession planning, devoting time to coach, mentor and develop others
- Value and respond to different personal needs in the team using these to develop others and promote inclusiveness
- Proactively manage own career and identify own learning needs with line manager, plan and carry out work-place learning opportunities
- Continually seek and act on feedback to evaluate and improve their own and team's performance

### **Making effective decisions**

- Make decisions when they are needed even if they prove difficult or unpopular
- Identify a broad range of relevant and credible information sources and recognise the need to collect new data when necessary from internal and external sources
- Recognise patterns and trends in a wide range of evidence/data and draw conclusions, outlining costs, benefits, risks and potentials
- Ensure all government and public data is treated with care in line with security protocols
- Recognise scope of own authority for decision making and empower other team members to make decisions

- Invite challenge and where appropriate involve others in decision making to help build engagement and present robust recommendations

#### **Leading and communicating**

- Continually communicate with staff, helping to clarify goals and activities and the links between these and Departmental strategy
- Recognise, respect and reward the contribution and achievements of others, valuing difference
- Communicate in a straightforward, honest and engaging manner with all stakeholders and stand ground when needed
- Communicate using appropriate styles, methods and timing, including digital channels, to maximise understanding and impact
- Promote the work of the Department and play an active part in supporting the Civil Service values and culture
- Role model enthusiasm and energy about their work and encourage others to do the same

#### **Collaborating and partnering**

- Establish relationships with a range of stakeholders to support delivery of business outcomes
- Act as a team player, investing time to generate a common focus and genuine team spirit
- Actively seek input from a diverse range of people
- Readily share resources to support higher priority work, showing pragmatism and support for the shared goals of the organisation
- Deal with conflict in a prompt, calm and constructive manner
- Encourage collaborative team working within own team and across the Department

#### **Managing a quality service**

- Make effective use of project management skills and techniques to deliver outcomes, including identifying risks and mitigating actions
- Develop, implement, maintain and review systems and service standards to ensure professional excellence and expertise and value for money
- Work with team to set priorities, goals, objectives and timescales
- Establish mechanisms to seek out and respond to feedback from customers about service provided
- Promote a culture that tackles fraud and deception, keeping others informed of outcomes
- Develop proposals to improve the quality of service with involvement from a diverse range of staff, stakeholders or delivery partners

#### **Delivering at Pace**

- Successfully manage, support and stretch team to deliver agreed goals and objectives
- Show a positive approach in keeping own and team's efforts focused on goals that really matter
- Take responsibility for delivering expected outcomes on time and to standard, yet allow teams space and authority to deliver objectives
- Plan ahead but reassess workloads and priorities if situations change or people are facing conflicting demands
- Regularly monitor own and team milestones or targets and act promptly to keep work and performance on track
- Coach and support other to set and achieve challenging goals for themselves

#### **Additional Capabilities**

- Ability to express thoughts clearly orally and in writing in English, listen to the views of others and use terminology to suit the needs of the audience.
- Assemble arguments in a logical, thorough and objective manner.
- Demonstrable ability to negotiate.

#### **Changing and Improving:**

- Find ways to improve systems and structures to deliver with more streamlined resources

- Regularly review procedures or systems with teams to identify improvements and simplify processes and decision making
- Be prepared to take managed risks, ensuring these are planned and their impact assessed
- Actively encourage initiative and recognise/praise ideas from a wide range of sources and stakeholders and use these to inform own thinking
- Be willing to meet the challenges of difficult or complex changes, encouraging and supporting others to do the same
- Prepare for and respond appropriately to the range of possible effects that change may have on own role/team

**Seeing the bigger picture:**

- Be alert to emerging issues and trends which might impact or benefit own and team's work
- Develop an understanding of own area's strategy and how this contributes to Departmental priorities
- Ensure own area/team activities are aligned to Departmental priorities
- Actively seek out and share experience to develop understanding and knowledge of own work and of team's business area

Seek to understand how the services, activities and strategies in the area work together to create value for the customer/end user

**Achieving commercial outcomes:**

- Work effectively with different organisations such as private sector and voluntary groups (in tandem with commercial experts) to commission and source solutions to achieve policy and organisational goals
- Understand the commercial drivers that will influence a private or third sector organisation and the levers that can be used in negotiating/influencing contractual arrangements
- Be able to recognise and understand the commercial tools such as pricing models, open book accounting, supply chain management that commercial experts can deploy to extract value from contracts
- Interact confidently and effectively as an intelligent and highly credible customer with counterparts from the commercial delivery organisations and commercial experts
- Question and challenge the value being delivered through commercial arrangements with delivery partners

**Delivering value for money:**

- Recommend actions to achieve value for money and efficiency
- Cultivate and encourage an awareness of cost, using clear simple examples of benefits and how to measure outcomes
- Work confidently with performance management and financial data to prepare forecasts and manage and monitor budget against agreed plans
- Follow appropriate financial procedures to monitor contracts to ensure deliverables are achieved

### ANNEX 3: CONTRACT OFFICIAL AUXILIARY (cOA) JOB DESCRIPTION & PERSON SPECIFICATION

**Job Purpose:** The Food Standards Agency's strategic plan commits to the development of alternative or complementary delivery models, including their sustainable funding – for meat and other food businesses.

The Official Auxiliary primarily will assist the Official Veterinarian with all tasks, subject to the restrictions and to any specific rules laid down in EU and domestic Regulations and as interpreted as required by the FSA

#### Key Responsibilities

List duties and responsibilities including (experience, skills and knowledge)

#### STATUTORY DUTIES

1. **Ante Mortem (AM) Inspection, Animal Welfare and Animal Identification**
  - Assist the OV in purely practical tasks as defined in the MOC and make an initial check of animals.
  - Verify that animals are properly identified and take any necessary actions.
  - Verify animal welfare activity including plant specific action plans and undertaking Animal Welfare checks at the required frequency as part of the Animal Welfare Action Plan.
2. **Post Mortem (PM) Inspection, Specified Risk Material (SRM) & Animal By Products (ABP)**
  - Carry out post-mortem inspection for detection of abnormalities of all carcasses and offal presented.
  - Identify and detain uncommon conditions for further inspection by the OV and Emergency slaughtered animals.
  - Verify FBOs compliance with TSE regulations and SRM controls.
  - Verify that carcase meat and offal rejected as unfit is removed, categorised, stained, stored and disposed of in accordance with legislative requirements.
  - Verify FBOs compliance with ABP regulations
  - Maintain an accurate record of post-mortem inspections and findings.
3. **Health and Identification Marking**
  - Apply the health mark in accordance with the legislation.
  - Verify the FBO application of the identification mark.
4. **Food Standards Agency Service Level Agreements (SLAs)**
  - Correctly collect and despatch samples for disease, conditions and residue purposes.
  - Carry out duties stated under the terms of SLA agreements with Other Government Departments and agencies as defined in the MOC.
5. **Verification and Enforcement data**
  - Collect information regarding verification of Good Hygiene Practices and HACCP based procedures as directed by the OV for the proportionate enforcement of non-compliances.
  - Assist with the accurate recording and collection of data and any other operational information required by the OV.
  - Awareness of current enforcement activity at the establishment
  - Gathering and secure storage of evidence including use of plant daybooks and personal notebooks.
  - Provide local intelligence to the OV
  - Communication of plant standards to OV
  - Verify continued compliance with public health, animal health and animal welfare
  - Collecting evidence of repetitive non-compliance or serious deficiency with public health, animal health and animal welfare
6. **Food Chain Information and Collection and Communication of Inspection Results**
  - Assess Food Chain Information and take action as appropriate
  - Record post mortem data and disseminate inspection data back to the FBO and primary producer.

**OTHER DUTIES****7. Food Business Operator Liaison**

- Establish and maintain effective working relationships with plant staff.
- Communicate decisions regarding post mortem inspections in consultation with the OV.
- Communicate issues found during the verification of FBO good hygiene practices and HACCP based procedures.

**8. Team Involvement**

- Assist in the supervision and instruction of Trainee OAs and others as appropriate.
- Maintain high standards of professional integrity, personal motivation and work closely with others team members.
  - Demonstrate commitment to equal opportunities policies and procedures through the use of appropriate behaviours and attitudes.
  - Accurately input data and information (business and personal) into appropriate IT systems.
- Assist with evidence gathering as required

**9. General**

- Maintain confidentiality of internal Food Standards Agency communications and commercially sensitive information.
- Identify personal training needs to undertake continuing educational activities including appropriate uptake of FSA training and CPD
- Ensure continued familiarisation with the Manual for Official Controls and other guidance documents as appropriate
- Any other duties as required by the OV.
- In the absence of OV ensure the set procedures are followed and standards maintained.
- Provide reliable witness statements for enforcement purposes and give live evidence in a Court.

**10. Health and Safety**

- Undertake duties fully in accordance with FSA Health & Safety Policy; report all accidents and potential hazards in accordance with Health & Safety Policy to management.

**Mandatory Qualifications / licences, and Membership of professional bodies:****Essential**

OAs must be qualified as required by Regulation (EC) 854/2004, Annex I, Section III, Chapter IV, B (or future Regulation (EU) 2017/625 if adopted, and its Delegated Regulation (EU) 2019/624, Annex II, Chapter II). This qualification can be achieved by:

- Possession of a Meat Inspection Certificate from an approved awarding body (The Authorised Officers (Meat Inspection) Regulations 1987 refers) or;
- Membership of the Royal College of Veterinary Surgeons and competent delivery of Meat Inspection skills; or
- An equivalent Veterinary degree from an EU or third country which under independent verification and assurance approved by the FSA, fulfils the OA training requirements in the Legislation mentioned above, or;
- An equivalent qualification from a recognised (and approved by the FSA) non-EU or UK awarding body in Meat Inspection skills.
- As part of the above qualifications, OAs must have undergone Knife skills training

## ANNEX 4: CONTRACT OFFICIAL AUXILIARY (cOA) COMPETENCY AND BEHAVIOUR PROFILE

### Technical competencies - Knowledge and Experience

- Knowledge of relevant legislation and instructions in FSA Manual for Official Controls and Meat Industry Guide.
- A demonstrable understanding of the legislative requirements that the FSA enforces.
- Ability to undertake post mortem inspection, residue sampling and TSE controls.
- Ability to accurately record data either on paper or on IT systems.
- A demonstrable awareness of health and safety issues.
- Ability to maintain equipment in a functioning state to carry out tasks e.g. knife sharpening

**IT Skills:** a minimum of basic knowledge and experience or working with IT packages (i.e.: Microsoft Word, Excel and e-mails)

### Changing and Improving

- Understand and apply technology to achieve efficient and effective business and personal results
- Consider and suggest ideas for improvements, sharing this feedback with others in a constructive manner
- Conduct regular reviews of what and who is required to make a project/activity successful and make on-going improvements
- Put aside preconceptions and consider new ideas on their own merits
- Help colleagues, customers and corporate partners to understand changes and why they have been introduced
- Identify, resolve or escalate the positive and negative effects that change may have on own role/team

### Making effective decisions

- Demonstrate accountability and make unbiased decisions
- Examine complex information and obtain further information to make accurate decisions
- Speak with the relevant people in order to obtain the most accurate information and get advice when unsure of how to proceed
- Explain clearly, verbally and in writing, how a decision has been reached
- Provide advice and feedback to support others to make accurate decisions
- Monitor the storage of critical data and customer information to support decision making and conduct regular reviews to ensure it is stored accurately, confidentially and responsibly

### Leading and communicating

- Display enthusiasm around goals and activities – adopting a positive approach when interacting with others
- Listen to, understand, respect and accept the value of different views, ideas and ways of working
- Express ideas effectively, both orally and in writing, and with sensitivity and respect for others
- Confidently handle challenging conversations or interviews
- Confront and deal promptly with inappropriate language or behaviours, including bullying, harassment or discrimination

### Collaborating and partnering

- Demonstrate interest in others and develop a range of contacts outside own team to help get the job done
- Change ways of working to facilitate collaboration for the benefit of the team's work
- Proactively seek information, resources and support from others outside own immediate team in order to help achieve results
- Readily identify opportunities to share knowledge, information and learning and make progress by working with colleagues
- Listen attentively to others and check their understanding by asking questions

- Take responsibility for creating a working environment that encourages equality, diversity and inclusion

#### **Managing a quality service**

- Explain clearly to customers what can be done
- Work with team to set priorities, create clear plans and manage all work to meet the needs of the customer and the business
- Ensure that levels of service are maintained – flag up risks or concerns in order to meet customer requirements
- Keep internal teams, customers and delivery partners fully informed of plans and possibilities
- Promote adherence to relevant policies, procedures, regulations and legislation, including equality and diversity and health and safety
- Identify common problems or weaknesses in policy or procedures that affect service and escalate these

#### **Delivering at Pace**

- Create regular reviews of what and who is required to make a project/activity successful and make on-going improvements
- Be interested and positive about what they and the team are trying to achieve
- Take ownership of problems in their own area of responsibility
- Remain positive and focused on achieving outcomes despite
- Check own and team performance against outcomes, make improvement suggestions or take corrective action when problems are identified
- Set and achieve challenging goals and monitor quality

#### **Additional capabilities**

- Ability to express thoughts clearly orally and in writing in English, listen to the views of others and use terminology to suit the needs of the audience.
- Ability to build and maintain positive working relationships
- Assemble arguments in a logical, thorough and objective manner.
- Ability to make justifiable decisions based upon available information.
- Demonstrable ability to negotiate.

#### **Desirable capabilities**

##### **Seeing the bigger picture:**

- Keep up to date with a broad set of issues relating to the work of the Department
- Develop understanding of how own and team's work supports achievement of Departmental priorities and delivery to the citizen
- Focus on the overall goal and intent of what they are trying to achieve, not just the task
- Take an active interest in expanding their knowledge of areas related to own role

##### **Building Capability for all:**

- Take ownership of team and individual development by identifying capability needs and consistently achieving development objectives
- Take responsibility for the quality of own work and seeking opportunities for improvement through continuous learning
- Proactively support the development plans of others
- Take account of the diverse contributions of team members and delegate work to improve capabilities of all
- Encourage and be open to developmental feedback from others

##### **Achieving commercial outcomes:**

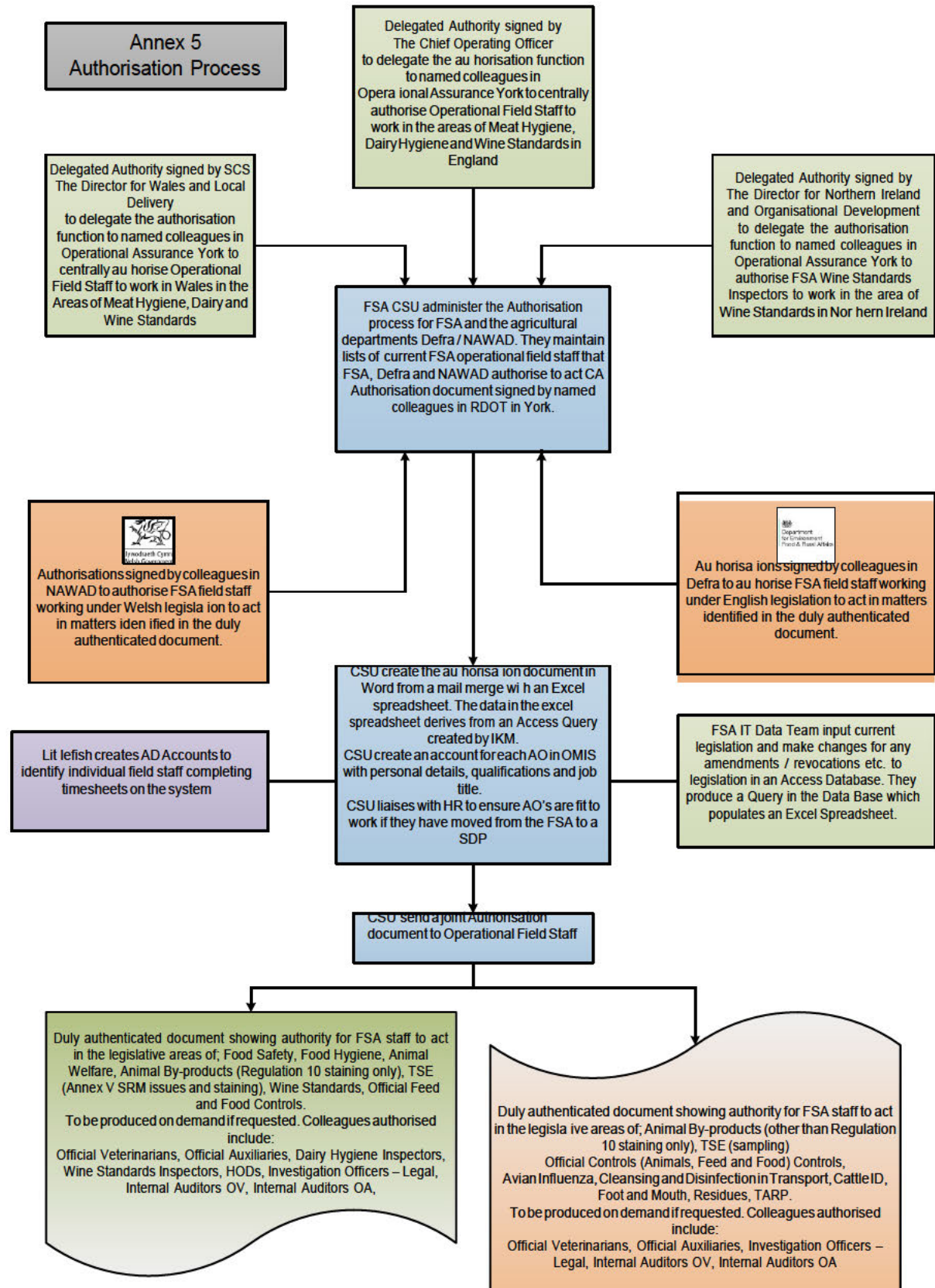
- Be able to identify and access departmental procurement and commercial expertise
- Understand and be able to explain departmental approach to assigning contractual and financial delegations

- Recognise when deliverables and/or services derived from a commercial arrangement are not being delivered to the required level of quality or standard and take appropriate action
- Fully meet commercial confidentiality and data security requirements in contracts

**Delivering Value for Money:**

- Recommend actions to achieve value for money and efficiency
- Cultivate and encourage an awareness of cost, using clear simple examples of benefits and how to measure outcomes
- Work confidently with performance management and financial data to prepare forecasts and manage and monitor budget against agreed plans
- Follow appropriate financial procedures to monitor contracts to ensure deliverables are
- Monitor the use of resources in line with organisational procedures and plans and hold team to account

## ANNEX 5: AUTHORISATION PROCESS



## ANNEX 6: FSA FIELD OPERATIONS GEOGRAPHIC STRUCTURE/ LOTS



## **ANNEX 7: PROVISION OF EQUIPMENT**

### **FSA will supply contract staff with:**

- a safety helmet with FSA logo;
- health marking equipment that includes a plant specific mark and ink.

### **Laundry**

The FSA will provide the supplier with laundry for its staff to deliver these services.

FSA operational management teams will manage the laundry provision and any arising issues on behalf of the supplier.

If disposable garments are worn for ad hoc occasions they must meet the specification for protective clothing for use against solid particulates (Type 5) or protective clothing for use against liquid chemicals (Type 6). Type 5 and Type 6 disposables must comply with EN340:2003.

### **Single use items below that FSA currently supply for both employed and contract staff:**

- Disposable gloves (Touch n Tuf, Ansell Virtex, Arco Nitrile, Finite P Nitrile, powder free)
- Hairnets
- Disposable oversleeves
- Beard Masks
- Corded ear plugs
- Face mask Arco 1A 600
- Face mask Arco 1E 3100
- Face mask 3M8835+

### **Supplier Responsibility**

The supplier is required to supply their staff with equipment including those listed below, dependent on the role and duties being undertaken. Please note this list is neither prescriptive nor exhaustive. It is the supplier's responsibility to adapt to changes in health, safety and wellbeing requirements.

### **PPE**

- Chainmail glove: to be worn on the non-knife hand, to cover the hand or the hand and forearm.
- Safety wellingtons white and/or green as required to meet ISO 20345 S4 CI
- Waterproof apron
- Suitable hearing protection to meet the health and safety requirements of the premises in which staff are delivering services.
- Cold weather under garments

### **Other items (cOV and cOA)**

- Victorinox knives: 6" / 15cm boning knife or equivalent
- Scabbard (if required) with belt
- Bobet sharp easy spring tensioned sharpening steel or equivalent
- Kit bag for transportation

### **Other items (cOV only)**

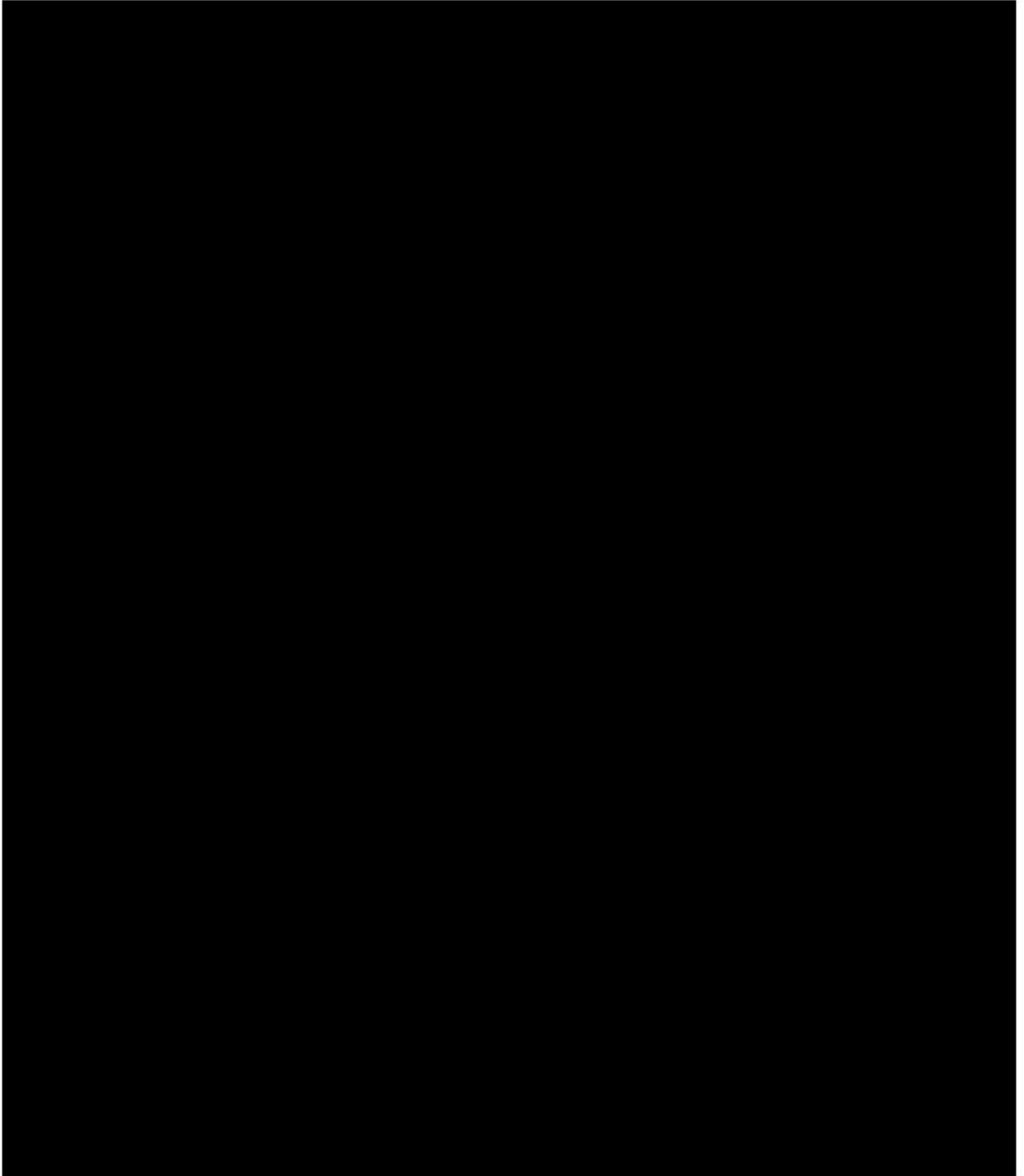
- Temperature probe calibrated annually to -18°C, 0°C, +4°C, +7°C, +37°C and +82°C.
- Stethoscope
- Thermometer (for use on live animals)
- Digital light meter

\_\_\_\_\_

\_\_\_\_\_

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

**ANNEX 9: EXAMPLE OF STATEMENT OF RESOURCE**



**ANNEX 10: FSADOC PERFORMANCE MANAGEMENT FRAMEWORK**

Key Performance Indicators	
Business/Administration	Technical
BA1 – Availability	T1 – Delivery of Official Controls
BA2 – Attendance	T2 – Animal welfare
BA – Supplier management controls	T3 – ABP / SRM controls
	T4 - Hygiene

Activity	Relevant KPI's
Routine DOC in Meat Premises	BA1, BA2, BA3, T1, T2, T3, T4
Unannounced inspections (UAI)	BA1, BA2, BA3, T1, T3, T4
FBO audits	BA1, BA2, BA3, T1, T3, T4
Dairy hygiene inspections (DHI)	BA1, BA2, BA3, T1, T4

**Business KPIs****BA1 – Availability**

Assessment of supplier performance at stage of resource requests including flexibility to change requests such as plant openings and religious festivals. To include all contracted services including UAI, DHI and FBO Audit.

**BA2 – Attendance**

Assessment of supplier performance of resources deployed to requested sites in relation to punctuality and actual attendance.

**BA3 – Supplier management controls**

Assessment of supplier management systems to deliver required level of service such as current and accurate system to match staff competency vs plant complexity and effective information cascade process. This is assessment of supplier corporate management activity at a local level.

## **Technical KPIs**

### **T1 – Delivery of Official Controls**

Assessment of supplier delivery of official Controls in line with legislation, guidance and contract specification. This KPI is broken down into subsections for separate categories:

- Guidance – following MOC instructions.
- Reporting – completion of required reporting i.e. SHVs, Chronos input, Quality of report writing
- Inspection – undertaking all inspection duties as per legislative and MOC requirements.
- Other policies and procedures – i.e. FSA H&S policies; expected code of conduct adherence; accident/incident reporting.

### **T2 – Animal welfare**

Assessment of supplier performance in relation to Animal welfare controls at approved premises. Including relevant communication to relevant stakeholders, incident reporting and enforcement activity.

### **T3 – ABP / SRM controls**

Assessment of supplier performance in relation to supervision and control of ABP and SRM management at approved premises from removal, handling, storage through to disposal and documentation management. Including relevant reporting and enforcement activity.

### **T4 – Hygiene**

Assessment of supplier performance in relation to all Hygiene controls within premises relating to production, maintenance and cleaning compliance. Including relevant reporting and enforcement activity.

*\*For FBO Audits, Unannounced Inspections and Dairy Hygiene Inspections guidances, see Annex 22, 23 and 24. Performance management information for these activities will be supplied quarterly, although if significant performance issues are identified they will be addressed by exception at the earlier contract review meeting.*

### **Pre-meeting preparation**

All documentation to be available for preparation for monthly contract review meetings before the scheduled meeting date and stored on designated Lot MS Teams sites.

This is to include all sources of data/information such as FSA MI dashboard, supplier self-reporting and relevant local management information.

### **Performance Credits**

***Non-Compliant*** – A Performance Credit of 0.25% of the value of the monthly invoice of the supplier for the Lot, in which the non-compliance has occurred, will be applied for every repeated instance of non-compliance in a rolling 3-month period within the same category within the Lot.

***Service Failures*** – A Performance Credit of 0.5% of the value of the monthly invoice of the supplier for the Lot will be applied for every instance of a service failure.

***Capping of Performance Credits*** – Performance Credits raised as result of both non-compliances and service failures, will be limited to 5% of the lot value for relevant quarter.

***Over-performance*** – create incentive for delivery of services exceeding required standard e.g. same day supply of cover staff; incident response with increased hours for enforcement. OM/AM/FVL to identify incidences and record – to be used to offset same category non-compliances and subsequently Performance Credits. (Not used to counter service failures)

## Guidance on assessment of supplier performance

<b>BA1 – Availability</b>			
Compliant	Non-compliant	Service Failure	Examples of areas under assessment or evidence
<p>All resources supplied in line with requests made within agreed notice period. Supplier reacts to:</p> <ul style="list-style-type: none"> <li>• OV service demand changes <b><u>within 30 days</u></b>' notice period</li> <li>• OA service demands <b><u>within 7 days</u></b></li> <li>• and unforeseen/short term OA service demands <b><u>within 2 clear working days.</u></b></li> </ul> <p>Timely and informal discussions on deployment plans have allowed smoother resource allocation by mutual agreement to amend resource planning with insignificant impact or cost.</p>	<p>Resource timescales not met</p> <ul style="list-style-type: none"> <li>• OV service demand changes <b><u>30 - 35 days</u></b>;</li> <li>• Routine rota OA service demands over 7 days</li> <li>• Short notice OA service demands over 2 clear working days with minor impact</li> </ul> <p>Resources unable to be allocated at request stage but resolved through negotiation of amendments to planned BAU work such as UAI, DHI work and/or utilisation of casual FSA staff or NWD staff with</p>	<p>Resource timescales not met</p> <ul style="list-style-type: none"> <li>• OV service demand changes in <b><u>excess of 35 days</u></b>;</li> <li>• OA service demands for routine rota over 7 days;</li> <li>• or OA service demands <b><u>over 2 clear working days</u></b> with significant impact.</li> </ul> <p>Resources unable to be allocated at request stage and/or FSA management required to utilise casual FSA staff or NWD staff with significant increase to FSA costs, FSA reputation or employee safety.</p>	<p>Response by supplier office to resource requests in timely manner and level of collaboration/negotiation to cover all resource requirements. Response to significant service demand requests i.e. new plant opening requests or additional shifts in 30 days. Consider if changes have resulted in costs? E.g. 1: Reschedule of work that is not time critical i.e. UAI or Dairy (manageable?) E.g. 2: Emp OA working on a rest day (significant impact?).</p>

	manageable impact or additional costs.		
<b>BA2 – Attendance</b>			
Compliant	Non-compliant	Service Failure	
All resources attend premises on time. Any delays experienced are out of the control of the supplier e.g. traffic incidents or extreme weather or are isolated and are given immediate management attention to resolve.	Instances of repeated late attendance from same individual within a reporting period. Action taken within local teams to address problem with minimal impact.	Late attendance causing significant impact to FSA team and/or FBO or failure to attend at all.	Punctuality which impacts start times including breaks during operational hours. Reasons for late attendance to be considered i.e. traffic issues v individual time management.
<b>BA3 – Supplier management controls</b>			
Compliant	Non-compliant	Service Failure	
Supplier demonstrates internal processes and controls that support effective and efficient service delivery to contract specification and demonstrate attention to competence and capability.	Supplier controls fail to identify, and support required service delivery resulting in minor impact to FBO and/or FSA e.g. failure to keep system ensuring plant complexity versus individual competence assessment up to date resulting in resource deployment or service delivery issues with minor impact that is manageable.	Supplier controls fail to identify, and support required service delivery resulting in significant impact to FBO and/or FSA e.g. cascade of key messages on change to policy or legislation resulting in significant impact on daily working routines or risk to public health or animal welfare	Individual competence matched to premises complexity with mutually agreed assessment system being available to FSA management on request. Suppliers reactivity to managing or implementing change to policy or procedure. Supplier attention to rectifying timesheet errors with identified individuals. Demonstrating successful change management processes.

	Supplier failing to address repeated timesheet issues with staff.	Deployed resource does not meet plant complexity requirements with significant impact on daily working routines or risk to public health or animal welfare.	Adequate practical work experience.
<b>T1 – Delivery of Official Controls</b>			
<p>Supplier delivers Official Controls to required standard against legislation, guidance and contract specification.</p> <p><b>Isolated issues with negligible impact are identified and/or managed by the supplier.</b></p> <p>This compliance is categorised into the following areas:</p> <ul style="list-style-type: none"> <li>• Guidance</li> <li>• Reporting</li> <li>• Inspection</li> <li>• Other policies/procedures</li> </ul>	<p><b>Guidance</b></p> <p>Supplier fails to follow MOC guidance resulting in minimal impact to the FBO and/or FSA Team and/or public health.</p>	<p><b>Guidance</b></p> <p>Supplier fails to follow MOC guidance resulting in significant impact to the FBO and/or FSA team and/or public health.</p>	Performance in line with MOC instructions for completion of all required duties i.e. inspection, sampling, spinal cord removal, cold inspection, warm meat dispatch.
	<p><b>Reporting</b></p> <p>Required reporting is outside agreed timescales; has missing entries or not to the required standard.</p>	<p><b>Reporting</b></p> <p>Significant issues not reported as required by MOC.</p> <p>Repeated missing entries in reporting systems.</p> <p>Failure to use required on-line reporting systems.</p> <p>Required reporting is outside agreed timescales; has missing entries or not to the required standard by same individual in consecutive months</p>	<p>Chronos input – supplier management checks by 10<sup>th</sup> of each month.</p> <p>Communication of key/significant issues between supplier and FSA.</p> <p>Performance in line with MOC instructions for reporting.</p>

	<b>Inspection</b> Routine inspections not carried out to legislative requirements with minor impacts e.g. kidneys not inspected.	<b>Inspection</b> Routine inspections not carried to legislative requirements with significant impacts e.g. health mark of gross faecal contamination of carcasses or release of SRM within carcasses	Performance in line with MOC instructions for inspection procedures. SHV checks FBO complaints (justified) Field Veterinary Leader/Coordinator reality checks. Remote checks. Audit findings. Other 3 <sup>rd</sup> party findings e.g. USDA, Directorate F.
	<b>Other policies/procedures</b> Supplier fails to follow other FSA policies and/or procedures resulting in minor incident or risk of minor incident that could have an impact on FBO and/or FSA. E.g. use of inappropriate language toward FBO or FSA staff.	<b>Other policies/procedures</b> Supplier fails to follow other FSA policies and/or procedures resulting in significant incident or risk of significant incident that could have a damaging impact on FBO and/or FSA. This could be a repeated and intentional disregard to policies/procedures. E.g. failure to wear PPE.	Health and safety Accident/incident reporting Appropriate and expected conduct and behaviour
<b>T2 – Animal welfare</b>			
Compliant	Non-compliant	Service Failure	
The severity of animal welfare non-compliances are assessed accurately by the supplier or errors with	Case(s) not correctly assessed for the severity of the animal welfare non-compliance (including	Case(s) not correctly assessed for the severity of the animal welfare non-compliance by the supplier	Field Veterinary Leader/Coordinator (& WAT) reality checks; including up to date welfare files, SPOs, CoCs etc.

<p><b>negligible impact for animal welfare</b> are resolved efficiently. All operational activity and enforcement to the required standards</p>	<p>transport and on farm issues) by the supplier but with minimal impact for animal welfare. Operational enforcement activity not escalated appropriately.</p>	<p>resulting in significant impact for animal welfare <u>or</u> animal welfare non-compliances (including transport and on farm issues) that were <u>not</u> identified by the supplier and result in significant impact for animal welfare. Quality/standard of operational activity and enforcement activity results in the inability for further investigation and possible prosecution.</p>	<p>Audit findings. Other 3<sup>rd</sup> party findings e.g. USDA, Directorate F.</p>
<b>T3 – ABP / SRM controls</b>			
Compliant	Non-compliant	Service Failure	
<p>The supplier is identifying FBO non-compliances or errors with <b>negligible impact</b> to public health and/or animal health and these are resolved appropriately and efficiently. All enforcement to the required standards.</p>	<p>The supplier is not identifying FBO non-compliances but with minimal impact to public health and/or animal health. Enforcement activity not escalated appropriately.</p>	<p>The supplier is not identifying FBO non-compliances with significant impact to public health and/or animal health. Quality/standard of enforcement activity results in the inability for further investigation and possible prosecution.</p>	<p>Field Veterinary Leader/Coordinator reality checks. Audit findings. Other 3<sup>rd</sup> party findings e.g. USDA, Directorate F., APHA or LA intelligence.</p>
<b>T4 – Hygiene</b>			

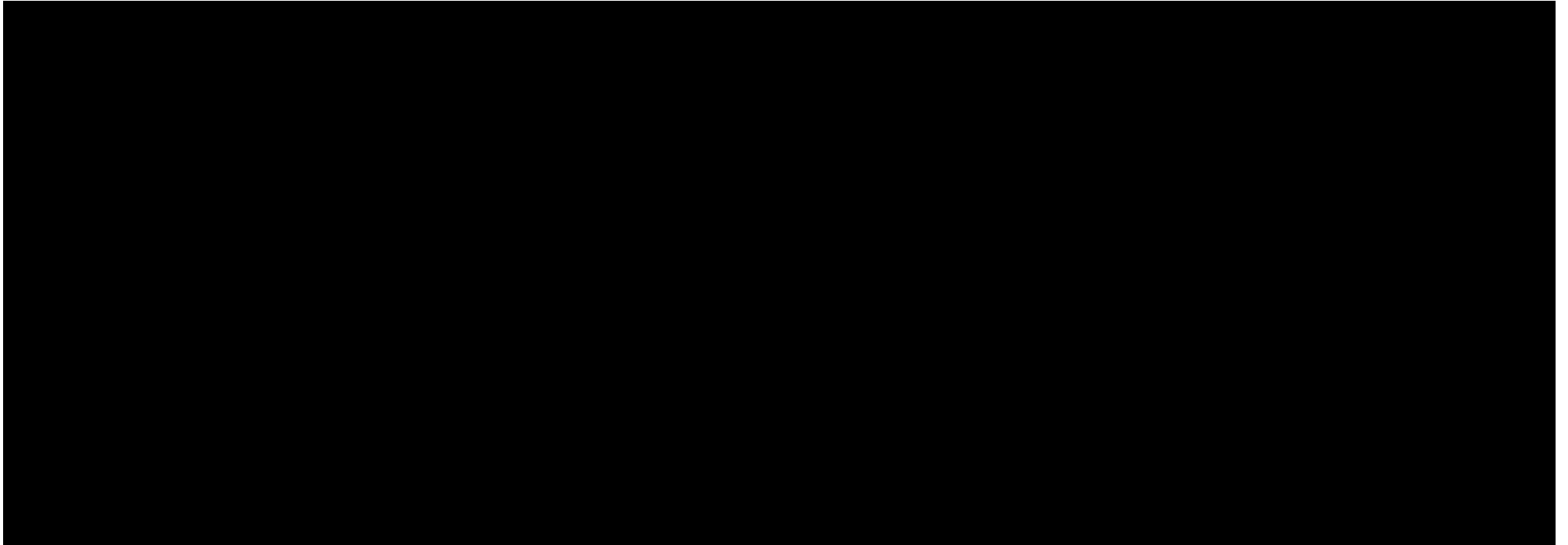
Compliant	Non-compliant	Service Failure	
The supplier is having appropriate impact on the FBO controls and ensuring verification and enforcement activity is being discharged to the required standard. Isolated failure to identify FBO non-compliances with minimal impact to public health and/or animal health are identified and managed by the supplier	Failure to identify repeated or numerous FBO non-compliances with minimal impact to public and/or animal health Enforcement activity not escalated appropriately.	The supplier is not identifying FBO non-compliances with significant impact to public health and/or animal health. Quality/standard of enforcement activity results in the inability for further investigation and possible prosecution.	Field Veterinary Leader/Coordinator reality checks. Audit findings. Other 3 <sup>rd</sup> party findings e.g. USDA, Directorate F. Consider if the OV is assessing risk in relation to public/animal health and taking suitable and proportionate action in a timely and effective way.

## ANNEX 11: FBO COMPENSATION PROFORMA

FOR COMPLETION BY FSA MANAGEMENT					
COMPENSATION CLAIM PRO FORMA FOR NON-ATTENDANCE OF STAFF RESOURCES					
Food Business Operator name:					
Approval number:					
Contact name:					
Telephone:					
Email:					
Date of event:					
Normal start time for day of delay					
Actual start time					
Length of delay					
Category of cost					
Designation of staff (insert additional rows as necessary)	Number of staff	Time claimed per staff member	Total time	Hourly rate £	Total £
Utilities (insert additional rows as necessary)	Monthly cost £	Daily cost (based on working days in month) £	Daily cost £	Length of delay	Total £
Additional costs (insert additional rows as necessary)	Basis of claim				Total £
					Grand total £
Signature:					
Date:					
Please note supporting evidence may be requested					

OFFICIAL

**ANNEX 12: PLANT APPROVAL SUSPENSION PROFORMA**



**ANNEX 13: REQUEST FOR VARIATION**

Variation to Contract Request No:					
Requestor:			Date:		
Contract Title / Project:					
FS/FSA Contract Ref No:					
Framework:					
Supplier:					
Budget Approval					
Amount:					
Authorised By:- <input type="checkbox"/> Cost Centre Manager <input type="checkbox"/> Investment Board					
Date of Approval:					
Full Description of the Variation Request:					
A full justification and impact assessment including any supplementary evidence must be provided. Any supporting information should be appended to this form.					
Area (s) Impacted:-					
Price	Duration	Price & Duration	Scope of work	Key Personnel	Other
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Procurement Use Only</b>					
Check if the existing terms of the contract allow for an extension?					

## ANNEX 14: VARIATION TO CONTRACT FORM



## VARIATION TO CONTRACT FORM

This is to confirm the variation of our Agreement as per **clause 7- Variation to Contract**. All other aspects of the Contract remain unchanged.

Contract title :

Contract Reference : FS

Variation No : (Procurement to insert) Date: Insert Date

Between : The Food Standards Agency (the Authority) and  
**Name** (the Contractor)

1. The Contract is varied as follows:

Please select the reason(s) for the variation:

☐ Price ☐ Duration ☐ Price and Duration ☐ Scope of Work ☐ Key Personnel ☐ Other

**Overview**

Here you should insert full details of the variation, and, if applicable, attach the revised schedule.

2. Words and expressions in this Variation shall be given the meanings given to them in the Contract.

3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

**Signed:**

**For the Authority**

**For the Contractor**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

[Click here to enter a date.](#)

**PROCUREMENT TEAM ONLY**

Update wisdom & e-sourcing portal with variation number, dates & value, add copy of variation, redact & add to Contracts Finder. Science Only:- Update Teams SERD/SEF Master Spreadsheet

Please e-mail this form to [fsa.procurement@food.gov.uk](mailto:fsa.procurement@food.gov.uk) once complete.

## ANNEX 15: SERVICE LEVEL AGREEMENTS WITH OTHER GOVERNMENT DEPARTMENTS

Customer	Title	Brief Description
Defra and Welsh Government	SLA covering animal health and welfare delivery at approved meat premises	<ul style="list-style-type: none"> <li>• BSE Testing of cattle - verification of Food Business Operator (FBO) controls.</li> <li>• TSE Testing of Sheep – sampling and submission of assayable obex and cerebellum.</li> <li>• TSE Testing of Sheep and Goats for the Compulsory Scrapie Flock Scheme (CSFS) - – sampling and submission of assayable obex and cerebellum.</li> <li>• Animal Welfare – verification of FBO controls, reporting, referrals and enforcement.</li> <li>• Broiler Directive – production of trigger reports, weekly data and annual commission reporting.</li> <li>• Animal by Products (not SRM) – verification of FBO controls including reporting and enforcement.</li> <li>• Horse Passport Checks – 100% verification of FBO Horse ID controls including reporting and enforcement.</li> </ul>
Veterinary Medicines Directorate	SLA in respect of the National Surveillance Scheme: Residues in Meat.	Sampling and submission for veterinary residues in meat.
Veterinary Medicines Directorate	SLA in respect of the surveillance of Campylobacter jejuni and E Coli in fattening pigs	Sampling and submission of full caeca for testing for Anti-microbial resistance
British Cattle Movement Service	SLA covering cattle identification requirements at approved meat premises under the cattle identification regulations	Verification of FBO cattle ID controls and 10% checks of passports.

Animal and Plant Health Agency	SLA for notifiable disease surveillance and cleansing and disinfection of livestock vehicles	Identification of notifiable diseases through ante mortem and post mortem inspection. Surveillance for Aujeszky's Disease and Enzootic Bovine Leukosis Verification of the cleansing and disinfection of livestock vehicles including recording of checks and referral of non-compliances to Trading Standards
Animal and Plant Health Agency	SLA for TB sampling and submission in red meat slaughterhouses in England and Wales and DNA Tagging.	Sampling and submission of bTB samples to the lab including recording and enforcement. Sampling and submission of ears of reactor animals for DNA analysis as part of a fraud prevention exercise.

## ANNEX 16: INFORMATION SECURITY MANAGEMENT

Information Security Management Document Set  
[Project/Service and Supplier Name]  
To be completed on Award of Contract

*Author:*

*Owner:*

*Date:*

*Version:*

### – Executive Summary

*<This section should contain a brief summary of the business context of the system, any key IA controls, the assurance work done, any off-shoring considerations and any residual risks that need acceptance by the Authority. This should be completed at the end of the assurance process.>*

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## Change History

Version Number	Date of Change	Change made by	Nature and reason for change

## References, Links and Dependencies

This document is dependent on the supporting information and assurance provided by the following documents.

ID	Document Title	Reference	Date

## – Background

*< A short description of the project/product/system. Describe its purpose, functionality, aim and scope.>*

## – Contractual Arrangements

*< Please provide detail of how the system/product/service has been procured including what contracts (service model, call-off, framework, security schedules) are in place.>*

## – Governance, reporting and accountability

*<Include a list of the lead security roles for the project and the reporting structures/decision making process for the security work.>*

## – Customers

*< Include list of participating departments/organisations if appropriate and known.>*

## – Information Assurance Assessment

### Data/Information

*<Include a list of the type and volumes of data that will be processed, managed and stored within the supplier system. If personal data, please include the fields used such as name, address, department DOB, NI number etc.>*

### Overview of technical architecture

*< In this section, please provide an architectural diagram of the system. A brief explanation of the relevant components should be included.>*

### Logical Data Flow Diagram

*< Include a diagram of the logical data flows. The scope of the assurance assessment should be clearly indicated, with components of the architecture upon which reliance is placed but assurance will not be done clearly shown e.g. a cloud hosting service.>*

### Third Party Suppliers

*< Include a list/table of the Suppliers, what function they perform, what data they store/process and what assurance activities/due diligence activities have been taken place. Also, include evidence of compliance with ISO 27001:2013 or Cyber Essential/Cyber Essential Plus. Please ensure that the service/system or product that you are procuring is included in the scope of certification>*

### Location of data processing, storage, transfer, back-up tapes

*< This section to include third party suppliers>*

### Off Shoring

*< Please provide detail of any off-shoring arrangements/location, including third party suppliers. Please specify what products, systems, data will be off-shored and where. Also include any detail of what assurance and due diligence has taken place.>*

### Risk Management

*< Include a short explanation for what methodology will be used to assess risks to this system/service/product. Have you used a formal methodology or an informal? Please note that advice on risk management can be found via this link:  
<https://www.ncsc.gov.uk/guidance/risk-management-collection>.>*

### Risk Register

*<This section to include a table containing a prioritised risk list which contains the output from the risk assessment and lists technical, personnel, physical and procedural controls that are being implemented to mitigate those risks. An example table is shown below. Any significant residual risks should be agreed with the Authority/Customer and included in the Executive Summary of this document.>*

Risk ID	Risk Description	Vulnerability	Untreated Risk Level	Security Controls	Residual Risk Level
R1	Internet attackers could hack the system.	The service systems are exposed to the internet via the web portal.	High	<ul style="list-style-type: none"> <li>Internet-facing firewalls</li> <li>Internet-facing IP whitelist</li> <li>Protective monitoring</li> <li>Application access control</li> <li>Anti-virus for incoming files</li> <li>Patching</li> </ul>	Low

### Security controls

< Provide a short explanation of the security controls relied upon to treat the risks in the Risk Register.>

### Table of Hardware and Software relevant to the service

<This should be a table which lists the end of support dates for hardware and software products and components. An example table is shown below.>

Name	Version	End of mainstream Support/Extended Support	Notes/RAG Status
Server Host	P XXXX	Feb 2020/ March 2022	

### – Incident Management Process

<The suppliers' process, as agreed with the Authority/Customer, should be included here. It must as a minimum include the protocol for how and when incidents will be reported to the Authority/customer and the process that will be undertaken to mitigate the incidents and investigate the root cause.>

### – Required Changes Register

<The table below shows the headings for the Required Changes Register which should be maintained and used to update the contents of this document at least annually.>

ef	ection	hange	greed With	ate agreed	ocumentation update	tatus
	.4	new Third Party supplier XXXX will be performing the print capability.	uthority name	1/11/2018	ul-2019	pen

## – Personal Data Processing Statement

*<This should include: (i) the types of Personal Data which the Supplier and/or its Sub-contractors are Processing on behalf of the Authority; (ii) the categories of Data Subjects whose Personal Data the Supplier and/or its Sub-contractors are Processing on behalf of the Authority; the nature and purpose of such Processing; (iii) the locations at which the Supplier and/or its Subcontractors Process Authority Data; and, (iv) the Protective Measures that the Supplier and, where applicable, its Subcontractors have implemented to protect the Authority Data against a Security Breach including a Personal Data Breach.>*

### Personal Data Processing Statement:

Description	Details
Subject matter of the processing	
Duration of the processing	
Nature and purposes of the processing	
The type of Personal Data which the Supplier and/or its Sub-contractors are Processing on behalf of the Authority	
Categories of Data Subject whose Personal Data the Supplier and/or its Sub-contractors are Processing on behalf of the Authority	
The locations at which the Supplier and/or its Subcontractors Process Authority Data	

The Protective Measures that the Supplier and/or its Subcontractors have implemented to protect the Authority Data against a Security Breach including a Personal Data Breach.	
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	

- Annex A. ISO 27001:2013 and Cyber Essential Plus certificates
- Annex B. Cloud Security Principles assessment (a spreadsheet may be attached).
- Annex C. Protecting Bulk Data assessment if required by the Authority/Customer (a spreadsheet may be attached).
- Annex E. Latest ITHC report and Vulnerability Correction Plan

## **ANNEX 17: EXIT MANAGEMENT PLAN**

Within three (3) months after the Contract Commencement Date (or such other period agreed by the Parties in writing), the Supplier shall prepare and deliver to the Customer for Approval an exit plan which will include the following:

1. The suppliers proposed methodology for achieving an orderly transition of the services including a timetable. This needs to cover a range of planned exit scenarios including early or partial termination of services, transition to one or more suppliers, insourcing all or some of the services in house.
2. How exit management information will be obtained from the supplier by the customer.
3. The management structure to be employed during both transfer and cessation of the services including contact details.
4. How the services will transfer to the replacement supplier including details of the processes, documentation, data transfer, systems migration, security and segregation of the FSA data from other customer data.
5. Details of the identification and return of customer property in the possession of the supplier.
6. Details of how customer data and documents will be securely disposed of and the assurance to be provided to the customer on completion.
7. Where required, details of contracts (if any), which will be available for transfer to FSA and any associated costs involved in the transfer.
8. Where required, details for the novation of the provision of services, leases, maintenance and support agreements in place with the supplier that are required for the delivery of the required services.
9. Where disaggregation of services is required, details of disaggregation provisions will need to be produced in conjunction with FSA. This will include provision of data that the supplier is using to deliver services day to day

The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

The supplier is also required to prepare an Emergency Exit plan which will be linked to their Business Continuity/Disaster Recover Plan for an unplanned exit (partial or total) by the supplier from the contract and exit plans in response to a termination notice served by FSA.

## **ANNEX 18A: STANDARD AGENDA FOR MONTHLY AREA MANAGEMENT MEETINGS**

Attendees: FSA: AMs / FVLs/FVC/ITL  
Supplier: AVM / ARM  
AM to Chair meetings

Pre-circulated documentation to include as standard:

- ARM/AVM report
- Review of contract management dashboard data
- Previous meeting notes/actions
- Updated action plans
- Any reports to be discussed

### Agenda

1. Review of previous meeting notes including action points and action plans to remedy non-compliances/service failures.
2. ARM/AVM report – presentation and Q&A/discussion. This to be uploaded to Teams site ahead of the meeting.
3. Detailed discussion of NC and SF for both Business and Technical as well as overperformance.
4. Completion of the proforma with robust and fully evidenced NC, SF, and overperformance for discussion at the monthly contract management meeting.

**ANNEX 18B: STANDARD AGENDA FOR MONTHLY CONTRACT MANAGEMENT MEETINGS**

[REDACTED]

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

[REDACTED]

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

**ANNEX 18C: STANDARD AGENDA FOR LOCAL QUARTERLY CONTRACT  
MANAGEMENT MEETINGS**

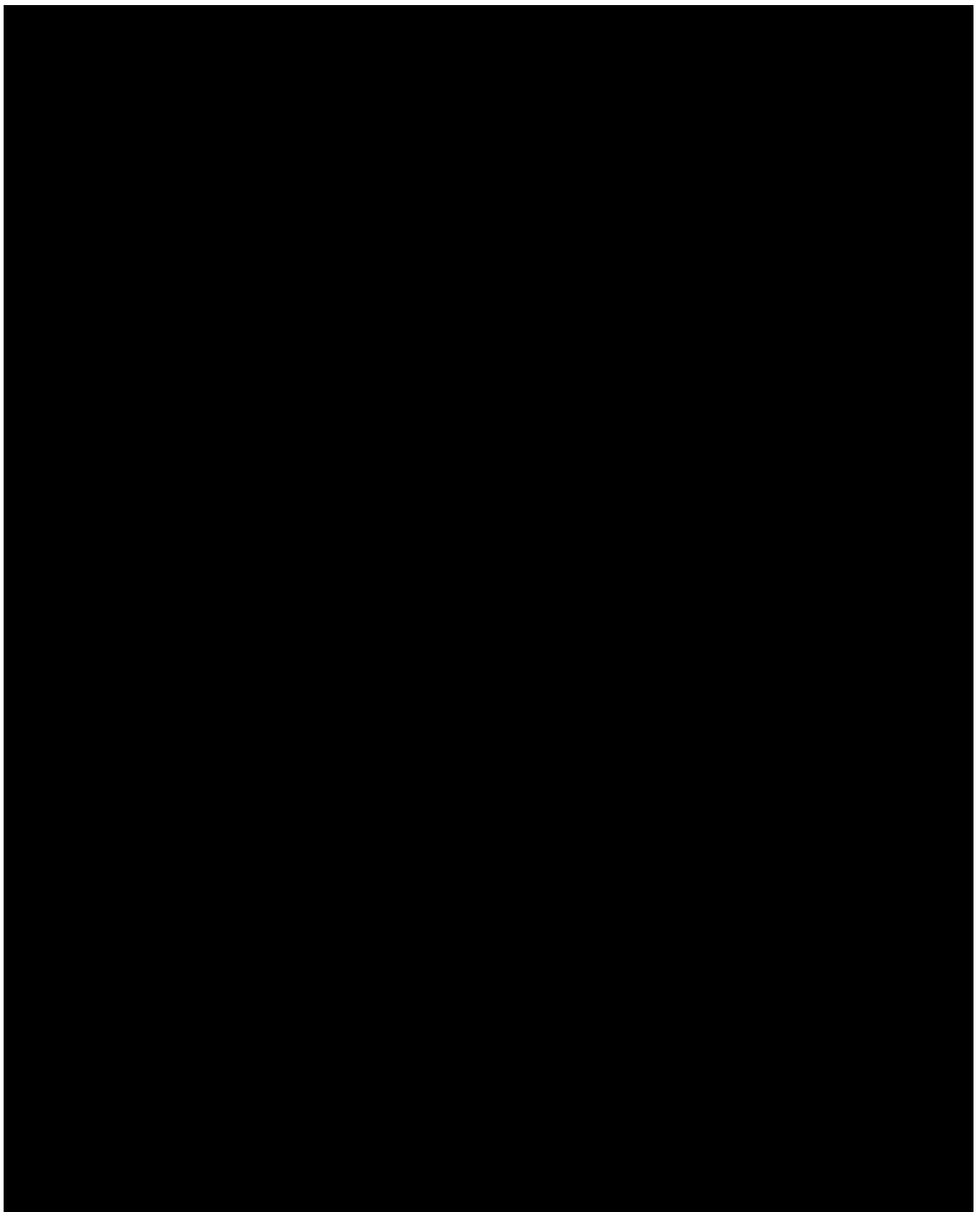
Attendees: FSA – HOD/OM  
Supplier: National Contract Management Team  
HOD to Chair meetings

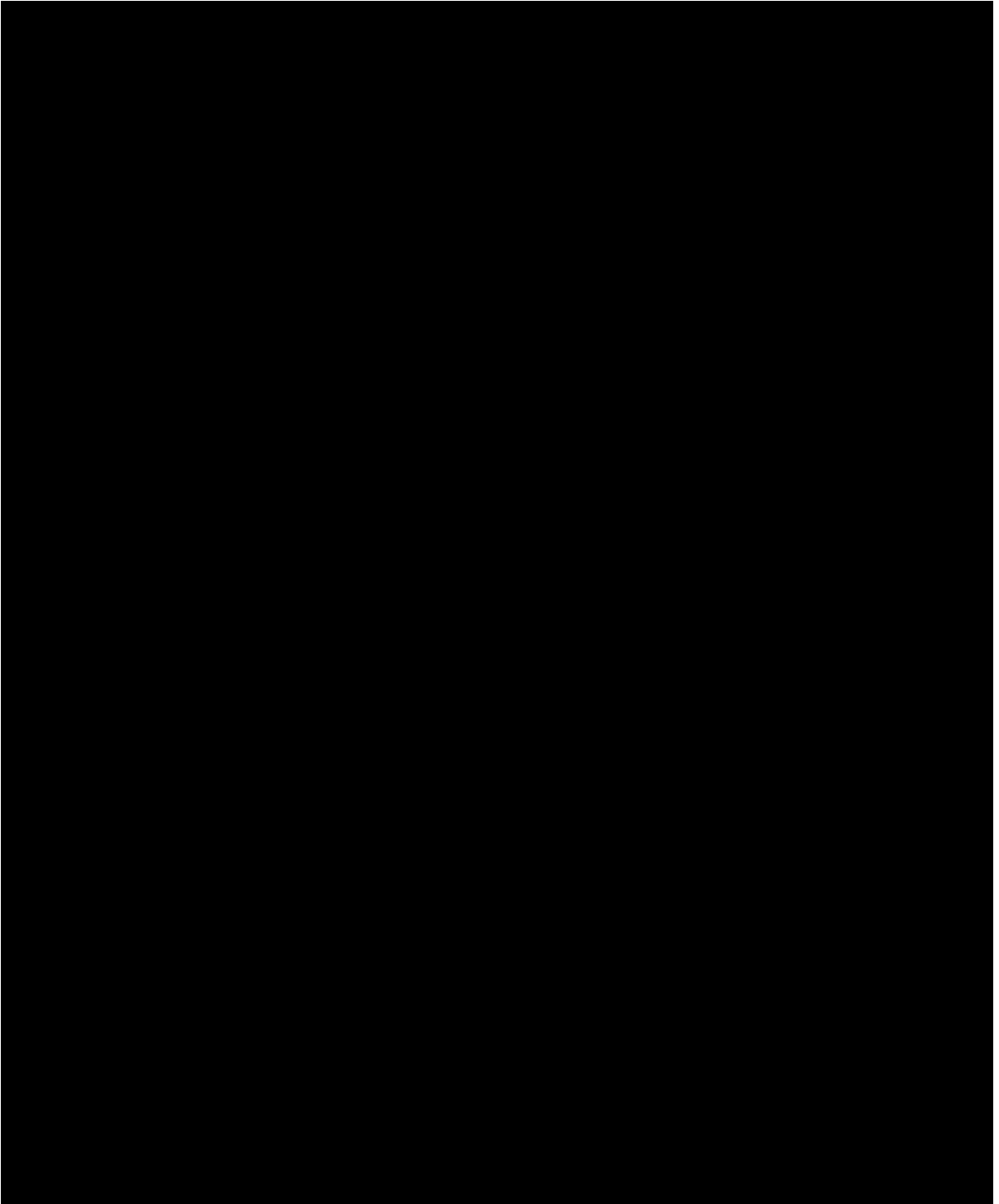
Pre-circulated documentation to include as standard:

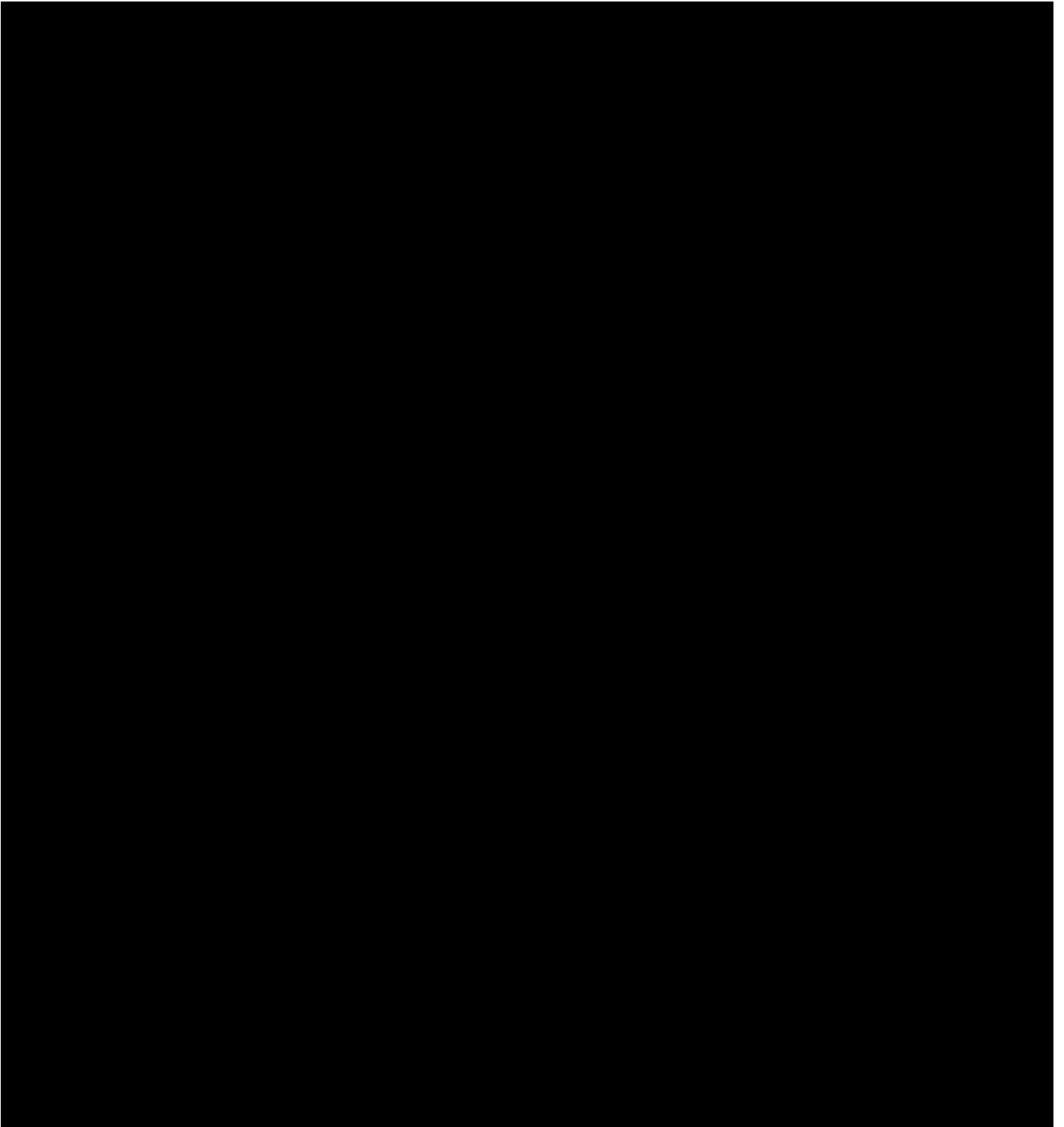
- Previous meeting notes/actions
- Any reports to be discussed

Agenda

1. Forward Planning
  - a. Strategic changes
  - b. Future resource requirement alterations
  - c. Legislative/policy changes
2. Efficiencies and flexibilities discussion – to update and capture. This to include area to acknowledge good performance and effective, collaborative working relationships







**ANNEX 20: TABLE OF ABBREVIATIONS**

<b>Abbreviation</b>	<b>Meaning</b>
ABP	Animal By-Products
AM	Area Manager
AMI	Ante Mortem Inspection
BSE	Bovine Spongiform Encephalopathy
BTB	Bovine Tuberculosis
COA	Contract Official Auxiliary
COC	Certificate of Competence
COV	Contract Official Veterinarian
CPD	Continuous Professional Development
EAP	Employee Assistance Programme
EC	European Commission
EU	European Union
FBO	Food Business Operator
FCI	Food Chain Information
FSA	Food Standards Agency
FVC	Field Veterinary Coordinator
FVL	Field Veterinary Leader
GHE	Game Handling Establishments
HACCP	Hazard Analysis and Critical Control Points
HOD	Head of Operational Delivery
ID	Identification
IT	Information Technology
ITL	Inspection Team Leader
ITT	Invitation to Tender
KPI	Key Performance Indicator
MOC	Manual of Official Controls
OA	Official Auxiliary
OGD	Other Government Departments
OM	Operations Manager
OPOAO	Other Products of Animal Origin
OTM	Over Thirty Months
OV	Official Veterinarian
PMI	Post-mortem Inspection
POV	Probationary Official Veterinarian
PPE	Personal Protective Equipment
RCDM	Raw Cows Drinking Milk
RCVS	Royal College of Veterinary Surgeons
RDOT	Regulatory Delivery & Operational Transformation
RTE	Ready to Eat
SLA	Service Level Agreement
SOR	Statement of Resource

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SRM	Specified Risk Material
TB	Tuberculosis
TCOC	Temporary Certificate of Competence
TOA	Trainee Official Auxiliary
TSE	Transmissible Spongiform Encephalopathies
UAI	Unannounced Inspections/Unannounced Inspector
UK	United Kingdom

**ANNEX 21: LISTS OF ACTS, POLICIES AND GUIDANCE**

<b>Companies Act 2006</b>	<a href="https://www.legislation.gov.uk/ukpga/2006/46/contents">https://www.legislation.gov.uk/ukpga/2006/46/contents</a>
<b>Companies, Financial Services &amp; Banking Acts</b>	<a href="http://www.legislation.gov.uk/ukpga/2006/46/contents">http://www.legislation.gov.uk/ukpga/2006/46/contents</a> <a href="http://www.legislation.gov.uk/ukpga/2012/21/contents/enacted">http://www.legislation.gov.uk/ukpga/2012/21/contents/enacted</a> <a href="http://www.legislation.gov.uk/ukpga/2009/1/pdfs/ukpga_20090001_en.pdf">http://www.legislation.gov.uk/ukpga/2009/1/pdfs/ukpga_20090001_en.pdf</a>
<b>Contracts (Rights of Third Parties) Act 1999</b>	<a href="http://www.legislation.gov.uk/ukpga/1999/31/contents">http://www.legislation.gov.uk/ukpga/1999/31/contents</a>
<b>Data Protection Act 2018</b>	<a href="http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted">http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted</a>
<b>Environmental Information Regulations 2004</b>	<a href="http://www.legislation.gov.uk/uksi/2004/3391/contents/made">http://www.legislation.gov.uk/uksi/2004/3391/contents/made</a>
<b>European and UK Health and Safety Legislation</b>	<a href="https://osha.europa.eu/en/legislation/">https://osha.europa.eu/en/legislation/</a> <a href="https://osha.europa.eu/en/oshnetwork/focal-points/united-kingdom/index_html">https://osha.europa.eu/en/oshnetwork/focal-points/united-kingdom/index_html</a>
<b>Food Hygiene Legislation</b>	<a href="http://ec.europa.eu/food/food/biosafety/hygienelegislation/comm_rules_en.htm">http://ec.europa.eu/food/food/biosafety/hygienelegislation/comm_rules_en.htm</a>
<b>Welfare PATOK WATOK (England) WATOK (WALES)</b>	<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009R1099-20180518&amp;from=EN">https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009R1099-20180518&amp;from=EN</a> <a href="http://www.legislation.gov.uk/uksi/2015/1782/contents/made">http://www.legislation.gov.uk/uksi/2015/1782/contents/made</a> <a href="http://www.legislation.gov.uk/wsi/2014/951/contents/made">http://www.legislation.gov.uk/wsi/2014/951/contents/made</a>
<b>Freedom of Information Act 2000 (FOIA)</b>	<a href="http://www.legislation.gov.uk/ukpga/2000/36/contents">http://www.legislation.gov.uk/ukpga/2000/36/contents</a>
<b>FSA Compliance External Webpage</b>	<a href="http://www.food.gov.uk">http://www.food.gov.uk</a>
<b>FSA Diversity Policy Objectives</b>	<a href="https://www.food.gov.uk/about-us/equality-and-diversity">https://www.food.gov.uk/about-us/equality-and-diversity</a>
<b>Health and Safety at Work Act 1974</b>	<a href="http://www.legislation.gov.uk/ukpga/1974/37/contents">http://www.legislation.gov.uk/ukpga/1974/37/contents</a>
<b>Income Tax Act 2007</b>	<a href="https://www.legislation.gov.uk/ukpga/2007/3/contents">https://www.legislation.gov.uk/ukpga/2007/3/contents</a>
<b>Corporation Tax Act 2010</b>	<a href="https://www.legislation.gov.uk/ukpga/2010/4/contents">https://www.legislation.gov.uk/ukpga/2010/4/contents</a>
<b>Insolvency Act 2000</b>	<a href="https://www.legislation.gov.uk/ukpga/2000/39/contents">https://www.legislation.gov.uk/ukpga/2000/39/contents</a>
<b>Late Payment of Commercial Debts (Interest) Act 1998</b>	<a href="http://www.legislation.gov.uk/ukpga/1998/20/contents">http://www.legislation.gov.uk/ukpga/1998/20/contents</a>
<b>Meat Industry Guide to Food Safety (MIG)</b>	<a href="https://www.food.gov.uk/business-guidance/meat-industry-guide">https://www.food.gov.uk/business-guidance/meat-industry-guide</a>

<b>Mental Health Act 1983</b>	<a href="http://www.legislation.gov.uk/ukpga/1983/20/contents">http://www.legislation.gov.uk/ukpga/1983/20/contents</a>
<b>Manual for Official Controls (MOC)</b>	<a href="https://www.food.gov.uk/business-guidance/manual-for-official-controls">https://www.food.gov.uk/business-guidance/manual-for-official-controls</a>
<b>National Audit Act 1983</b>	<a href="http://www.legislation.gov.uk/ukpga/1983/44/contents">http://www.legislation.gov.uk/ukpga/1983/44/contents</a>
<b>Official Secrets Acts 1911-1989</b>	<a href="http://www.legislation.gov.uk/ukpga/Geo5/1-2/28/contents">http://www.legislation.gov.uk/ukpga/Geo5/1-2/28/contents</a>
<b>Official Secrets Act 1989</b>	<a href="https://www.legislation.gov.uk/ukpga/1989/6/contents">https://www.legislation.gov.uk/ukpga/1989/6/contents</a>
<b>Prevention of Corruption Acts 1889 - 1916</b>	<a href="http://www.legislation.gov.uk/all?title=Prevention%20of%20Corruption">http://www.legislation.gov.uk/all?title=Prevention%20of%20Corruption</a>
<b>Equality Act 2010</b>	<a href="https://www.legislation.gov.uk/ukpga/2010/15/contents">https://www.legislation.gov.uk/ukpga/2010/15/contents</a>
<b>Information Commissioner Office Guidance</b>	<a href="https://ico.org.uk/for-organisations/">https://ico.org.uk/for-organisations/</a>
<b>TUPE</b>	<a href="http://www.legislation.gov.uk/uksi/2006/246/contents/made">http://www.legislation.gov.uk/uksi/2006/246/contents/made</a> <a href="http://www.legislation.gov.uk/uksi/2014/16/contents/made">http://www.legislation.gov.uk/uksi/2014/16/contents/made</a>
<b>Value Added Tax (VAT)</b>	Means value added in accordance with the provisions of the Value Added Tax Act 1974 <a href="http://www.legislation.gov.uk/ukpga/1994/23/contents">http://www.legislation.gov.uk/ukpga/1994/23/contents</a>
<b>Working Time Regulations</b>	<a href="http://www.legislation.gov.uk/all?title=Working%20Time%20Regulations">http://www.legislation.gov.uk/all?title=Working%20Time%20Regulations</a>
<b>Consumer Rights Act 2015</b>	<a href="http://www.legislation.gov.uk/ukpga/2015/15/contents/enacted">http://www.legislation.gov.uk/ukpga/2015/15/contents/enacted</a>
<b>CCS Open Book Contract Management Guidance</b>	<a href="https://www.gov.uk/government/publications/procurement-policy-note-0516-open-book-contact-management">https://www.gov.uk/government/publications/procurement-policy-note-0516-open-book-contact-management</a>
<b>Public Contracts Regulations 2015</b>	<a href="http://www.legislation.gov.uk/uksi/2015/102/contents/made">http://www.legislation.gov.uk/uksi/2015/102/contents/made</a>

In this Annex, references to legislation should be read as references to the legislation as amended, or as substituted by any legislation which repeals and replaces or revokes and replaces it.

## ANNEX 22: SERVICE LEVEL REQUIREMENT FOR FBO AUDITS

### Scheduling of FBO Audit work

Advanced scheduling of FBO Audit work will be made by the FSA Audit Veterinary Leaders (AVLs) each month in each of the lots. At least 14 days' notice will be provided before the month the audit is due. Notification will be completed via MS Teams or distributed to [REDACTED]

*\*There might be occasions throughout the year where the number of scheduled audits per month might be unbalanced due to changes in FBO Audit frequencies*

### Timecoding

Chargeable audit activities include:

- Audit Preparation time (completed off site)
- Audit Visit (to the site)
- Audit Report write up time (usually completed off site)
- Related enforcement activity

These activities should be recorded under the activity code IAUD and occasional use of GAUD (full details can be found in eTimesheet User Guide – Veterinary Auditors additional guidances). If in doubt clearance should be sought from the AVL.

Travel time is not chargeable by supplier.

The timesheet to be completed as promptly as possible at the end of the audit write up. Delays in completion of timesheets mean delays including the time on the monthly invoices to the FBO. This in turn results in delays in receiving Revenue into the Agency.

Additional guidances can be found in eTimesheet User Guide – Veterinary Auditors additional guidances. This document to be used in conjunction with the eTimesheet User Guide - Coding Guidance and the eTimesheet User Guide – System Guidance where instructions for how to access and check timesheet can be found.

All documents are available on the FSA intranet, or from the Finance revenue accounting team at [REDACTED].

### **Assessment Criteria under Contract Management Performance Management Framework**

Performance management information will be supplied quarterly, although if significant performance issues are identified they will be addressed by exception at the earlier contract review meeting.

The frequency and the process of collating the information will be aligned with the FVC reality checks.

- The AVL will checks 3 audits per quarter and provide feedback to the supplier
- The AVL does not tell the auditors which reports they will be checking
- FSA Verification form will be used to record the checks to allow the data to be collated centrally and analysed using PowerBI
- All auditors have at least one report checked during the year

*\*New auditors will be required to shadow and be shadowed by experienced FSA auditors and feedback will be provided*

The performance will be measured under the following criteria:

1. **Timeliness of carrying out FBO audits** - Supplier completes all full and partial audits to the risk-based frequency determined by the current audit system.
2. **Timely reporting on outcome of FBO audits** - Supplier reports of outcome of FBO audits within 10 working days. The Audit reports will be entered using the K2 online system.
3. **Audit Quality** – Supplier ensures the quality of the reports under the following categories:
  - 3.1. Acceptable standard of spelling/grammar
  - 3.2. Detail of the non-compliance that is sufficient to justify its categorisation
  - 3.3. Non-compliance summary reflects what is identified in the audit report
  - 3.4. Correct use of the Link facility for non-compliances
  - 3.5. Closure of Non-Compliances that have been resolved during the audited period

The performance will be scored under the following guidance:

<b>Compliant</b>	No spelling or grammatical errors or minor spelling /grammatical errors that do not affect the reading of the report Good justification of risk to public health / animal welfare Non-compliance (NC) description accurately reflects the deficiencies Correct use of Link facility for the same deficiency Clear justification for closure of the NC for the period
<b>Non-Compliant</b>	Minor spelling/grammatical errors affecting the reading of the report Weak justification of risk to public health / animal welfare Non-compliance (NC) description does not accurately reflects the deficiencies Incorrect use of Link facility but not resulting in an incorrect number of NCs Non-compliances that are resolved remain open without explanation.
<b>Service Failure</b>	Major spelling/grammatical errors affecting the reading of the report No justification of risk to public health / animal welfare Non-compliance (NC) descriptions are missing Link facility not properly used, resulting in an incorrect number of NCs and/or affecting the Audit Outcome Non-compliances are closed without explanation that the root cause has been addressed
<b>Over Performance</b>	Actions to deliver audits outside of the contractual obligations that assist the FSA in delivering and contributing to the protection of public health, i.e. short notice audits due to audits frequency change

## Supplier Reporting

As part of the monthly reporting, the supplier is to monitor and report on instances where:

- FSA have not adhered to timescales regarding allocation of audits.
- The volume of work being allocated against what has been agreed.
- FSA do not provide feedback on the checked reports.

## ANNEX 23: SERVICE LEVEL REQUIREMENT FOR UNANNOUNCED INSPECTIONS

### Scheduling of the UAI visits

Advance scheduling of UAI work will be made by the FSA UAI Team each quarter with at least 30 days' notice of the first month of the quarter prior to the visit being completed. This will be completed by lot and broken down to months in each quarter. Notification will be completed via MS Teams channels or distributed to [REDACTED]

*\* Smithfield Market UAI scheduling will be completed on monthly basis*

### Timecoding

Chargeable audit activities include:

- UAI Preparation time (completed off site)
- UAI Visit (to the site)
- UAI Report write up time (usually completed off site)
- Related enforcement activity

These activities should be recorded under the NUAI activity code.

However, should enforcement action become necessary during the course of the inspection, then it should be coded to INSP for all activities (to include preparation, visit and report writing time)

The UAI preparation time, UAI visit time and UAI Report input time should be split in the timesheet comments box.

Travel time is not chargeable by supplier.

The timesheet to be completed as promptly as possible at the end of the UAI write up, delays in completion of timesheets mean delays including the time on the monthly invoices to the FBO. This in turn results in delays in receiving Revenue into the Agency.

Additional guidances can be found in eTimesheet User Guide - Coding Guidance and the eTimesheet User Guide – System Guidance where instructions for how to access and check timesheet can be found.

All documents are available on the FSA intranet, or from the Finance revenue accounting team at [REDACTED].

## Assessment Criteria under Contract Management Performance Management Framework

Performance management information will be supplied quarterly, although if significant performance issues are identified they will be addressed by exception at the earlier contract review meeting.

The frequency and the process of collating the information will be aligned with the FVC reality checks.

- The Lead UAI/FVC will check 3 UAI reports per quarter and provide feedback to the supplier
- The FVC/ Lead UA Inspector does not tell the UA Inspectors which reports they will be checking
- FSA Verification form will be used to record their checks to allow the data to be collated centrally and analysed using PowerBI
- All UA Inspectors have at least one report checked during the year
- All UA Inspectors will have accompanied assessment visit by LUAI/FVC twice per year

The performance will be measured under the following criteria:

1. **Attendance** - Supplier carrying out all UAI scheduled visits within the set timeframe
2. **Submission of UAI report/letters and update of Chronos** - Supplier submit UAI reports/letters and update Chronos within 5 working days of the UAI visit. The UAI reports will be entered using the K2 online system
3. **Quality of UAI Report** - Supplier ensures the quality of the reports under the following categories
  - 3.1. Acceptable standard of spelling/grammar
  - 3.2. Deficiencies raised as appropriate during the UAI visit and necessary Corrective Actions taken accordingly
  - 3.3. Chronos updated accurately and as necessary
  - 3.4. Completion of written advices/formal notices/internal communication forms/etc as appropriate

The performance will be scored under the following guidance:

<b>Compliant</b>	<p>No spelling or grammatical errors or minor spelling /grammatical errors that do not affect the reading of the report</p> <p>Deficiencies raised are correctly identified and explained, raised under the correct regulation with description of corrective actions by FBO</p> <p>Hierarchy of enforcement is followed and/or target dates for compliance are appropriate for the risk</p> <p>All documentation related to the visit is completed correctly</p>
<b>Non-Compliant</b>	<p>Minor spelling/grammatical errors affecting the reading of the report</p> <p>Hierarchy of enforcement is followed and/or target dates for compliance are inadequate for the risk with minor impact to the FBO and/or FSA and/or public health</p> <p>Deficiencies raised are not correctly identified and explained or not raised not using the most specific regulation, description of corrective actions required by FBO or errors in document completion have a minor impact that is manageable and is given immediate management attention to resolve</p>
<b>Service Failure</b>	<p>Major spelling/grammatical errors affecting the reading of the report</p> <p>Hierarchy of enforcement is not followed and/or target dates for compliance are inadequate for the risk resulting in significant impact to the FBO and/or FSA and/or public health</p> <p>Deficiencies raised are not correctly identified and explained or not raised not using the most specific regulation, description of corrective actions required by FBO or errors in document completion resulting in significant impact to the FBO and/or FSA and/or public health</p> <p>Repeated instances of non-compliance with a failure of management attention to resolve</p>
<b>Over Performance</b>	<p>Actions to deliver inspections outside of the contractual obligations that assist the FSA in delivering and contributing to the protection of public health, i.e. short notice inspections during incident investigations</p>

## Supplier Reporting

As part of the monthly reporting, the supplier is to monitor and report on instances where:

- FSA have not adhered to timescales regarding allocation of UAI visits.
- The volume of work being allocated against what has been agreed.
- FSA do not provide feedback on the checked reports.

## **ANNEX 24: SERVICE LEVEL REQUIREMENT FOR DAIRY INSPECTIONS**

### **Scheduling of the Dairy Inspections**

Advance scheduling of Dairy Inspections will be made by the FSA Dairy Ops Team each quarter with at least 30 days' notice on the first month of the quarter prior to the dairy inspection being completed.

The scheduling of dairy inspections will be completed per lot, broken down to months in each quarter. Notification will be completed via MS Teams channels or distributed to

[REDACTED]

### **Report Input**

The Dairy Inspections reports will be entered into the Dairy App reporting system.

Any Non-Compliances recorded that require enforcement action will have to have the enforcement letters typed and submitted to Dairy Ops on the same day as the inspection was completed.

### **Timecoding**

Chargeable Dairy Inspection activities include:

- Dairy Hygiene Inspection visit
- Dairy Inspection Report completion (completed on the day)
- Related enforcement activities

These activities should be recorded under the activity code GDHI and GDHA.

Travel time is not chargeable by supplier.

The timesheet to be completed as promptly as possible at the end of each week.

Additional guidances can be found in eTimesheet User Guide - Coding Guidance (p.15) and the eTimesheet User Guide – System Guidance where instructions for how to access and check timesheet can be found.

All documents are available on the FSA intranet, or from the Finance revenue accounting team at [REDACTED]

## Assessment Criteria under Contract Management Performance Management Framework

Performance management information will be supplied quarterly, although if significant performance issues are identified they will be addressed by exception at the earlier contract review meeting.

The frequency and the process of collating the information will be aligned with the FVC reality checks.

- The Dairy Lead will check 3 dairy inspections per quarter and provide feedback to the supplier
- The Dairy Lead does not tell the Dairy Inspectors which reports they will be checking
- FSA Verification form will be used to record their checks to allow the data to be collated centrally and analysed using PowerBI
- All Dairy Inspectors have at least one report checked during the year
- All Dairy Inspectors will have accompanied assessment visit twice per year

The performance will be measured under the following criteria:

4. **Timeliness of inspection** – Supplier carries out all allocated visits within the set timeframe
5. **Timeliness of Enforcement** - Supplier ensures all non-compliances requiring Enforcement actions are recorded and all admin associated with them is completed by the end of the same day that the visit took place
6. **Report accuracy** - Supplier ensures that all inspection visits reports are completed accurately, including any enforcement actions completed taken
  - 6.1. Acceptable standard of spelling/grammar
  - 6.2. Non-compliances raised during the dairy inspection
  - 6.3. Completion of enforcement

The performance will be scored under the following guidance:

<b>Compliant</b>	<p>No spelling or grammatical errors or minor spelling /grammatical errors that do not affect the reading of the report</p> <p>Non-compliances raised were correctly identified and explained</p> <p>All non-compliances raised match with the correct fault code and Regulation</p> <p>Hierarchy of enforcement is followed and target dates agreed are in accordance to the risk</p>
<b>Non-Compliant</b>	<p>Minor spelling/grammatical errors affecting the reading of the report</p> <p>1 non-compliance raised was incorrectly identified or not explained</p> <p>1 non-compliance raised doesn't match with the most specific fault code and Regulation</p> <p>Hierarchy of enforcement is not followed and target dates are inadequate for the risk</p> <p>Errors in document completion have a minor impact that is manageable and is given immediate management attention to resolve</p>
<b>Service Failure</b>	<p>Major spelling/grammatical errors affecting the reading of the report</p> <p>2 or more non-compliances were incorrectly identified or not explained</p> <p>2 or more non-compliances raised don't match with the most specific fault code and Regulation</p> <p>Hierarchy of enforcement is not followed and target dates for 2 or more non-compliances are inadequate for the risk</p> <p>Hierarchy of enforcement is not followed and target dates for compliance are inadequate for the risk resulting in significant impact to the FBO and/or FSA and/or public health</p> <p>Repeated instances of non-compliance with a failure of management attention to resolve</p>
<b>Over Performance</b>	<p>Actions to deliver inspections outside of the contractual obligations that assist the FSA in delivering and contributing to the protection of public health, i.e. short notice inspections during incident investigations, completed to high standards</p>

## Supplier Reporting

As part of the monthly reporting, the supplier is to monitor and report on instances where:

- FSA have not adhered to timescales regarding allocation of dairy inspections.
- The volume of work being allocated against what has been agreed.
- FSA do not provide feedback on the checked reports.

## **ANNEX 25: SERVICE LEVEL REQUIREMENTS: OV TIME SPENT ON THIRD COUNTRY EXPORT RELATED ACTIVITIES**

### **Time spent in activities related to the verification of compliance with Third Country Exports specific requirements.**

- **HLVI code** must be used by Employed OVs and Contract OVs working in FSA approved premises, only for the time spent in activities related to the verification of compliance with Third Country Export specific requirements, the completion of the Internal Movement documents and the completion of the relevant paperwork ( i.e. OV checks forms).
- The use of HLVI code must be regulated on every plant by the specific statement of resources agreed by FSA, SDP and FBO.
- The time related to the **certification process** (Completion of the export certificates and relevant checks to complete the certificate) must not be included as HLVI code but charged separately as per current APHA procedures (Agreement between certification officer/ company and the FBO.)

### **Assessment Criteria under Contract Management Performance Management Framework**

Performance will be assessed during the Third Country Audits as per 'OV performance' section in the Third Country Audit Report.

The Export Veterinary Auditor will inform the FVC and FVL of any issues found in relation to the OV performance on Third Country Export activities and these will be addressed through the normal channels of reporting. This means that performance management information will be supplied quarterly, although if significant performance issues are identified they will be addressed by exception at the earlier contract review meeting.