



Home Office



Supply & Maintenance of Mobile Freight X-Ray Scanners

OFFICIAL

Award Form

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

1.	Buyer	The Secretary of State for the Home Department acting through Border Force (the Buyer). Its offices are on: 2 Marsham Street, London, SW1P 4DF
2.	Supplier	Name: Rapiscan Systems Limited Address: [REDACTED] Registration number: [REDACTED] SID4GOV ID: [REDACTED]
3.	Contract	This Contract between the Buyer and the Supplier is for the supply of Deliverables. This opportunity is advertised in the Contract Notice in Find A Tender, reference 2023/S 000-000449 (FTS Contract Notice).
4.	Contract reference	[REDACTED] – Provision of Supply and Maintenance of Mobile Freight X-Ray Scanners
5.	Deliverables	The Supply and Maintenance of Mobile Freight X-Ray Scanners, which includes four (4) years supply and a further ten (10) years of maintenance provision. See Schedule 2 (Specification) for further details. See Award Form Appendix 1 (Order Form) for the Order Form Template and Award Form Appendix 2 (Order Form Procedure), which details the procedure to be followed for ordering Deliverables.
6.	Buyer Cause	Any material breach of the obligations of the Buyer or any other default, act, omission, negligence, or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Contract and in respect of which the Buyer is liable to the Supplier.
7.	Collaborative working principles	The Collaborative Working Principles do not apply to this Contract.

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8.	Financial Transparency Objectives	The Financial Transparency Objectives apply to this Contract. See Clause 6.3 of the Core Terms for further details.
9.	Start Date	Date of Contract Countersignature.
10.	Expiry Date	For purchase of Goods – four (4) years after the Start Date. For maintenance and service - delivery date of final deliverable plus ten (10) years
11.	Extension Period	Not applicable
12.	Ending the Contract without a reason	The Buyer shall be able to terminate the Contract in accordance with Clause 14.3
13.	Incorporated Terms (together these documents form the " the Contract ")	<p>The following documents are incorporated into the Contract. Where numbers are missing, we are not using these Schedules. If the documents conflict, the following order of precedence applies:</p> <ul style="list-style-type: none"> a) This Award Form b) Any Special Terms (see Section 14 (Special Terms) in this Award Form) c) Schedule 31 (Buyer Specific Terms) d) Core Terms e) Award Form – Appendix 1 (Order Form) and Appendix 2 (Order Form Procedure) f) Schedule 36 (Intellectual Property Rights) g) Schedule 1 (Definitions) h) Schedule 6 (Transparency Reports) i) Schedule 20 (Processing Data) j) The following Schedules (in equal order of precedence): <ul style="list-style-type: none"> a. Schedule 2 (Specification) b. Schedule 3 (Charges) c. Schedule 5 (Commercially Sensitive Information) d. Schedule 7 (Staff Transfer) e. Schedule 8 (Implementation Plan & Testing) f. Schedule 9 (Installation Works) g. Schedule 10 (Service Levels) h. Schedule 11 (Continuous Improvement)

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		<ul style="list-style-type: none"> i. Schedule 13 (Contract Management) j. Schedule 14 (Business Continuity and Disaster Recovery) k. Schedule 15 (Minimum Standards of Reliability) l. Schedule 16 (Security) m. Schedule 18 (Supply Chain Visibility) n. Schedule 19 (Cyber Essentials Scheme) o. Schedule 21 (Variation Form) p. Schedule 22 (Insurance Requirements) q. Schedule 23 (Guarantee) r. Schedule 24 (Financial Distress) s. Schedule 25 (Rectification Plan) t. Schedule 26 (Sustainability) u. Schedule 27 (Key Subcontractors) v. Schedule 28 (ICT Services) w. Schedule 29 (Key Supplier Staff) x. Schedule 30 (Exit Management) y. Schedule 32 (Background Checks) z. Schedule 38 (Social Value) <p>k) Schedule 4 (Tender), unless any part of the Tender offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that aspect of the Tender will take precedence over the documents above.</p>
14.	Special Terms	<p>Special Term 1 – Non-exclusivity</p> <p>1.1 The Supplier acknowledges that:</p> <p>(a) the Buyer is not obliged to purchase any Goods or Services from the Supplier under this Contract;</p> <p>(b) the Buyer makes no representation as to the number, type, or value of Goods or Services, that it may purchase, from the Supplier under this Contract; and</p> <p>(c) the Supplier cannot prevent the Buyer from purchasing from any third party any Good or Services, that are the same or similar to the Goods or Services referred to in this Contract.</p>

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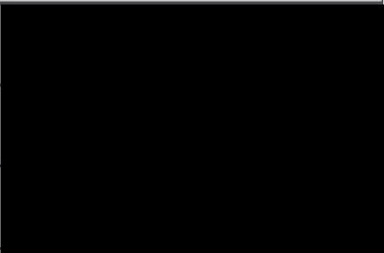
15.	Sustainability	The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, that it will comply with Schedule 26 (Sustainability).
16.	Buyer's Environmental Policy	Available online at: https://www.gov.uk/government/publications/25-year-environment-plan
17.	Social Value Commitment	The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, to deliver the Social Value outcomes in Schedule 4 (Tender) and report on the Social Value KPIs as required by Schedule 10 (Service Levels).
18.	Buyer's Security Policy	The Supplier must ensure that the Security Management Plan fully complies with the Buyer's Security Policy as set out in Schedule 2 (Specification) and Schedule 16 (Security). https://www.ncsc.gov.uk/collection/caf/caf-principles-and-guidance
19.	Commercially Sensitive Information	Supplier's Commercially Sensitive Information: Schedule 5 (Commercially Sensitive Information)
20.	Charges	Details in Schedule 3 (Charges)
21.	Reimbursable expenses	None
22.	Ordering & Payment method	<p>All invoices must be sent, quoting a valid purchase order number (PO Number) to:</p> <p>Home Office Shared Service Centre, HO Box 5015, Newport, Gwent NP20 9BB or by email to: HOSupplierinvoices@homeoffice.gov.uk</p> <p>A Contract Purchase Agreement (CPA) number HAGR[XXXXX] will be established for this Contract.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes the CPA Number, and the details (name and telephone number) of your Buyer contact (i.e., Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.</p> <p>If you have a query regarding an outstanding payment, please contact our Accounts Payable section either by email to; finance-ap-</p>

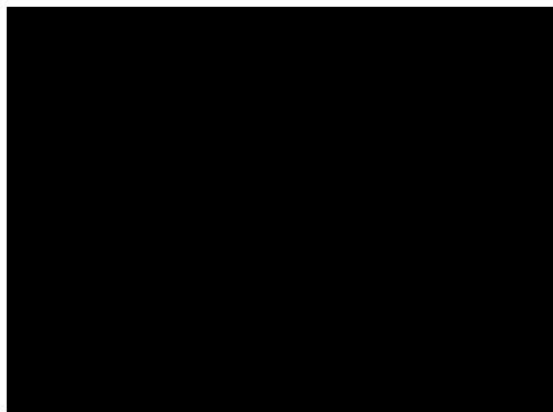
		enquiries@homeoffice.gov.uk or by telephone 0345 010 0122 - Option 1 between 09:00-17:00 Monday to Friday. Further details in Section 9 of Schedule 3 (Charges)
23.	Service Levels	Service Credits will accrue in accordance with Schedule 10 (Service Levels) The Service Credit Cap will be ████████ of the total amount payable in respect of the Capability and ████████ of the Service Charge payable for all other service levels as per the Service Level Performance. The Service Period is ████████ A Critical Service Level Failure is as detailed in Schedule 10 (Service Levels).
24.	Insurance	Details in Annex of Schedule 22 (Insurance Requirements).
25.	Liability	In accordance with Clause 15.1 each Party's total aggregate liability in each Contract Year under the Contract (whether in tort, contract or otherwise) is no more than the greater of ████████ of the Estimated Yearly Charges.
26.	Cyber Essentials Certification	Cyber Essentials Scheme Plus Certificate. Details in Schedule 19 (Cyber Essentials Scheme).
27.	Progress Meetings and Progress Reports	<ul style="list-style-type: none"> The Supplier shall attend Progress Meetings with the Buyer every quarter or as agreed within Schedule 13 Contract Management. The Supplier shall provide the Buyer with Progress Reports every quarter or as agreed within Schedule 6 (Transparency Reports)
28.	Guarantee	Not applicable
29.	Virtual Library	In accordance with Paragraph 2.2. of Schedule 30 (Exit Management) <ul style="list-style-type: none"> the period in which the Supplier must create and maintain the Virtual Library, is as set out in that Paragraph; and the Supplier shall update the Virtual Library every 30 days.
30.	Supplier Contract Manager	██████████ ████████████████████ ████████████████████ ████████████████████

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31.	Supplier Authorised Representative	██████ ██████████████████ ████████████████████ ██████████████
32.	Supplier Compliance Officer	██████████ ████████████████████ ████████████████████ ██████████████
33.	Supplier Data Protection Officer	██████████ ██████████████████ ██████████████████ ██████████████
34.	Supplier Marketing Contact	██████████ ████████████████████ ██████████████████ ██████████████
35.	Key Subcontractors	Key Subcontractor 1 ██████████████████████████████ ██████████████████████████████ ██████████████████████████
36.	Buyer Authorised Representative	██████████ ████████████████████ ██████████████████████████ ██████████████

For and on behalf of the Supplier:		For and on behalf of the Buyer:	
Signature:		Signature:	
Name:		Name:	
Role:		Role:	
Date:	24 th April 2024	Date:	24/04/2024.



Appendix 1

ORDER FORM

Against Award Form Contract Reference ██████ for the Supply and Maintenance of Mobile Freight X-Ray Scanners

FROM

Buyer	
Address	
Invoice Address	
Contact Ref:	Ref: Phone: e-mail:
Order Number	<i>To be quoted on all correspondence relating to this Order:</i>
Order Date	

TO

Supplier	
Supplier's Address	
Contact Ref.	Ref: Phone: e-mail:

(1.1) Goods and/or Services Required:

(1.2) Installation:

(1.4) Charges:

(1.6) Completion Date:

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By signing and returning this Order Form the Supplier agrees to provide to the Buyer the Goods and Services specified in this Order Form incorporating the rights and obligations in the terms and conditions set out in the Contract (entered into by the Supplier and the Buyer in relation to Mobile Freight X-Ray Scanners and Maintenance services advertised under the Find a Tender notice and Contracts Finder Notice 2023/s 000-016122 dated 7 June 2023).

For and on behalf of the Buyer:

Name and Title	
Signature	
Date	

For and on behalf of the Supplier:

Name and Title	
Signature	
Date	

Appendix 2

Order Form Procedure

1. Ordering Process

- a) The Buyer will initiate an order with the Supplier by sending (including electronically) a signed Order Form, as per Award Form Appendix 1 (Order Form).
- b) The Parties agree that any document or communication (including any document or communication in the apparent form of an order) which is not as per Award Form Appendix 1 Order Form shall not constitute an order under this Contract.
- c) On receipt of an Order Form from the Buyer the Supplier shall accept the Order by promptly signing and returning (including by electronic means) a copy of the Order Form to the Buyer.
- d) On receipt of the countersigned Order Form from the Supplier, the Buyer shall send (including by electronic means) a written notice of receipt to the Supplier within two (2) Working Days and the Order shall be formed with effect from the Order commencement date stated in the Order Form.

Core Terms – Mid-Tier

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BACKGROUND

RECITALS:

- (A) As a result of a procurement commenced on 7th June 2023 and run in accordance with the Regulations and Public Service Directive 2014/24/EU, including paragraph 62 of the Preamble to the Directive, the Supplier submitted its offer to provide and maintain certain Goods and Services to the Buyer.
- (B) The Goods and Services are specified in the Contract.
- (C) Subject to the terms and conditions of this Contract, the Buyer has accepted the Suppliers Offer and in doing has appointed the Supplier to provide and maintain the Goods and Services.
- (D) The Core Terms which are part of the Contract are set out below.

1. Definitions used in the contract

- 1.1 Interpret this Contract using Schedule 1 (Definitions).

2. How the contract works

- 2.1 If the Buyer decides to buy Deliverables under the Contract it must state its requirements using the Award Form. If allowed by the Regulations, the Buyer can:
 - 2.1.1 make changes to the Award Form;
 - 2.1.2 create new Schedules;
 - 2.1.3 exclude optional template Schedules; and
 - 2.1.4 use Special Terms in the Award Form to add or change terms.

- 2.2 The Contract:
 - 2.2.1 is between the Supplier and the Buyer; and
 - 2.2.2 includes Core Terms, Schedules and any other changes or items in the completed Award Form.
- 2.3 The Supplier acknowledges it has all the information required to perform its obligations under the Contract before entering into it. When information is provided by the Buyer no warranty of its accuracy is given to the Supplier.
- 2.4 The Supplier acknowledges that, subject to the Allowable Assumptions set out in Annex 2 of Schedule 3 (Charges) (if any), it has satisfied itself of all details relating to:
 - 2.4.1 the Buyer's requirements for the Deliverables;
 - 2.4.2 the Buyer's operating processes and working methods; and
 - 2.4.3 the ownership and fitness for purpose of the Buyer Assets, and it has advised the Buyer in writing of:
 - 2.4.4 each aspect, if any, of the Buyer's requirements for the Deliverables, operating processes and working methods that is not suitable for the provision of the Services;
 - 2.4.5 the actions needed to remedy each such unsuitable aspect; and
 - 2.4.6 a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions, and such actions, timetable and costs are fully reflected in this Contract.
- 2.5 The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
 - 2.5.1 verify the accuracy of the Due Diligence Information; and
 - 2.5.2 properly perform its own adequate checks.
- 2.6 The Buyer will not be liable for errors, omissions or misrepresentation of any information.
- 2.7 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.
- 2.8 The Supplier shall inform the Buyer immediately in writing of any fact, matter or circumstance which would render any statement or document submitted as part of the procurement of Deliverables to no longer be true and accurate.

3. What needs to be delivered

3.1 All deliverables

3.1.1 The Supplier must provide Deliverables:

- a) that comply with the Specification, the Tender Response and the Contract;
- b) using reasonable skill and care;
- c) using Good Industry Practice;
- d) using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract;
- e) on the dates agreed; and
- f) that comply with Law.

3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects or for such other period as specified in the Award Form.

3.1.3 Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to any Buyer Third Party notified to the Supplier by the Buyer from time to time and act at all times in accordance with the following principles:

- a) proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";
- b) being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties;
- c) where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties;
- d) providing reasonable cooperation, support, information and assistance to Buyer Third Parties in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and
- e) identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and performance throughout the relationship lifecycle.

3.2 Goods clauses

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

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

- 3.2.3 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.
- 3.2.4 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.
- 3.2.5 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- 3.2.6 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- 3.2.7 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- 3.2.8 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.9 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.10 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- 3.2.11 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier uses all reasonable endeavours to minimise these costs.
- 3.2.12 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause 3. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.

3.3 **Services clauses**

- 3.3.1 Late Delivery of the Services will be a Default of the Contract.
- 3.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions of the Buyer or third party suppliers.
- 3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services.
- 3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to the Contract.
- 3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.

- 3.3.6 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- 3.3.7 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

4. Pricing and payments

- 4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Award Form.
- 4.2 All Charges:
 - 4.2.1 exclude VAT, which is payable on provision of a valid VAT invoice; and
 - 4.2.2 include all costs connected with the Supply of Deliverables.
- 4.3 The Buyer must pay the Supplier the Charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Award Form.
- 4.4 A Supplier invoice is only valid if it:
 - 4.4.1 includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer; and
 - 4.4.2 includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any).
- 4.5 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.
- 4.6 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this does not happen, the Buyer can publish the details of the late payment or non-payment.
- 4.7 The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do so by a court.

5. The buyer's obligations to the supplier

- 5.1 If Supplier Non-Performance arises from a Buyer Cause:
 - 5.1.1 the Buyer cannot terminate the Contract under Clause 14.4.1;
 - 5.1.2 the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract;
 - 5.1.3 the Supplier is entitled to additional time needed to make the Delivery;
 - 5.1.4 the Supplier cannot suspend the ongoing supply of Deliverables.

- 5.2 Clause 5.1 only applies if the Supplier:
 - 5.2.1 gives notice to the Buyer of the Buyer Cause within 10 Working Days of becoming aware;
 - 5.2.2 demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause; and
 - 5.2.3 mitigated the impact of the Buyer Cause.

6. Record keeping and reporting

- 6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.
- 6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of the Contract during the Contract Period and for 7 years after the End Date and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit.
- 6.3 Where the Award Form states that the Financial Transparency Objectives apply, the Supplier must co-operate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer:
 - 6.3.1 on or before the Start Date;
 - 6.3.2 at the end of each Contract Year; and
 - 6.3.3 within 6 Months of the end of the Contract Period,and the Supplier must meet with the Buyer if requested within 10 Working Days of the Buyer receiving a Financial Report.
- 6.4 If the Supplier becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:
 - 6.4.1 Supplier's currently incurred or forecast future Costs; and
 - 6.4.2 forecast Charges for the remainder of the Contract,then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.
- 6.5 The Supplier must allow any Auditor access to their premises and the Buyer will use reasonable endeavours to ensure that any Auditor:
 - 6.5.1 complies with the Supplier's operating procedures; and
 - 6.5.2 does not unreasonably disrupt the Supplier or its provision of the Deliverables.
- 6.6 During an Audit, the Supplier must provide information to the Auditor and reasonable co-operation at their request including access to:
 - 6.6.1 all information within the permitted scope of the Audit;

- 6.6.2 any Sites, equipment and the Supplier's ICT system used in the performance of the Contract; and
 - 6.6.3 the Supplier Staff.
- 6.7 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a material Default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 6.8 The Supplier must comply with the Buyer's reasonable instructions following an Audit, including:
 - 6.8.1 correcting any identified Default;
 - 6.8.2 rectifying any error identified in a Financial Report; and
 - 6.8.3 repaying any Charges that the Buyer has overpaid.
- 6.9 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
 - 6.9.1 tell the Buyer and give reasons;
 - 6.9.2 propose corrective action; and
 - 6.9.3 provide a deadline for completing the corrective action.
- 6.10 Except where an Audit is imposed on the Buyer by a regulatory body or where the Buyer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Buyer may not conduct an Audit of the Supplier or of the same Key Subcontractor more than twice in any Contract Year.

7. Supplier staff

- 7.1 The Supplier Staff involved in the performance of the Contract must:
 - 7.1.1 be appropriately trained and qualified;
 - 7.1.2 be vetted using Good Industry Practice and the Security Policy; and
 - 7.1.3 comply with all conduct requirements when on the Buyer's Premises.
- 7.2 Where the Buyer decides one of the Supplier's Staff is not suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.
- 7.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach Clauses 31.1 to 31.4.
- 7.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.
- 7.5 The Supplier indemnifies the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

8. Supply chain

8.1 Appointing Subcontractors

- 8.1.1 The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to:
- a) manage Subcontractors in accordance with Good Industry Practice;
 - b) comply with its obligations under this Contract; and
 - c) assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to this Contract to the Buyer or a Replacement Supplier.

8.2 Mandatory provisions in Sub-Contracts

- 8.2.1 The Supplier will ensure that all Sub-Contracts in the Supplier's supply chain entered into after the Effective Date wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract contain provisions that:
- a) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
 - b) require the Supplier to pay all Subcontractors in full, within 30 days of receiving a valid, undisputed invoice; and
 - c) allow the Buyer to publish the details of the late payment or non-payment if this 30-day limit is exceeded.
- 8.2.2 The Supplier will take reasonable endeavours to ensure that all Sub-Contracts in the Supplier's supply chain entered into before the Effective Date but made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract contain provisions that:
- a) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
 - b) require the Supplier to pay all Subcontractors in full, within 30 days of receiving a valid, undisputed invoice; and
 - c) allow the Buyer to publish the details of the late payment or non-payment if this 30-day limit is exceeded.

8.3 When Sub-Contracts can be ended

- 8.3.1 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:
- a) there is a Change of Control of a Subcontractor which isn't pre-approved by the Buyer in writing;

- b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 14.4;
- c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
- d) the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
- e) the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Public Contracts Regulations 2015.

8.4 Competitive terms

- 8.4.1 If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.
- 8.4.2 If the Buyer uses Clause 8.4.1 then the Charges must be reduced by an agreed amount by using the Variation Procedure.

8.5 Ongoing responsibility of the Supplier

- 8.5.1 The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

9. Rights and protection

- 9.1 The Supplier warrants and represents that:
 - 9.1.1 it has full capacity and authority to enter into and to perform the Contract;
 - 9.1.2 the Contract is executed by its authorised representative;
 - 9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;
 - 9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform the Contract;
 - 9.1.5 all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under the Contract and for the Buyer to receive the Deliverables;
 - 9.1.6 it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract;

- 9.1.7 it is not impacted by an Insolvency Event or a Financial Distress Event;
and
- 9.1.8 neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Start Date or been subject to an investigation relating to a Prohibited Act.
- 9.2 The warranties and representations in Clauses 2.7 and 9.1 are repeated each time the Supplier provides Deliverables under the Contract.
- 9.3 The Supplier indemnifies the Buyer against each of the following:
 - 9.3.1 wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract; and
 - 9.3.2 non-payment by the Supplier of any tax or National Insurance.
- 9.4 All claims indemnified under this Contract must use Clause 30.
- 9.5 The Buyer can terminate the Contract for breach of any warranty or indemnity where they are entitled to do so.
- 9.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.
- 9.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

10. Intellectual Property Rights (IPRs)

- 10.1 The Parties agree that the terms set out in Schedule 36 (Intellectual Property Rights) shall apply to this Contract.
- 10.2 If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- 10.3 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
 - 10.3.1 obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or
 - 10.3.2 replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.
- 10.4 If the Buyer requires that the Supplier procures a licence in accordance with Schedule 36 or to modify or replace an item pursuant to Schedule 36, but this

has not avoided or resolved the IPR Claim, then the Buyer may terminate this Contract by written notice with immediate effect.

11. Rectifying issues

- 11.1 If there is a Notifiable Default, the Supplier must notify the Buyer within 3 Working Days of the Supplier becoming aware of the Notifiable Default and the Buyer may request that the Supplier provide a Rectification Plan within 10 Working Days of the Buyer's request alongside any additional documentation that the Buyer requires.
- 11.2 When the Buyer receives a requested Rectification Plan it can either:
 - 11.2.1 reject the Rectification Plan or revised Rectification Plan giving reasons; or
 - 11.2.2 accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.
- 11.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer:
 - 11.3.1 will give reasonable grounds for its decision; and
 - 11.3.2 may request that the Supplier provides a revised Rectification Plan within 5 Working Days.

12. Escalating issues

- 12.1 If the Supplier fails to:
 - 12.1.1 submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 11.1 or 11.3; and
 - 12.1.2 adhere to the timescales set out in an accepted Rectification Plan to resolve the Notifiable Default.

or if the Buyer otherwise rejects a Rectification Plan, the Buyer can require the Supplier to attend an Escalation Meeting on not less than 5 Working Days' notice. The Buyer will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.
- 12.2 The Escalation Meeting(s) will continue until the Buyer is satisfied that the Notifiable Default has been resolved, however, where an Escalation Meeting(s) has continued for more than 5 Working Days, either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.
- 12.3 If the Supplier is in Default of any of its obligations under this Clause 12, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clause 14.5.1 shall apply as if the contract were terminated under Clause 14.4.1.

13. Step-in rights

- 13.1 If a Step-In Trigger Event occurs, the Buyer may give notice to the Supplier that it will be taking action in accordance with this Clause 13.1 and setting out:
 - 13.1.1 whether it will be taking action itself or with the assistance of a third party;
 - 13.1.2 what Required Action the Buyer will take during the Step-In Process;
 - 13.1.3 when the Required Action will begin and how long it will continue for;
 - 13.1.4 whether the Buyer will require access to the Sites; and
 - 13.1.5 what impact the Buyer anticipates that the Required Action will have on the Supplier's obligations to provide the Deliverables.
- 13.2 For as long as the Required Action is taking place:
 - 13.2.1 the Supplier will not have to provide the Deliverables that are the subject of the Required Action;
 - 13.2.2 no Deductions will be applicable in respect of Charges relating to the Deliverables that are the subject of the Required Action; and
 - 13.2.3 the Buyer will pay the Charges to the Supplier after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.
- 13.3 The Buyer will give notice to the Supplier before it ceases to exercise its rights under the Step-In Process and within 20 Working Days of this notice the Supplier will develop a draft Step-Out Plan for the Buyer to approve.
- 13.4 If the Buyer does not approve the draft Step-Out Plan, the Buyer will give reasons and the Supplier will revise the draft Step-Out Plan and re-submit it for approval.
- 13.5 The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Clause 13, provided that the Buyer shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Buyer under:
 - 13.5.1 limbs (f) or (g) of the definition of a Step-In Trigger Event; or
 - 13.5.2 limbs (h) and (i) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Buyer serving a notice under Clause 13.1 is identified as not being the result of the Supplier's Default).

14. Ending the contract

- 14.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if terminated under this Clause 14 or if required by Law.

14.2 The Buyer can extend the Contract for the Extension Period by giving the Supplier written notice before the Contract expires as described in the Award Form.

14.3 Ending the contract without a reason

The Buyer has the right to terminate the Contract at any time without reason or (unless the Award Form states something different) liability by giving the Supplier not less than 90 days' notice (unless a different notice period is set out in the Award Form) and if it's terminated Clauses 14.5.1b) to 14.5.1h) applies.

14.4 When the Buyer can end the Contract

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

- a) there's a Supplier Insolvency Event;
- b) the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance;
- c) there's a Notifiable Default that is not corrected in line with an accepted Rectification Plan;
- d) the Buyer rejects a Rectification Plan or the Supplier does not provide it within 10 days of the request;
- e) there's any material Default of the Contract;
- f) a Default that occurs and then continues to occur on one or more occasions within 6 Months following the Buyer serving a warning notice on the Supplier that it may terminate for persistent breach of the Contract;
- g) there's any material Default of any Joint Controller Agreement relating to the Contract;
- h) there's a Default of Clauses 2.7, 10, 12, 18, 19, 31, 36, Schedule 19 (Cyber Essentials) (where applicable) or Schedule 36 (Intellectual Property Rights) relating to the Contract;
- i) the performance of the Supplier causes a Critical Service Level Failure to occur;
- j) there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);
- k) there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;
- l) the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded;
- m) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them; or
- n) the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables.

14.4.2 The Buyer also has the right to terminate the Contract in accordance with Clauses 9.5 and 24.3, Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) and Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable).

14.4.3 If any of the events in 73 (1) (a) or (b) of the Regulations happen, the Buyer has the right to immediately terminate the Contract and Clauses 14.5.1b) to 14.5.1h) applies.

14.5 What happens if the contract ends

14.5.1 Where the Buyer terminates the Contract under Clauses 14.4.1 and 9.5, Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) or Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable). all of the following apply:

- a) The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.
- b) The Buyer's payment obligations under the terminated Contract stop immediately.
- c) Accumulated rights of the Parties are not affected.
- d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
- e) The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.
- f) The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).
- g) The Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.
- h) The following Clauses survive the termination of the Contract: 3.2.10, 6, 7.2, 10, 15, 18, 19, 20, 21, 22, 39, 40, Schedule 36 (Intellectual Property Rights) and any Clauses and Schedules which are expressly or by implication intended to continue.

14.5.2 If either Party terminates the Contract under Clause 24.3:

- a) each party must cover its own Losses; and
- b) Clauses 14.5.1b) to 14.5.1h) applies.

14.6 When the Supplier can end the contract

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

14.6.2 The Supplier also has the right to terminate the Contract in accordance with Clauses 24.3 and 27.5.

14.6.3 Where the Buyer terminates the Contract under Clause 14.3 or the Supplier terminates the Contract under Clause 14.6.1 or 27.5:

- a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier;
- b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence – the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated; and
- c) Clauses 14.5.1(b)) to 14.5.1(h) apply.

14.7 Partially ending and suspending the contract

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

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

14.7.3 The Parties must agree any necessary Variation required by this Clause 14.7 using the Variation Procedure, but the Supplier may not either:

- a) reject the Variation; or
- b) increase the Charges, except where the right to partial termination is under Clause 14.3.

14.7.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause 14.7.

15. How much you can be held responsible for

15.1 Each Party's total aggregate liability in each Contract Year under the Contract (whether in tort, contract or otherwise) is no more than the greater of £ 10 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form.

15.2 Neither Party is liable to the other for:

15.2.1 any indirect Losses; and

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

15.3 In spite of Clause 15.1, neither Party limits or excludes any of the following:

15.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;

- 15.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and
- 15.3.3 any liability that cannot be excluded or limited by Law.
- 15.4 In spite of Clause 15.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 9.3, 10.2.1, 16.3 or Schedule 7 (Staff Transfer) of the Contract.
- 15.5 In spite of Clause 15.1, but subject to Clauses 15.2 and 15.3, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability Cap.
- 15.6 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- 15.7 When calculating the Supplier's liability under Clause 15.1 the following items will not be taken into consideration:
 - 15.7.1 Deductions; and
 - 15.7.2 any items specified in Clause 15.4.
- 15.8 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

16. Obeying the law

- 16.1 The Supplier shall comply with the provisions of Schedule 26 (Sustainability).
- 16.2 The Supplier shall comply with the provisions of:
 - 16.2.1 the Official Secrets Acts 1911 to 1989; and
 - 16.2.2 section 182 of the Finance Act 1989.
- 16.3 The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law.
- 16.4 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 16.1 and Clauses 31 to 36.

17. Insurance

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

18. Data protection

- 18.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Schedule 20 (Processing Data).
- 18.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.

- 18.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.
- 18.4 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.
- 18.5 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.
- 18.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
 - 18.6.1 tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and
 - 18.6.2 restore the Government Data itself or using a third party.
- 18.7 The Supplier must pay each Party's reasonable costs of complying with Clause 18.6 unless the Buyer is entirely at fault.
- 18.8 The Supplier:
 - 18.8.1 must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request;
 - 18.8.2 must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
 - 18.8.3 must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
 - 18.8.4 securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it; and
 - 18.8.5 indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause 18 or any Data Protection Legislation.

19. What you must keep confidential

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

- 19.2 In spite of Clause 19.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:
- 19.2.1 where disclosure is required by applicable Law, a regulatory body or a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
 - 19.2.2 if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
 - 19.2.3 if the information was given to it by a third party without obligation of confidentiality;
 - 19.2.4 if the information was in the public domain at the time of the disclosure;
 - 19.2.5 if the information was independently developed without access to the Disclosing Party's Confidential Information;
 - 19.2.6 on a confidential basis, to its auditors or for the purpose of regulatory requirements;
 - 19.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and
 - 19.2.8 to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 19.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Buyer at its request.
- 19.4 The Buyer may disclose Confidential Information in any of the following cases:
- 19.4.1 on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
 - 19.4.2 on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
 - 19.4.3 if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
 - 19.4.4 where requested by Parliament; and
 - 19.4.5 under Clauses 4.6 and 20.
- 19.5 For the purposes of Clauses 19.2 to 19.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 19.
- 19.6 Transparency Information and any Information which is exempt from disclosure by Clause 20 is not Confidential Information.

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

20. When you can share information

- 20.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.
- 20.2 In accordance with a reasonable timetable and in any event within 5 Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
- 20.2.1 publish the Transparency Information;
 - 20.2.2 comply with any Freedom of Information Act (FOIA) request; and
 - 20.2.3 comply with any Environmental Information Regulations (EIR) request.
- 20.3 To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a FOIA request and may talk to the Supplier to help it decide whether to publish information under Clause 20.1. However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

21. Invalid parts of the contract

- 21.1 If any part of the Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from the Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.
- 21.2 If any removal under Clause 21.1 is so fundamental that it prevents the purpose of the Contract from being achieved or it materially changes the balance of risk and rewards between the Parties, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to rectify these issues and to amend the Contract accordingly so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Contract and, to the extent that it is reasonably possible, achieves the Parties' original commercial intention.
- 21.3 If the Parties cannot agree on what amendments are required within 5 Working Days, the matter will be dealt with via commercial negotiation as set out in Clause 39.2 and, if there is no resolution within 30 Working Days of the matter being referred, the Contract will terminate automatically and immediately with costs lying where they fall.

22. No other terms apply

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

23. Other people's rights in the Contract

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

24. Circumstances beyond your control

- 24.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both:
 - 24.1.1 provides a Force Majeure Notice to the other Party; and
 - 24.1.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 24.2 Any failure or delay by the Supplier to perform its obligations under this Contract that is due to a failure or delay by an agent, Subcontractor or supplier will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.
- 24.3 Either party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

25. Relationships created by the contract

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

26. Giving up contract rights

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

27. Transferring responsibilities

- 27.1 The Supplier cannot assign, novate or in any other way dispose of the Contract or any part of it without the Buyer's written consent.
- 27.2 Subject to Schedule 27 (Key Subcontractors), the Supplier cannot sub-contract the Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with information about the Subcontractor as it reasonably requests. The decision of the Buyer to consent or not will not be

unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within 10 Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:

- 27.2.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
 - 27.2.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - 27.2.3 the proposed Subcontractor employs unfit persons
- 27.3 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 27.4 When the Buyer uses its rights under Clause 27.3 the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 27.5 The Supplier can terminate the Contract novated under Clause 27.3 to a private sector body that is experiencing an Insolvency Event.
- 27.6 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 27.7 If at any time the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
- 27.7.1 their name;
 - 27.7.2 the scope of their appointment;
 - 27.7.3 the duration of their appointment; and
 - 27.7.4 a copy of the Sub-Contract.

28. Changing the contract

- 28.1 Either Party can request a Variation to the Contract which is only effective if agreed in writing, including where it is set out in the Variation Form, and signed by both Parties.
- 28.2 The Supplier must provide an Impact Assessment either:
- 28.2.1 with the Variation Form, where the Supplier requests the Variation; and
 - 28.2.2 within the time limits included in a Variation Form requested by the Buyer.
- 28.3 If the Variation to the Contract cannot be agreed or resolved by the Parties, the Buyer can either:
- 28.3.1 agree that the Contract continues without the Variation; and
 - 28.3.2 refer the Dispute to be resolved using Clause 39 (Resolving Disputes).

- 28.4 The Buyer is not required to accept a Variation request made by the Supplier.
- 28.5 The Supplier may only reject a Variation requested by the Buyer if the Supplier:
 - 28.5.1 reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person or that it would result in the Deliverables being provided in a way that infringes any Law; or
 - 28.5.2 demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.
- 28.6 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Charges.
- 28.7 If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, the Charges or the Contract and provide evidence:
 - 28.7.1 that the Supplier has kept costs as low as possible, including in Subcontractor costs; and
 - 28.7.2 of how it has affected the Supplier's costs.
- 28.8 Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 28.1 to 28.4.

29. How to communicate about the contract

- 29.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9am on the first Working Day after sending unless an error message is received.
- 29.2 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Award Form.
- 29.3 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

30. Dealing with claims

- 30.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Working Days.
- 30.2 At the Indemnifier's cost the Beneficiary must both:
 - 30.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and

- 30.2.2 give the Indemnifier reasonable assistance with the claim if requested.
- 30.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.
- 30.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.
- 30.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- 30.6 Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.
- 30.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:
 - 30.7.1 the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; and
 - 30.7.2 the amount the Indemnifier paid the Beneficiary for the Claim.

31. Preventing fraud, bribery and corruption

- 31.1 The Supplier must not during the Contract Period:
 - 31.1.1 commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2);
 - 31.1.2 do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.
- 31.2 The Supplier must during the Contract Period:
 - 31.2.1 create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;
 - 31.2.2 keep full records to show it has complied with its obligations under this Clause 31 and give copies to the Buyer on request; and
 - 31.2.3 if required by the Buyer, within 20 Working Days of the Start Date of the Contract, and then annually, certify in writing to the Buyer, that they have complied with this Clause 31, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.

- 31.3 The Supplier must immediately notify the Buyer if it becomes aware of any breach of Clauses 31.1 or has any reason to think that it, or any of the Supplier Staff, have either:
 - 31.3.1 been investigated or prosecuted for an alleged Prohibited Act;
 - 31.3.2 been debarred, suspended, proposed for suspension or debarment, or are otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
 - 31.3.3 received a request or demand for any undue financial or other advantage of any kind related to the Contract; and
 - 31.3.4 suspected that any person or Party directly or indirectly related to the Contract has committed or attempted to commit a Prohibited Act.
- 31.4 If the Supplier notifies the Buyer as required by Clause 31.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- 31.5 If the Supplier is in Default under Clause 31.1 the Buyer may:
 - 31.5.1 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the Default; and
 - 31.5.2 immediately terminate this agreement.
- 31.6 In any notice the Supplier gives under Clause 31.4 it must specify the:
 - 31.6.1 Prohibited Act;
 - 31.6.2 identity of the Party who it thinks has committed the Prohibited Act; and
 - 31.6.3 action it has decided to take.

32. Equality, diversity and human rights

- 32.1 The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:
 - 32.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
 - 32.1.2 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- 32.2 The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

33. Health and safety

- 33.1 The Supplier must perform its obligations meeting the requirements of:
 - 33.1.1 all applicable Law regarding health and safety; and
 - 33.1.2 the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.
- 33.2 The Supplier must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of the Contract.

34. Environment

- 34.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.
- 34.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

35. Tax

- 35.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.
- 35.2 Where the Charges payable under the Contract are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within 5 Working Days including:
 - 35.2.1 the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
 - 35.2.2 other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.
- 35.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Contract, the Supplier must both:
 - 35.3.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and
 - 35.3.2 indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after

the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

- 35.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
- 35.4.1 the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 35.3.1, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
 - 35.4.2 the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
 - 35.4.3 the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 35.3.1 or confirms that the Worker is not complying with those requirements; and
 - 35.4.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

36. Conflict of interest

- 36.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual, potential or perceived Conflict of Interest.
- 36.2 The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.
- 36.3 The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential Conflict of Interest, the Buyer may terminate its Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest.

37. Reporting a breach of the contract

- 37.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of:
 - 37.1.1 Law;
 - 37.1.2 Clause 16.1; and
 - 37.1.3 Clauses 31 to 36.

- 37.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in Clause 37.1 to the Buyer or a Prescribed Person.

38. Further Assurances

Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.

39. Resolving disputes

- 39.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute by commercial negotiation.
- 39.2 If the Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 39.4 to 39.6.
- 39.3 Unless the Buyer refers the Dispute to arbitration using Clause 39.5, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- 39.3.1 determine the Dispute;
 - 39.3.2 grant interim remedies; and
 - 39.3.3 grant any other provisional or protective relief.
- 39.4 The Supplier agrees that the Buyer has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 39.5 The Buyer has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 39.4, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 39.5.
- 39.6 The Supplier cannot suspend the performance of the Contract during any Dispute.

40. Which law applies

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

Schedule 1 (Definitions)

1. Definitions

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

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- 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified.
- 1.3.11 the headings in the Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract; and
- 1.3.12 where the Buyer is a Crown Body it shall be treated as contracting with the Crown as a whole.
- 1.3.13 Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time):
- (i) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
 - (ii) any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.

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

"Achieve"	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " Achieved ", " Achieving " and " Achievement " shall be construed accordingly;
"Additional FDE Group Member"	means any entity (if any) specified as an Additional FDE Group Member in Part A of Annex 3 of Schedule 24 (Financial Difficulties);
"Affected Party"	the party seeking to claim relief in respect of a Force Majeure Event;

Schedule 1 (Definitions)

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"Affiliates"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
"Allowable Assumptions"	means the assumptions (if any) set out in Annex 2 of Schedule 3 (Charges);
"Annex"	extra information which supports a Schedule;
"Approval"	the prior written consent of the Buyer and "Approve" and "Approved" shall be construed accordingly;
"Associates"	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
"Audit"	<p>the Buyer's right to:</p> <ul style="list-style-type: none"> (a) verify the integrity and content of any Financial Report; (b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with the Contract); (c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services; (d) verify the Open Book Data; (e) verify the Supplier's and each Subcontractor's compliance with the applicable Law; (f) identify or investigate actual or suspected breach of Clauses 3 to 37 and/or Schedule 26 (Sustainability), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations; (g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables; (h) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;

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	<ul style="list-style-type: none"> (i) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract; (j) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts; (k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;
"Auditor"	<ul style="list-style-type: none"> (a) the Buyer's internal and external auditors; (b) the Buyer's statutory or regulatory auditors; (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; (d) HM Treasury or the Cabinet Office; (e) any party formally appointed by the Buyer to carry out audit or similar review functions; and (f) successors or assigns of any of the above;
"Award Form"	the document outlining the Incorporated Terms and crucial information required for the Contract, to be executed by the Supplier and the Buyer;
"Beneficiary"	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
"Buyer"	the public sector purchaser identified as such in the Order Form;
"Buyer Assets"	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;
"Buyer Authorised Representative"	the representative appointed by the Buyer from time to time in relation to the Contract initially identified in the Award Form;
"Buyer Cause"	has the meaning given to it in the Award Form;
"Buyer Data"	means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are

Schedule 1 (Definitions)

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	<p>embodied in any electronic, magnetic, optical or tangible media, including any Buyer's or End User's Confidential Information, and which:</p> <ul style="list-style-type: none"> (a) are supplied to the Supplier by or on behalf of the Buyer, or End User; or (b) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or (c) any Personal Data for which the Buyer or End User is the Controller;
"Buyer Existing IPR"	means any and all IPR that are owned by or licensed to the Buyer, and where the Buyer is a Central Government Body, any Crown IPR, and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise)
"Buyer Premises"	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
"Buyer Third Party"	means any supplier to the Buyer (other than the Supplier), which is notified to the Supplier from time to time;
"Buyer's Confidential Information"	<ul style="list-style-type: none"> (a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR); (b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with the Contract; and <p>information derived from any of the above;</p>
"Capability"	the overall functionality provided by a Sensor System for scanning and Host Vehicle for moving the Sensor System;
"Central Government Body"	<p>a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none"> (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);

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	(c) Non-Ministerial Department; or (d) Executive Agency;
"Change in Law"	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
"Change of Control"	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
"Charges"	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under the Contract less any Deductions;
"Claim"	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
"Commercially Sensitive Information"	the Confidential Information listed in the Award Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;
"Comparable Supply"	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
"Compliance Officer"	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
"Confidential Information"	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;
"Conflict of Interest"	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer;
"Contract"	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;

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"Contracts Finder"	the Government's publishing portal for public sector procurement opportunities and contract data;
"Contract Period"	the term of the Contract from the earlier of the: (a) Start Date; or (b) the Effective Date (c) until the End Date;
"Contract Value"	the higher of the actual or expected total Charges paid or payable under the Contract where all obligations are met by the Supplier;
"Contract Year"	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
"Control"	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and "Controlled" shall be construed accordingly;
"Controller"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Core Terms"	the Buyer's terms and conditions which apply to and comprise one part of the Contract set out in the document called "Core Terms";
"Costs"	the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables: (a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: (i) base salary paid to the Supplier Staff; (ii) employer's National Insurance contributions; (iii) pension contributions; (iv) car allowances; (v) any other contractual employment benefits; (vi) staff training; (vii) work place accommodation; (viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and

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	<p>(ix) reasonable recruitment costs, as agreed with the Buyer;</p> <p>(b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;</p> <p>(c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and</p> <p>(d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables;</p> <p>but excluding:</p> <p>(e) Overhead;</p> <p>(f) financing or similar costs;</p> <p>(g) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise;</p> <p>(h) taxation;</p> <p>(i) fines and penalties;</p> <p>(j) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and</p> <p>(k) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</p>
"Critical Service Level Failure"	has the meaning given to it in the Award Form;
"Crown Body"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

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"Crown IPR"	means any IPR which is owned by or licensed to the Crown, and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
"CRTPA"	the Contract Rights of Third Parties Act 1999;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
"Data Protection Legislation"	(i) the UK GDPR, (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; and (iv) (to the extent that it applies) the EU GDPR;
"Data Protection Liability Cap"	has the meaning given to it in the Award Form;
"Data Protection Officer"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Data Subject"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Data Subject Access Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Deductions"	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under the Contract;
"Default"	any breach of the obligations of the Supplier (including abandonment of the Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of the Contract and in respect of which the Supplier is liable to the Buyer;
"Delay Payments"	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
"Deliverables"	Goods and/or Services that may be ordered under the Contract including the Documentation;

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"Delivery"	delivery of the relevant Deliverable or Milestone in accordance with the terms of the Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. "Deliver" and "Delivered" shall be construed accordingly;
"Dependent Parent Undertaking"	means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;
"Disaster"	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Award Form (for the purposes of this definition the "Disaster Period");
"Disclosing Party"	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 19 (What you must keep confidential);
"Dispute"	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
"Dispute Resolution Procedure"	the dispute resolution procedure set out in Clause 39 (Resolving disputes);
"Documentation"	descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under the Contract as:

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	<p>(a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</p> <p>(b) is required by the Supplier in order to provide the Deliverables; and/or</p> <p>(c) has been or shall be generated for the purpose of providing the Deliverables;</p>
"DOTAS"	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
"DPA 2018"	The Data Protection Act 2018
"Due Diligence Information"	any information supplied to the Supplier by or on behalf of the Buyer prior to the Start Date;
"Effective Date"	the date on which the final Party has signed the Contract;
"EIR"	the Environmental Information Regulations 2004;
"Employment Regulations"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;
"End Date"	<p>the earlier of:</p> <p>(a) the Expiry Date as extended by the Buyer under Clause 14.2; or</p> <p>(b) if the Contract is terminated before the date specified in (a) above, the date of termination of the Contract;</p>
"End User"	means a party that is accessing the Deliverables provided pursuant to this Contract (including the Buyer where it is accessing services on its own account as a user);
"Environmental Policy"	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;

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"Equality and Human Rights Commission"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Escalation Meeting"	means a meeting between the Supplier Authorised Representative and the Buyer Authorised Representative to address issues that have arisen during the Rectification Plan Process;
"Estimated Year 1 Charges"	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;
"Estimated Yearly Charges"	means for the purposes of calculating each Party's annual liability under Clause 15.1: (a) in the first Contract Year, the Estimated Year 1 Charges; or (b) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or (c) after the end of the Contract, the Charges paid or payable in the last Contract Year during the Contract Period;
"EU"	European Union
"EU GDPR"	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
"Existing IPR"	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
"Exit Plan"	has the meaning given to it in Paragraph 4.1 of Schedule 30 (Exit Plan);
"Expiry Date"	the date of the end of the Contract as stated in the Award Form;
"Extension Period"	such period or periods beyond which the Initial Period may be extended, specified in the Award Form;
"FDE Group"	the Supplier and any Additional FDE Group Member;
"Financial Distress Event"	The occurrence of one or more the following events: (a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency;

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	<ul style="list-style-type: none"> (b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects; (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity; (d) any FDE Group entity commits a material breach of covenant to its lenders; (e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute; (f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than 9 months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate; (g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate; (h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors; (i) any of the following: <ul style="list-style-type: none"> (i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern; (ii) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m; (iii) non-payment by any FDE Group entity of any financial indebtedness;
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	<p>(iv) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default;</p> <p>(v) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or</p> <p>(vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity, in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Deliverables in accordance with the Contract; or</p> <p>(j) any of the Financial Indicators set out in Annex 4 of Schedule 24 for any of the FDE Group entities failing to meet the required Financial Target Threshold.</p>
"Financial Report"	<p>a report provided by the Supplier to the Buyer that:</p> <p>(a) to the extent permitted by Law, provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;</p> <p>(b) to the extent permitted by Law, provides detail a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);</p> <p>(c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Start Date for the purposes of this Contract; and</p> <p>(d) is certified by the Supplier's Chief Financial Officer or Director of Finance;</p>
"Financial Transparency Objectives"	<p>means:</p> <p>(a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier;</p> <p>(b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;</p>

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	<ul style="list-style-type: none"> (c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges; (d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services; (e) the Parties challenging each other with ideas for efficiency and improvements; and (f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;
"FOIA"	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure Event"	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"> (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract; (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; (c) acts of a Crown Body, local government or regulatory bodies; (d) fire, flood or any disaster; or (e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ul style="list-style-type: none"> (i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; (ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and (iii) any failure of delay caused by a lack of funds,

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	and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;
"Force Majeure Notice"	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"General Anti-Abuse Rule"	(a) the legislation in Part 5 of the Finance Act 2013 and; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;
"General Change in Law"	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
"Goods"	goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
"Good Industry Practice"	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
"Government"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Government Data"	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which: (a) are supplied to the Supplier by or on behalf of the Buyer; or (b) the Supplier is required to generate, process, store or transmit pursuant to the Contract;
"Government Procurement Card"	the Government's preferred method of purchasing and payment for low value goods or services https://www.gov.uk/government/publications/government-procurement-card--2 ;

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"Guarantor"	the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others;
"HMRC"	Her Majesty's Revenue and Customs;
"ICT Policy"	the Buyer's policy in respect of information and communications technology, referred to in the Award Form, which is in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	<p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <ul style="list-style-type: none"> (a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract; (b) details of the cost of implementing the proposed Variation; (c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party; (d) a timetable for the implementation, together with any proposals for the testing of the Variation; and (e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;
"Implementation Plan"	the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
"Incorporated Terms"	the contractual terms applicable to the Contract specified in the Award Form;
"Indemnifier"	a Party from whom an indemnity is sought under this Contract;
"Independent Controller"	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;

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"Indexation"	the adjustment of an amount or sum in accordance with the Award Form;
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
"Initial Period"	the initial term of the Contract specified in the Award Form;
"Insolvency Event"	<p>with respect to any person, means:</p> <ul style="list-style-type: none"> (a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or: <ul style="list-style-type: none"> (i) (being a company or an LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986; (b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, an LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person; (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person; (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days;

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	<p>(e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;</p> <p>(f) where that person is a company, an LLP or a partnership:</p> <p>(i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;</p> <p>(iii) (being a company or an LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or</p> <p>(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or</p> <p>(a) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;</p>
"Installation Works"	all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with the Contract;
"Intellectual Property Rights" or "IPR"	(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;

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	<p>(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>(c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
"Invoicing Address"	the address to which the Supplier shall Invoice the Buyer as specified in the Award Form;
"IP Completion Day"	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
"IPR Claim"	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under the Contract;
"IR35"	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: https://www.gov.uk/guidance/ir35-find-out-if-it-applies ;
"Joint Controller Agreement"	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (Processing Data);
"Joint Control"	where two or more Controllers jointly determine the purposes and means of Processing;
"Joint Controllers"	where two or more Controllers jointly determine the purposes and means of Processing;
"Key Staff"	the persons who the Supplier shall appoint to fill key roles in connection with the Services as listed in Annex 1 of Schedule 29 (Key Supplier Staff);
"Key Sub-Contract"	each Sub-Contract with a Key Subcontractor;
"Key Subcontractor"	<p>any Subcontractor:</p> <p>(a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or</p>

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	<p>(b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</p> <p>(c) with a Sub-Contract with the Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Contract,</p> <p>and the Supplier shall list all such Key Subcontractors in section 29 of the Award Form;</p>
"Know-How"	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the Start Date;
"Law"	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
"Law Enforcement Processing"	processing under Part 3 of the DPA 2018;
"Losses"	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" shall be interpreted accordingly;
"Main Sites"	Border Force sites based on priority. Refer to Reactive Maintenance Site Boundary Map at Annex C to Schedule 2 (Specification);
"Marketing Contact"	shall be the person identified in the Award Form;
"Milestone"	an event or task described in the Implementation Plan;
"Milestone Date"	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;

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"Month"	a calendar month and "Monthly" shall be interpreted accordingly;
"National Insurance"	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
"New IPR"	<p>(a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Contract and updates and amendments of these items including database schema; and/or</p> <p>(b) IPR in or arising as a result of the performance of the Supplier's obligations under the Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR. Unless otherwise agreed in writing, any New IPR should be recorded in Schedule 36 and updated regularly;</p>
"New IPR Item"	means a deliverable, document, product or other item within which New IPR subsists;
Non-Serious Operational Failures"	a failure meaning when the Capability remains safe to operate and the performance is not affected;
"Notifiable Default"	<p>means:</p> <p>(a) the Supplier commits a material Default; and/or</p> <p>(b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;</p>
"Occasion of Tax Non – Compliance"	<p>where:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>(i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p> <p>(ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS</p>

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	<p>or any equivalent or similar regime in any jurisdiction; and/or</p> <p>(b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;</p>
"Open Book Data"	<p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Contract, including details and all assumptions relating to:</p> <p>(a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;</p> <p>(b) operating expenditure relating to the provision of the Deliverables including an analysis showing:</p> <p>(i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;</p> <p>(ii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade;</p> <p>(iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and</p> <p>(iv) Reimbursable Expenses, if allowed under the Award Form;</p> <p>(c) Overheads;</p> <p>(d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;</p> <p>(e) the Supplier Profit achieved over the Contract Period and on an annual basis;</p> <p>(f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;</p> <p>(g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the</p>

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	<p>amount of money attributed to each risk and/or contingency; and</p> <p>(h) the actual Costs profile for each Service Period;</p>
"Open Licence"	<p>means any material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open licence including Open Government Licence as set out at http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ and the Open Standards Principles documented at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles;</p>
"Open Licence Publication Material"	<p>means items created pursuant to the Contract which the Buyer may wish to publish as Open Licence which are supplied in a format suitable for publication under Open Licence;</p>
"Order"	<p>means an order for the provision of the Deliverables placed by a Buyer with the Supplier under an Order Form;</p>
"Order Form"	<p>means a completed Order Form Template;</p>
"Order Form Template"	<p>means the template in Award Form Appendix 1 (Order Form);</p>
"Other Sites"	<p>Border Force sites based on priority. Refer to Reactive Maintenance Site Boundary Map at Annex C to Schedule 2 (Specification);</p>
"Overhead"	<p>those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";</p>
"Parent Undertaking"	<p>has the meaning set out in section 1162 of the Companies Act 2006;</p>
"Parliament"	<p>takes its natural meaning as interpreted by Law;</p>
"Party"	<p>the Buyer or the Supplier and "Parties" shall mean both of them where the context permits;</p>
"Personal Data"	<p>has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;</p>

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"Personal Data Breach"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
Planned Maintenance	means planned schedule maintenance in line with Schedule 2 - Specification, Section 16.
"Prescribed Person"	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies ;
"Processing"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processor"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processor Personnel"	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under the Contract;
"Progress Meeting"	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
"Progress Report"	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
"Prohibited Acts"	<ul style="list-style-type: none"> (a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to: <ul style="list-style-type: none"> (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract; or (c) committing any offence: <ul style="list-style-type: none"> (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or

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	<ul style="list-style-type: none"> (ii) under legislation or common law concerning fraudulent acts; or (iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;
"Protective Measures"	<p>technical and organisational measures which must take account of:</p> <ul style="list-style-type: none"> (a) the nature of the data to be protected (b) harm that might result from Data Loss Event; (c) state of technological development (d) the cost of implementing any measures <p>including 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 such measures adopted by it;</p>
"Public Sector Body "	means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;
Reactive Maintenance	means reactive maintenance in line with Schedule 2 - Specification, Section 17.
"Recall"	a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;
"Recipient Party"	the Party which receives or obtains directly or indirectly Confidential Information;
"Rectification Plan"	<p>the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan) which shall include:</p> <ul style="list-style-type: none"> (a) full details of the Notifiable Default that has occurred, including a root cause analysis; (b) the actual or anticipated effect of the Notifiable Default; and (c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps

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	and for the rectification of the Notifiable Default (where applicable);
"Rectification Plan Process"	the process set out in Clause 11;
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
"Reimbursable Expenses"	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none"> (a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and (b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
"Relevant Requirements"	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
"Reminder Notice"	a notice sent in accordance with Clause 14.6.1 given by the Supplier to the Buyer providing notification that payment has not been received on time;
"Replacement Deliverables"	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;
"Replacement Supplier"	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;

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"Request For Information"	a request for information or an apparent request relating to the Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
"Required Action"	means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
"Required Insurances"	the insurances required by Schedule 22 (Insurance Requirements);
"Satisfaction Certificate"	the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;
"Schedules"	any attachment to the Contract which contains important information specific to each aspect of buying and selling;
"Security Management Plan"	the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable);
"Security Policy"	the Buyer's security policy, referred to in the Award Form, in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
"Serious Fraud Office"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Serious Operational Failure"	a failure meaning when the Capability cannot be operated due to technical failure and/or health and safety failures/issues;
"Service Charge"	the charge to cover maintenance of the Capability, for ten years from purchase, inclusive of planned and reactive maintenance visits including but not limited to, labour, travel, repair, parts and consumables, shown at Annex 1 of Schedule 3 (Charges);
"Service Credits"	any service credits specified in the Annex to Part A of Schedule 10 (Service Levels) being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
"Service Levels"	any service levels applicable to the provision of the Deliverables under the Contract (which, where Schedule 10 (Service Levels) is

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	used in this Contract, are specified in the Annex to Part A of such Schedule);
"Service Period"	has the meaning given to it in the Award Form;
"Services"	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
"Sites"	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none"> (a) the Deliverables are (or are to be) provided; or (b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; (c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided)
"SME"	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
"Social Value"	the additional social benefits that can be achieved in the delivery of the Contract set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used)
"Social Value KPIs"	the Social Value priorities set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used)
"Social Value Report"	the report the Supplier is required to provide to the Buyer pursuant to Paragraph 1 of Part C of Schedule 26 (Sustainability) where Schedule 10 (Service Levels) is not used
"Special Terms"	any additional terms and conditions set out in the Award Form incorporated into the Contract;
"Special IPR Terms"	any additional terms and conditions relating to IPR set out in the Award Form incorporated into the Contract;

Schedule 1 (Definitions)

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"Specific Change in Law"	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
"Specification"	the specification set out in Schedule 2 (Specification), as may, in relation to the Contract, be supplemented by the Award Form;
"Standards"	any: <ul style="list-style-type: none"> (a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; (b) standards detailed in the specification in Schedule 2 (Specification); (c) standards detailed by the Buyer in the Award Form or agreed between the Parties from time to time; (d) relevant Government codes of practice and guidance applicable from time to time;
"Start Date"	the date specified on the Award Form;
"Step-In Process"	the process set out in Clause 13;
"Step-In Trigger Event"	means: <ul style="list-style-type: none"> (a) the Supplier's level of performance constituting a Critical Service Level Failure; (b) the Supplier committing a material Default which is irremediable; (c) where a right of termination is expressly reserved in this Contract; (d) an Insolvency Event occurring in respect of the Supplier or any Guarantor required under the Award Form; (e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them;

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	<p>(f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement;</p> <p>(g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary;</p> <p>(h) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Deliverables; and/or</p> <p>(i) a need by the Buyer to take action to discharge a statutory duty;</p>
"Step-Out Plan"	means the Supplier's plan that sets out how the Supplier will resume the provision of the Deliverables and perform all its obligations under the Contract following the completion of the Step-In Process;
"Storage Media"	the part of any device that is capable of storing and retrieving data;
"Sub-Contract"	<p>any contract or agreement (or proposed contract or agreement), other than the Contract, pursuant to which a third party:</p> <p>(a) provides the Deliverables (or any part of them);</p> <p>(b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</p> <p>(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</p>
"Subcontractor"	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
"Subprocessor"	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
"Subsidiary Undertaking"	has the meaning set out in section 1162 of the Companies Act 2006;
"Supplier"	the person, firm or company identified in the Award Form;
"Supplier Assets"	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Contract but excluding the Buyer Assets;

Schedule 1 (Definitions)

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"Supplier Authorised Representative"	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;
"Supplier Equipment"	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
"Supplier Existing IPR"	any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise)
"Supplier Existing IPR Licence"	means a licence to be offered by the Supplier to the Supplier Existing IPR as set out in Para 1.3 of Schedule 36.
"Supplier Group"	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
"Supplier Non-Performance"	where the Supplier has failed to: (a) Achieve a Milestone by its Milestone Date; (b) provide the Goods and/or Services in accordance with the Service Levels ; and/or (c) comply with an obligation under the Contract;
"Supplier Profit"	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of the Contract for the relevant period;
"Supplier Profit Margin"	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under the Contract;
"Supplier's Confidential Information"	(a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier;

Schedule 1 (Definitions)

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	<p>(b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with the Contract;</p> <p>Information derived from any of (a) and (b) above;</p>
"Supplier's Contract Manager"	the person identified in the Award Form appointed by the Supplier to oversee the operation of the Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
"Supply Chain Information Report Template"	the document at Annex 1 of Schedule 18 (Supply Chain Visibility);
"Supporting Documentation"	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Contract detailed in the information are properly payable;
"Tender Response"	the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);
"Termination Assistance"	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	has the meaning given to it in Paragraph 5.1 of Schedule 30 (Exit Management);
"Termination Notice"	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate the Contract on a specified date and setting out the grounds for termination;
"Test Issue"	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in the Contract;
"Test Plan"	<p>a plan:</p> <p>(a) for the Testing of the Deliverables; and</p> <p>(b) setting out other agreed criteria related to the achievement of Milestones;</p>

Schedule 1 (Definitions)

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"Tests and Testing"	any tests required to be carried out pursuant to the Contract as set out in the Test Plan or elsewhere in the Contract and "Tested" shall be construed accordingly;
"Third Party IPR"	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
"Third Party IPR Licence"	means a licence to the Third Party IPR as set out in Paragraph 1.6 of Schedule 36
"Transparency Information"	the Transparency Reports and the content of the Contract, including any changes to this Contract agreed from time to time, except for – (a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and (b) Commercially Sensitive Information;
"Transparency Reports"	the information relating to the Deliverables and performance pursuant to the Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);
"UK GDPR"	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019
"Variation"	means a variation to the Contract;
"Variation Form"	the form set out in Schedule 21 (Variation Form);
"Variation Procedure"	the procedure set out in Clause 28 (Changing the contract);
"VAT"	value added tax in accordance with the provisions of the Value Added Tax Act 1994;

Schedule 1 (Definitions)

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"VCSE"	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
"Verification Period"	has the meaning given to it in the table in Annex 2 of Schedule 3 (Charges);
"Work Day"	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
"Work Hours"	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
"Worker"	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables; and
"Working Day"	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.

Schedule 2 (Specification)

This schedule sets out what the Buyer wants.

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

This document describes a set of requirements that support a Border Force procurement process to procure the supply and maintenance of mobile freight X-Ray vehicle-screening systems.

The purpose of the X-Ray imaging Capability is to indicate anomalies within freight containers and lorries within a port environment.

The three key requirements are to:

1. Indicate anomalies within the load space of commercial freight
2. Maintain port fluidity
3. Provide a reliable system that can operate 24 hours a day, 7 days a week, 365 days a year.

The maintenance service is to be an ALL-INCLUSIVE service. The Service Charge in Schedule 3 (Charges) includes planned and reactive maintenance visits including but not limited to, labour, travel, repair, parts and consumables.

1. Definitions

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

" Authorised Administrators"	a member of the Buyer's personnel, approved only by the Buyer's Authorised Representative, who can configure and manage Authorised Users and Operators Capability systems account privileges;
"ALARP"	As Low As Reasonably Practicable
" Authorised User"	a member of the Buyer's personnel who has permission to manage and archive scanned images. Authorised User accounts to be approved only by the Buyer as required;
"Capability"	The overall functionality provided by one or more Sensor Systems
" Host Vehicle"	the underlying vehicle used for the Capability;
" Image Operator"	an Operator who evaluates the scanned images produced by the Capability;
"IRR17"	Ionising Radiation Regulations 2017;

“Operator”	a member of the Buyer’s personnel who will be driving and/or controlling the Capability to scan target vehicles;
“Operator Console”	the part of a Sensor System that provides data and control interface to the Operator;
“Port Operator”	a port authority or company that contracts with the port authority;
“Service Engineer”	an appropriately qualified individual certified by the Supplier to conduct all service and maintenance activities;
“Security Check (SC)”	National security vetting Security Check (SC) clearance level. Government policies state that individuals with access to Government assets undergo security checks before being allowed to access to sites and any sensitive information;
“Sensor”	the part of a Sensor System that performs the scan;
“Sensor System”	a set of components or subsystems that can operate independently of other Sensor Systems to scan a target vehicle and display results to an Operator;
“Target Vehicle”	this includes Reefer Containers, Flat Racks, ISO Tanks for Liquid and Powder, ISO Containers, Accompanied Trailers,

Schedule 2 (Specification)

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Unaccompanied Trailers, non-Articulated
Lorries, Cars, and any other Road Vehicle.

Functional Requirements	
1. Scanning Requirements	
1.1	The Capability MUST be able to scan the entire Target Vehicle (the cab, the trailer/container structure, on top of the load, between load items and inside items within the load) to a minimum of 50cm above ground level, as detailed in the Confidence Demonstration Plan (Volume 2).
1.2	The Capability MUST be able to use X-Ray scanning to penetrate the Target Vehicle to a minimum depth of 300mm when measured in accordance with test 4.7 Penetration in ANSI Standard N42.46-2008 (Reaff 2017) as detailed in the Confidence Demonstration Plan (Volume 2).
1.3	The Capability MUST be able to pass the test for Wire Resolution in both horizontal and vertical tests, for 1.2mm x-section copper wire in accordance with test 4.9 Wire Detection in ANSI Standard N42.46-2008 (Reaff 2017) as detailed in the Confidence Demonstration Plan (Volume 2).
1.4	The Capability MUST be able to pass the test for Spatial Resolution; 4mm horizontally and vertically in free air, in accordance with test 4.8 Spatial Resolution in ANSI Standard N42.46-2008 (Reaff 2017) as detailed in the Confidence Demonstration Plan (Volume 2).
1.5	The Capability MUST be able to pass the test for Contrast Sensitivity. The minimum requirement is: 1% at 10% of maximum steel penetration, 2% at 50% maximum steel penetration, 6% at 80% maximum steel penetration, Tested accordance with test 4.10 Contrast Sensitivity in ANSI Standard N42.46-2008 (Reaff 2017) as detailed in the Confidence Demonstration Plan (Volume 2).
1.6	The Capability should support material discrimination within the displayed image as per BS IEC 62523 as a minimum requirement. Graphite should be differentiable from all of the metals listed in BS IEC 62523 at the thicknesses listed in any column in Table 2. This difference must be visually apparent to the Operator based on the hue of each material in the scanned image of the inspection system.
1.7	The Capability should be capable of screening Target Vehicles whilst in a static deployment (portal mode). This deployment involves the Capability being static and the vehicles moving past it.
1.8	The Capability MUST be capable of screening at least 15 Target Vehicles per hour over a sustained 24-hour period, whilst in a moving gantry deployment. This deployment involves the Capability moving whilst the target vehicles being scanned are static. The speed of the Capability MUST be such that scanning throughput can be maintained. This will be tested in accordance with the Confidence Demonstration Plan (Volume 2).
1.9	The Sensor System MUST be able to scan the Target Vehicle from a single viewing angle at one time with the scanning angle set at 90 degrees to the target and at least 5 degrees offset in the horizontal plane.

1.10	The Sensor System MUST be capable of screening accompanied and unaccompanied trailers and containers that are permissible for carriage on UK roads. The gantry MUST have a minimum height of 4.9m and minimum width of 2.8m. This will be tested in accordance with the Confidence Demonstration Plan (Volume 2).
1.11	The Sensor System MUST allow all scans to be performed from a single pass or presentation of the Target Vehicle.
2. Imaging Requirements	
2.1	<p>As a minimum the Sensor System MUST display images in dual energy transmission X-Ray mode</p> <p>The Sensor System SHOULD be able to scan the target vehicle using a dual view transmission X-Ray approach and/or backscatter X-Ray technique</p>
2.2	<p>The Capability MUST provide the following tools that enable the Operator to manipulate the scanned image.</p> <ul style="list-style-type: none"> • zoom in an out • lighten and darken image • move around image • ruler • edge enhancement • false colour • negative image • operator to annotate scanned images with text and simple graphics (e.g. lines, circles, rectangles, etc.)
2.3	<p>The Capability should provide the following tools that enable the Operator to manipulate the scanned image.</p> <ul style="list-style-type: none"> • P count (show density count of a pixel) • smooth, editable palette • export to JPEG • histogram manipulation • material discrimination • mirror • flip • view 2 scans concurrently
2.4	The Capability MUST be able to provide a continuous zoom in to 800% and out to fit screen, of scanned images.
2.5	The Capability should refresh the image within a maximum of 2 seconds following image manipulation actions (e.g. Colour, Mirror etc).
2.6	The Capability should refresh the image within 2 seconds following image navigation actions (e.g. Pan, Zoom, etc).
2.7	The Capability MUST enable the live scan to be displayed whilst scan is in progress.

2.8	The Capability MUST provide an ability to measure the dimensions of image features in all visual planes measuring between two points on the horizontal axis on the scanned image on a scale of centimetres to within 1cm.
3. Host Vehicle	
3.1	The Sensor System MUST scan from the right-hand side of the Capability.
3.2	The Host Vehicle should provide motion automation to assist the driver and scan Operator in manoeuvring the vehicle and assisting in the scan operation.
3.3	The Host Vehicle MUST offer an automated/controlled speed for scanning.
3.4	The Capability MUST have a labelled (BS Radioactive trefoil) storage cabinet in the image cab for a radioactive dose (IRR17 compliant) rate source. The cabinet MUST have minimum dimensions of 200mm x 200mm x 200mm.
3.5	The Capability MUST be based on a commercially available road vehicle that can be serviced within the UK's main dealer networks.
3.6	The Supplier MUST complete the vehicle registration of the Capability with the Driver and Vehicle Licensing Agency (DVLA) and deliver the Capability fitted with British Standard number plates, in compliance with all necessary regulatory bodies for licencing and registration purposes and be suitably branded with agreed Border Force livery.
3.7	The Host Vehicle MUST be right hand drive.
3.8	For transport all equipment necessary for the operation of the Capability MUST be capable of being stowed within or on the Host Vehicle during transport.
3.9	The Capability MUST be capable of travelling at 50mph on a UK highway.
3.10	Once at the scanning site the start of operations MUST commence within 20 minutes.
3.11	The Capability MUST be capable of operating using its own power supply for 48 hours continuously.
3.12	The Capability MUST NOT rely on the Host Vehicle engine to power the Sensor System and MUST have a separate, on-board generator.
3.13	The Capability MUST have two fuel tanks to run Host Vehicle and generator separately (to allow the generator to run on different fuel to the Host Vehicle).
3.14	The Host Vehicle MUST have a fuel tank capable of running 48 hours continuous scanning.
3.15	The Capability MUST meet the current UK and EU highest standards (at least Euro 6) for vehicle emissions on the date of registration.
3.16	The Host Vehicle MUST have an automatic transmission.
3.17	The Host Vehicle MUST have a vehicle weight certificate and the various load weights displayed over the axles.
3.18	The Host Vehicle should have front and rear parking sensors.
3.19	The Supplier MUST provide a plan of the intended Capability with dimensions and designs. This MUST include:

	<ul style="list-style-type: none"> operating space within the Image Cab, and how many Operators this will accommodate types of chairs space around monitoring area usable floor space dimensions with a minimum usable floor space of at least 2.3m x 1.6m desk space for two screens per operator dimmable operational lighting access to cab via integral steps and handrail.
3.20	The Capability MUST have automated Amber beacons to indicate when X-Ray is initiated and automated Red beacons to indicate when X-Ray is emitting. These Amber and Red beacons must be visible from all directions to warn others of its presence.
3.21	The Capability MUST be a rigid body (non-articulated) LGV Class 2 vehicle.
3.22	The Capability MUST have emergency lighting and dimmable operational lighting in the Image Cab and Driver Cab which enables Operators and drivers to work inside the Capability safely during the day and night.
3.23	The Capability MUST have external operational and emergency lighting in the operating area which enables Operators to operate outside the Capability safely during the day and night.
3.24	The Capability MUST have a climate control system within both the Drivers and Image Cabs which can control the climate to between 16°C and 26°C.
3.25	The Capability MUST have First Aid kits in the Driver Cab and Image Cab.
3.26	The Host Vehicle MUST have 2-litre foam fire extinguishers in the Driver Cab and Image Cab.
3.27	The Host Vehicle MUST have 12kg powder fire extinguishers in the Driver Cab and Image Cab.
3.28	The Host Vehicle MUST have an emergency break glass hammer and seat belt cutter in the Driver's Cab within reach of the driver.
3.29	The Host Vehicle MUST have storage space for the systems documentation plus minimum of 70-litre space for Operators personal equipment.
3.30	The Host Vehicle should automate the deployment and stowage of the scanning system using, as a minimum requirement, an operator-controlled sequence from one control panel.
3.31	The Host Vehicle MUST have a flat fronted cab.
4. Human Machine Interface (HMI) Requirements	
4.1	The Capability MUST be able to control and monitor the scanning function from at least one location, with primary control from the Image Cab.
4.2	The Image Operator's screen MUST have an adjustable arm for mounting in a suitable position and be securable for transportation.
4.3	The Image Operator's screen MUST have a minimum, 24-inch colour screen size and a screen resolution capable of at least 1920 x 1200 pixels.
4.4	There MUST be 2 Image Operator Consoles (one acting as master with primary control over the scanning function - unless provided via a separate

	control panel) and associated workspace located within an Image Cab mounted on the Host Vehicle.
4.5	The Image Operator/s and Driver MUST have access to emergency stop button(s) within reach from their seated positions.
4.6	The Operator Console MUST provide a full colour laser printer to produce an A4 hard copy of sensor images and associated data.
4.7	The Sensor System should use automated techniques to provide Operator assistance when providing results (automated techniques is a generic term that encompasses artificial intelligence, assisted reality etc).
5. Data Management & Storage	
5.1	The Capability MUST have a minimum local storage capacity of 4TB for scanned images and associated data.
5.2	The Capability MUST be able to record and store all scanned images and associated data for at least 365 days.
5.3	The Capability MUST record key metadata (time, date, system ID, location) with the scanned image using UFF 2.0 formats with file sizes of less than 75MB.
5.4	The Capability MUST allow an Authorised User to manage stored images and associated data.
5.5	The Capability MUST allow the Authorised User to export stored images and associated data using the facilities of the Operator Console.
5.6	The Capability MUST maintain full image resolution of both stored and exported images.
5.7	The Supplier MUST provide UFF 2.0 image viewing software for use on Border Force equipment that can be installed and used concurrently on at least 10 Border Force Systems per Capability.
6. Networking Requirements	
6.1	The Capability MUST be able to automatically export image files in UFF 2.0 file format to be exported to Home Office network device via an Ethernet connection within 15 seconds.
6.2	The Capability MUST be able to operate without an external network connection.
6.3	The Capability MUST indicate to the Operator if it cannot export the image files to Home Office network devices.
6.4	The Capability MUST provide <u>all</u> the following: <ul style="list-style-type: none"> - 1m width desk space, - Image Cab will have 230V AC UK power supply sockets within the Operator's space with at least 12 spare 230V AC 13-amp sockets for use by Border Force - provision to physically secure a Border Force computer and network device in place.
Non-Functional Requirements	
7. Delivery, Training & Conformance Requirements	
7.1	Delivery of each Capability (1 unit) to confirmed location should be within 10 months from the date of receipt of the order.

7.2	The Supplier MUST provide a minimum of four hard copies and two digital copies of the Operator Manuals in English for each supplied Capability.
7.3	The Supplier MUST provide a minimum of four hard copies and two digital copies of the Maintenance Manuals in English for each supplied Capability.
7.4	The Supplier MUST provide face to face on-site Train the Trainer (TTT) training in English for at least 5 Border Force officers, for each Capability delivered.
7.5	The Supplier MUST provide face to face on-site Operator Training in English for 10 Border Force officers, for each Capability delivered.
7.6	The Supplier MUST provide one hard copy and one digital training pack in English, for each Train the Trainer trainee.
7.7	The Supplier MUST provide one hard and one digital copy of Operators Training material in English, for each attendee.
7.8	The Supplier MUST provide training on the Capability within 5 working days of delivery, for Operator Training and TTT.
7.9	The Supplier MUST provide documentation that shows evidence of conformance with design, legislation, and safety requirements (as detailed under Legislation & Safety, Section 9) as needed.
7.10	The Supplier MUST demonstrate that the Capability has been designed and constructed to meet the requirements of IRR17, in particular regulations 9 and 32, and that it is capable of being operated in full compliance with IRR17 when used for its intended purpose.
7.11	The Supplier MUST allow the Buyer to attend the premises where the Capability is manufactured, or other site by mutual agreement, to undertake Factory Acceptance Testing in the form set out in Annex 1 .
8. Environment & Climate Requirements	
8.1	The Capability MUST operate within the temperature range -10°C to +39°C.
8.2	The Capability MUST be capable of being stored within the temperature range -20°C to +45°C
8.3	The Capability MUST be operationally deployable within an environment with wind speeds of minimum 37 mph (60 kph).
8.4	Dust and Sand - The Capability MUST meet the requirements of test Lc2 as specified in BS EN 60068-2-68:1996 or equivalent as agreed with the Buyer.
8.5	Driving Rain – The Capability MUST meet the requirements of test Ra1 as specified in BS EN 60068-2-18:2017 or equivalent as agreed with the Buyer.
8.6	Water Drip – The Capability MUST meet the requirements of test Ra2 Drip Box as specified in BS EN 60068-2-68:1996 or equivalent as agreed with the Buyer.
8.7	Salt Fog – The Capability MUST meet the requirements of test Kb as specified in BS EN 60068-2-52 2018 or equivalent as agreed with the Buyer.
9. Legislation & Safety Requirements	
9.1	The Capability MUST have an operating footprint that does not exceed 20m x 40m in open space.

9.2	The X-Ray dose rate at the perimeter of the scanning zone MUST NOT exceed 1 micro Sv per hour average at the perimeter of a 20m x 40m scanning zone when scanning 15 vehicles per hour in moving gantry mode.
9.3	Each Capability MUST comply with all applicable UK/EU legislation.
9.4	The Capability MUST comply with the Ionising Radiation Regulations 2017 IRR17 legislation, Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999.
9.5	The Capability MUST comply with Machinery Directive 2006/42/EC.
9.6	The Capability MUST be CE marked.
9.7	The Capability MUST comply with Electrical Safety Standard BS7671 Requirements for Electrical Installations 18th Edition.
9.8	The Capability MUST comply with Exposure Limit Values as set out in Statutory Instrument 588, The Control of Electromagnetic Fields at Work Regulations (CEMFAW) 2016 for occupational personnel when used as specified by the Buyer.
9.9	All electromagnetic field emissions from transmitting equipment MUST be designed to be used within 20cm of the body and certified to the correct exposure limits.
9.10	The Supplier MUST supply all necessary information required to allow the Buyer to generate an EMF Assessment under Reg 5 of CEMFAW covering all use cases including maintenance and considering all Border Force potential Employees at particular risk, as referenced in Tables 3, 5, 6 and 7 of 'HSG 281 Electromagnetic Fields at Work – A Guide to the Control of Electromagnetic Fields at Work Regulations 2016' as a minimum.
9.11	If the Capability uses Artificial Optical Radiation (AOR) sources, then it MUST comply with Control of Artificial Optical Radiations at Work Regulations 2010 when used as specified by the Buyer and MUST , as a minimum, provide exposure data regarding any potentially hazardous (AOR) included in the system.
9.12	Any laser provided MUST be eye safe and compliant with requirements BS EN 60825-1:2014, Class 1.
9.13	All fluids, chemicals and gasses MUST be compliant with relevant and extant UK/EU regulations, including (but not limited to) COSHH, CFC, ADR and WEEE.
9.14	The Supplier MUST confirm the Operators, working 8 hours per day 6 days per week 50 weeks per year, will not receive radiation exposure of more than 1mSv (Border Force policy).
9.15	The Supplier MUST supply, within 5 working days of request from the Buyer, technical descriptions and certificates of conformance to explain how all hazards associated with the Capability shall be reduced to ALARP in agreement with the Buyer.
9.16	All emergency stops MUST stop all mechanical operation and X-Ray operation.
9.17	The Capability should display to the Operator, the zone in which an operated Emergency Stop is located.

9.18	After an emergency stop is released, the Capability MUST be in a fail-safe state that requires the system to be restarted.
9.19	The system MUST include appropriate engineering controls, design features and safety devices to restrict radiation exposure. As a minimum these MUST include shielding (including collimation), interlocks, key control, exposure termination device (i.e. limit on exposure time) and appropriately positioned emergency stop buttons.
9.20	The system MUST meet the minimum requirements to indicate exposure warnings. The minimum requirement is that there will be visible and audio alerts that will be seen/heard by all people in the vicinity of the controlled area who need to be aware for radiation protection purposes, separately indicating: <ul style="list-style-type: none"> - when the equipment is ready to emit X-Rays. - when it is about to emit X-Rays. - when it is emitting X-Rays.
9.21	The Capability's audible alarms should be able to be disabled when scanning livestock.
9.22	The system should indicate to the Operator the current wind speed at the operating site in mph and/or knots.
9.23	The Operator MUST be provided with CCTV coverage of all sides of the target vehicle and exclusion zone to control access and ensure operational safety.
10. Reliability Requirements	
10.1	The Capability MUST identify failures to its hardware and software as they occur.
10.2	The Capability MUST detect all hardware failures that would prevent continued ability to scan Target Vehicles safely as they occur.
10.3	The Capability should advise the Operator of any impending/current faults as they occur and provide recommended corrective action.
10.4	The Capability MUST provide continuous, 24 hours per day, availability of scanning functions when deployed.
10.5	The Capability MUST be able to operate continuously for a minimum of 12 hours within one day.
11. Maintainability Requirements	
11.1	Each system MUST indicate to Operators when calibration is required, if applicable.
11.2	Each system should be capable of calibration within 2 minutes, if applicable.
11.3	As a minimum requirement, the Capability MUST maintain logs of significant events including Operator log on/log off, system downtime and detection of hardware faults or failures that is viewable on the system and that the buyer will be able to download this information in a report format.
12. Infrastructure Requirements	
12.1	The Capability MUST be capable of operating from a UK Shore electrical power supply providing 400 Volt 3 phase 63 Amp 50/60Hz Red Commando connection 5 poles with Clock position 6H with IP67 to standard BS EN. 60309-2/BS4343:1992 & IEC 309-1/2.

12.2	The Capability MUST be able to withstand electrical power surges from the Shore connection by compliance with IET Wiring Regulations 18th Edition (BS7671 Ed 18).
13. Security Requirements	
13.1	The Supplier MUST confirm that at the point of first Capability delivery and during contract life, personnel responsible for on-site maintenance/servicing and training visits will be SC (Security Check) cleared.
13.2	The Supplier MUST provide protection against unauthorised physical access and tampering of the Capability.
13.3	The Capability MUST allow Authorised Administrators to configure and manage Operators and Systems account privileges.
13.4	Only Operators and Service Engineers MUST be able to initiate and control a scan.
13.5	Archiving data MUST only be able to be undertaken by Authorised Users.
13.6	The Capability MUST be able to limit and control access via external media drives including USB ports (As per the Minimum Cybersecurity Standard MCS Section 6 (a) and (b)).
13.7	The Capability MUST prevent unauthorised updates (As per the Minimum Cybersecurity Standard MCS Section 6 (a) and (b)).
13.8	The Supplier MUST complete (before contract award) an online Home Office Security Assessment.
13.9	The Supplier MUST provide a Security Management Plan demonstrating compliance to Paragraph 4.2 of Schedule 16 (Security)
13.10	The Capability MUST prevent access to external websites or file sharing services (As per the Minimum Cybersecurity Standard MCS Section 8 (d)).
13.11	The Capability MUST be capable of being protected from known vulnerabilities and from unauthorised access (As per the Minimum Cybersecurity Standard MCS Sections 6 and 7).
13.12	The Supplier SHOULD demonstrate compliance with ISO 27001 or an equivalent standard for information security management.
13.13	The Supplier MUST hold, or demonstrate they are working toward a valid Cyber Essentials Plus certification which covers the full scope of all hardware and software development, and support for the provision of the service. The valid Cyber Essentials Plus certification will be required at the commencement of the contract.
14. Personnel Requirements	
14.1	The Capability should require no more than 2 staff to safely operate the system.
14.2	The System MUST be capable of being driven by any Category C (LGV2) (rigid freight vehicle) licence holder. It must not be subject to any Authorisation of Special Types General Order (STGO) requirement.
14.3	The Capability and its component systems MUST be capable of being operated by non-specialists (in subjects such as radiography or physics) subject to appropriate business-related training.

15. Combined Maintenance	
15.1	The Supplier MUST provide a planned and reactive maintenance and repair service for a period of 10 years from delivery of each Capability.
15.2	The Supplier MUST provide all the labour, materials, and equipment necessary to carry out the planned and reactive maintenance services as contracted.
15.3	All parts used in maintenance MUST be new, original equipment manufacturer (OEM) parts, rather than refurbished or cannibalised parts, unless agreed upfront in writing by the Buyer's Authorised Representative and will be of equal or better quality and not affect the safety of the operation nor invalidate any warranty associated with the Capability.
15.4	The Supplier MUST undertake all mandatory radiation checks (IRR17), maintenance and repair work to the necessary operational standard in accordance with the requirements of IRR17 and all other safety requirements included as part of the Site Handover Document (Annex 2).
15.5	The Supplier MUST liaise with the Port Operator and the Buyer in order to identify and comply with any general regulations and requirements at the premises where the Capability is delivered and in particular will be responsible for meeting any site entry requirements, obtaining any necessary security passes and permits prior to starting work.
15.6	The Supplier MUST be committed to quality and will be required to ensure and demonstrate that any downtime is kept to a minimum and that all maintenance and repair work is both necessary and cost-effective.
15.7	The Supplier's engineers responding to planned and reactive maintenance MUST be competent and qualified to undertake all the work required to ensure the safe and reliable operation of the equipment.
15.8	All maintenance and repair work undertaken by the Supplier MUST be such that the Capability thereafter performs to the operational standard as determined by the manufacturer's original specification and the Buyer's requirements, whichever is of a higher standard.
15.9	On completion of any work to any part of the Capability, whether in the course of a planned or reactive maintenance visit, the Supplier's engineer MUST complete (before leaving the premises) a service or work report showing as a minimum, the time of the engineer's arrival and departure from the site and the details of any work done and/or which, in consultation with the Buyer, is agreed or proposed to be undertaken at a later date and confirmation that the equipment is safe to use.
15.10	The Capability MUST operate without the cost of ongoing, periodic software licences.
15.11	The Supplier MUST provide all resources required to maintain the Capability (for both planned and reactive maintenance), including, but not limited to labour, travel, spare parts and consumables. These costs MUST be inclusive within the Service Charge.
15.12	The Supplier MUST provide on-site attendance throughout the UK for service and maintenance purposes, as per Annex 3 of Schedule 2 - Specification.

15.13	<p>The Supplier MUST describe how they will provide the required 10-year maintenance provision. The response should include, but not be limited to, how the following requirements can be met:</p> <p>a) The number of recommended planned preventive maintenance visits per Capability per year.</p> <p>b) How you will schedule/deliver the maintenance visits.</p> <p>c) The organisational structure of the proposed maintenance service, including the number of field service personnel and their qualifications.</p> <p>d) What the planned maintenance routine includes with the expected downtime and how it will be kept to a minimum.</p> <p>e) How the Capability will be left in an operable condition to the Buyers satisfaction after maintenance has been conducted.</p> <p>f) What documentation you will provide and leave on site at each planned or reactive maintenance visit.</p> <p>g) How repairs or rectification of faults not able to be completed during a maintenance visit will be completed as soon as possible thereafter to minimise downtime.</p> <p>h) Details of your telephone resolution process.</p> <p>i) Detail how you will provide a trained engineer on-site within the timescales described in 17.7 specifically explaining how you will meet required and target response times.</p> <p>j) How you will ensure the safe and ethical removal and disposal of parts/equipment where necessary.</p> <p>k) How you will ensure that you will maintain stock and availability of spare parts, consumables, service components, frequently needed parts and replacement devices for the 10-year period following purchase.</p> <p>l) How will you assure the performance of the Capability for the contracted maintenance period.</p> <p>m) How you will manage Buyer Asset & Maintenance Records management system including a formal system in place that records the asset supply service and maintenance history of the equipment and how this will be available to the Buyer.</p>
16. Planned Maintenance	
16.1	Planned maintenance for each Capability MUST be undertaken at agreed timescales, in accordance with manufacturers recommendations.
16.2	All planned maintenance tasks MUST be completed during the initial inspection. Any remedial or repair work which is identified as necessary

	should, where possible, be completed during the relevant routine visit without the need to make a second or subsequent visit.
16.3	The Supplier MUST supply and maintain a Logbook for each Capability and the Supplier's service engineers will be expected to update this record on every maintenance (planned or reactive) visit with details of the work done to the Capability, including the details of any radiation leak tests performed. A copy of each maintenance visit record MUST also be provided and handed to the site representative for inclusion in the Logbook.
16.4	In the event that remedial or repair work cannot be completed during the initial visit or if it is agreed between the Supplier and the Buyer that any further work may be completed at a later date, the Supplier MUST provide a full written report before leaving the premises for the purpose of notifying the Buyer of the expected, reasonable timescales. Thereafter, further updates are to be provided as may be requested by the Buyer.
16.5	The Supplier MUST NOT remove any Capability (in whole or part) from the Buyer's premises without the written consent of the Buyer and any Capability so removed will remain the Buyer's property and may not be disposed of without the Buyer's prior written approval.
16.6	The availability of all manufacturer's parts for the Capability' MUST be guaranteed for a minimum period of ten (10) years from receipt of equipment, in order that the Capability can be maintained and kept in full working order.
16.7	The Supplier MUST maintain a stock of service components and frequently needed parts within the UK, to enable service and repairs to be carried out speedily. The Buyer is not in a position to provide storage for such items. These MUST be readily available to all Supplier field service personnel.
16.8	Where the Supplier has other Capabilities already on site with a servicing schedule, to minimise cost and disruption, the Supplier MUST give the option for all Capabilities to be serviced/maintained during the same site visit.
16.9	The commencement date and schedule of the planned maintenance programme for each site will be fully agreed at least three (3) months in advance of the delivery of new Capability. Any changes to the agreed programme MUST be agreed with the Buyers Authorised Representative, in writing, at least 6 months in advance.
16.10	The Supplier MUST confirm the date and time of the intended visit and confirm the personal details of the engineer(s) attending the site, no less than five (5) working days prior to the planned visit.
16.11	The Supplier MUST confirm that the work to be carried out on a planned maintenance visit will be such as is needed to maintain the Capability in a fully operational condition at all times in accordance with the manufacturer's requirements.
16.12	The Supplier MUST be able to take away and properly dispose of component parts that are replaced during the maintenance process.

16.13	The Supplier MUST complete a Site Handover Document prior to commencing any work and at the completion of each Supplier site visit. A copy of the document can be found at Annex 2.
16.14	The cleaning of all internal parts and mechanisms that form part of the vehicle and/or scanning equipment MUST be undertaken as part of the planned maintenance programme.
16.15	The Supplier MUST provide Fire Extinguisher servicing (by a Qualified Engineer) once a year to the standard laid down under BS 5306-3:2017. The service procedure MUST include thorough checking of the fire extinguisher for corrosion and partial or complete discharge.
16.16	All fire extinguishers MUST be replaced, under Contract and without extra charge, every 5 years.
16.17	The Supplier MUST provide a decommissioning service for the safe removal and disposal of the Capability when the Buyer requests it and has a duty to contact the Buyer six months prior to the end of the maintenance period to arrange this as necessary. This service is inclusive within the contract and at no additional charge to the Buyer.
17. Reactive Maintenance	
17.1	The Supplier MUST provide a non-premium rate or free telephone number for all maintenance and repair services for the Capability.
17.2	The Supplier MUST have a call handling service with fluent English speaking, fully trained and experienced personnel available for the provision of technical advice 24 hours a day, 7 days a week 365 days a year, for all sites in order to avoid unnecessary visits.
17.3	Calls to the Suppliers call handling service for reactive maintenance calls MUST be answered within 15 minutes and acknowledged by the issuing of a call reference number.
17.4	The Supplier MUST provide a priority e-mail address for the Buyer to raise reactive maintenance incident notifications in instances where a notification by telephone within the time specified time of 15 minutes is not achieved.
17.5	The Supplier MUST acknowledge receipt of the e-mail received at the priority e-mail address within 15 minutes by issuing and confirming to the Buyer a call reference number.
17.6	The Supplier MUST attend and repair Serious Operational Failures within: <ul style="list-style-type: none"> • 8 hours (Main Sites) • 10 hours (Other Sites)
17.7	The Supplier MUST attend and repair Non-Serious Operational Failures within: <ul style="list-style-type: none"> • 5 calendar days including weekends and Bank Holidays.

Annex 1: Factory Acceptance Test

1. The Factory Acceptance Test (FAT) will be carried out on a date and at a time agreed between the Buyer and Supplier.
2. The agreed date and time will be:
 - (a) when the Supplier is able provide a Capability that meets Border Force requirements, as detailed in Schedule 2 (Specification); and
 - (b) prior to the delivery of the first Capability.
3. The requirements which may require inspection and testing, include one or more of the requirements set out in the Specification and Volume 2 Detailed Evaluation Guidance, which was issued with the Selection Questionnaire (SQ) and the Invitation To Tender (ITT), including, without limitation:
 - (a) requirements that the Suppliers Capability must “pass,” and
 - (b) requirements that were scored.

Table 1 below lists the requirements that may need to be inspected and tested.
4. Suppliers must demonstrate that their Capability meets their submitted tender.
5. If the Suppliers Capability fails to meet the minimum mandatory standards, or the standards submitted in the tender, it will be subject to further checks prior to the delivery of the first Capability. Any further checks required shall be undertaken at the expense of the Supplier.
6. The Suppliers Capability will not be accepted until those carrying out the inspection and testing have concluded that it meets all requirements, including the standards referred to above.

— Provision of Supply and Maintenance of Mobile Freight X-Ray Scanners
Schedule 2 (Specification)
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	Scanning	Imaging	Host Vehicle	Human Machine Interface	Data Management and Storage	Networking	Delivery, Training & Conformance	Environmental and Climatic	Safety and Legislation	Reliability	Maintainability	Infrastructure	Security	Personnel
2.1		x												
2.2		x												
2.3		x												
2.4		x												
2.5		x												
2.6		x												
2.7		x												
2.8		x												
3.1			x											
3.2			x											
3.3			x											
3.4			X											
3.5			X											
3.7			X											
3.10			x											
3.12			x											
3.13			X											
3.16			X											
3.17			X											
3.18			X											
3.19			x											
3.20			X											
3.21			x											
3.22			X											
3.23			x											
3.24			x											
3.25			x											
3.26			X											
3.27			X											
3.28			X											
3.29			X											
3.30			X											
3.31			x											
4.1				x										
4.2				X										
4.3				X										
4.4				X										
4.5				x										
4.6				x										
5.1					X									
5.2					X									
5.3					x									
5.4					x									
5.5					x									
5.6					x									
6.1						x								
7.9							x							

9.21										x					
9.22										x					
9.23										x					
10.1											x				
10.2											x				
10.3											x				
11.2												x			
12.1													x		
13.2														X	
13.3														X	
13.4														x	
13.5														x	
13.6														x	
13.10														x	
14.1															x

Acceptance Tests

Table 1 Factory

Annex 2: Site Handover Document

ENGINEERS/SUB-CONTRACTORS – OPERATING AGREEMENT

The content of this 'Safety Instruction' has been agreed with the Department's contractors and **must** be fully completed by the contractor's engineers and/or their agents prior to commencing any work.

Part A

Equipment: Mobile Freight scanner

Location:

WORK TO BE CARRIED OUT (full details):

To ensure a safe system of work, the following procedures must be adhered to prior, during and/or on completion of any work in any designated controlled area.

- The Contractor will take on the responsibility of Employer under the Ionising Radiations Regulations 2017 (IRR17) for any engineer, sub-contractor or agent employed by them (but not UKBF staff) from the acceptance of the equipment by the service engineer until it is handed back to UKBF.
- The Contractor's engineer (and/or any sub-contractor or agent acting on behalf of the Contractor) will be responsible for designating controlled areas under IRR17 Reg. 17 and all associated requirements of IRR17 whilst the equipment is under their control.

- The signing of this safety instruction is acceptance by the Contractor's engineers and/or agents that they have prepared local rules and associated risk assessments for the work described in Part A.
- The Contractor's engineer and sub-contractor/agent must ensure all safety features are operational if the zone is left unattended at any time. If this occurs, the control of the zone must be handed back to UKBF by completing Part B of this Site Handover Document. Re-entry to the controlled area will require a new Site Handover Document to be issued.
- The Contractor's engineer and sub-contractor/agent will ensure all safety features are operational on completion of works.
- The Contractor's engineer or sub-contractor/agent signature confirms acceptance of adherence to procedures detailed above.

Name (Contractor):	Signature:	
Company:	Date:	Time:
Name (BF Rep):	Signature:	
	Date:	Time:

Part B

Return control of scanner zone:

	Yes	No
All service equipment has been removed from the operational area	<input type="checkbox"/>	<input type="checkbox"/>
The Mobile Freight Scanner has been tested and is operating correctly.	<input type="checkbox"/>	<input type="checkbox"/>
All safety features are functioning as intended.	<input type="checkbox"/>	<input type="checkbox"/>
Radiation dose rate around the perimeter* of the controlled area is $<1\mu\text{Sv h}^{-1}$. *during x-ray generation	<input type="checkbox"/>	<input type="checkbox"/>

Instrument used: Border Force Mini Rad ☐ Other ☐ Calibration Date
 Border Force Victoreen Fluke ☐

To: UKBF

*The Mobile Freight X-Ray Scanner has been re-commissioned and is now available for operation.

*The work on the Mobile Freight X-Ray Scanner is incomplete and is not fit for operation. Refer to engineer's report for details.

**Delete as appropriate*

Total calculated Downtime

Name (Contractor):	Signature:	
Company:	Date:	Time:
Name (BF Rep):	Signature:	
	Date:	Time:

Annex 3: Site Map



Schedule 3 (Charges)

1. Definitions

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

"Anticipated Contract Life Profit Margin"	the anticipated Supplier Profit Margin over the Contract Period;
"Firm Price"	means the pricing provisions set out in Paragraph 1 of Annex 1;
"Fixed Price"	means the pricing provisions set out in Paragraph 4.1 and 4.2 of Annex 1;
"Maximum Permitted Profit Margin"	means the Anticipated Contract Life Profit Margin plus 0%;
"Milestone Retention"	means █████ of the Price for the Milestone which will be deducted in respect of a Milestone that shall be payable when the Supplier achieves the "Milestone Retention Trigger Event".
"Milestone Retention Trigger Event"	means the event that triggers payment of all 'Milestone Retentions', being the Achievement of all Milestones.
"Milestone Payment"	means the payment for the Milestone, excluding 'Milestone Retentions'.
"Planned Maintenance Service Charge"	means the Service Charge associated with Planned Maintenance.
"Maintenance Volume Deduction"	means the percentage (%) deduction set out in Table 5 - Maintenance Volume Deductions.

Schedule 3 (Charges)

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2. How Charges are calculated

2.1 The Charges:

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

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

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

3. The pricing mechanisms

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

4. Are costs and expenses included in the Charges

4.1 Except as expressly set out in Paragraph 5 below, or otherwise stated in the Award Form the Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:

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

4.1.2 costs incurred prior to the commencement of the Contract.

5. When the Supplier can ask to change the Charges

5.1 The Charges will be fixed for ██████████ following the Start Date (the date of expiry of such period is a "**Review Date**"). After ██████████ Charges can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a "**Review Date**").

5.2 The Supplier shall give the Buyer at ██████████ notice in writing prior to a Review Date where it wants to request an increase. If the Supplier does not give notice in time then it will only be able to request an increase prior to the next Review Date.

5.3 Any notice requesting an increase shall include:

5.3.1 a list of the Charges to be reviewed;

5.3.2 for each of the Charges under review, written evidence of the justification for the requested increase including:

a) a breakdown of the profit and cost components that comprise the relevant part of the Charges;

Schedule 3 (Charges)

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- b) details of the movement in the different identified cost components of the relevant Charge;
- c) reasons for the movement in the different identified cost components of the relevant Charge;
- d) evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
- e) evidence that the Supplier's profit component of the relevant Charge is no greater than that applying to Charges using the same pricing mechanism as at the Start Date.

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

5.5 Any Approval granted by the Buyer pursuant to Paragraph 5.4 shall be on the condition that the change to the Charges will not result in the Supplier Profit Margin exceeding the Maximum Permitted Profit Margin.

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

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

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

- 6.1.1 a Specific Change in Law in accordance with Clauses 28.6 to 28.8;
- 6.1.2 a request from the Supplier, which it can make at any time, to decrease the Charges;
- 6.1.3 indexation, where Annex 1 states that a particular Charge or any component is "subject to Indexation" in which event Paragraph 7 below shall apply.

7. When the Charges are linked to inflation

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

7.1 Charges shall not be indexed during the ██████████ following the Start Date.

7.2 Where Annex 1 states a Charge is subject to Indexation then it will be indexed on the date which ██████████ after the Start Date to reflect the percentage change in the CPIH since the Start Date. They shall be indexed

Schedule 3 (Charges)

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on each following yearly anniversary to reflect the percentage change in the CPIH since the previous change.

7.3 Where the CPIH Index:

7.3.1 used to carry out an indexation calculation is updated (for example due to it being provisional) then the indexation calculation shall also be updated unless the Buyer and the Supplier agree otherwise;

7.3.2 is no longer published, the Buyer and the Supplier shall agree a fair and reasonable replacement that will have substantially the same effect.

8. Service Credits

8.1 Service Credits pursuant to the provisions of Schedule 10 (Service Levels).

8.2 Service Credits shall be shown as a deduction from the amount due from the Buyer to the Supplier in the invoice for the Service Period immediately succeeding the Service Period to which they relate.

8.3 The liability of the Supplier in respect of Service Credits shall in accordance with the provisions of Schedule 10 (Service Levels) and the Contract Award Form.

9. Supplier Invoicing

9.1 Please refer to Paragraph 4 (*Pricing and Payments*) of the Core Terms - Mid-Tier for obligations in respect of invoicing.

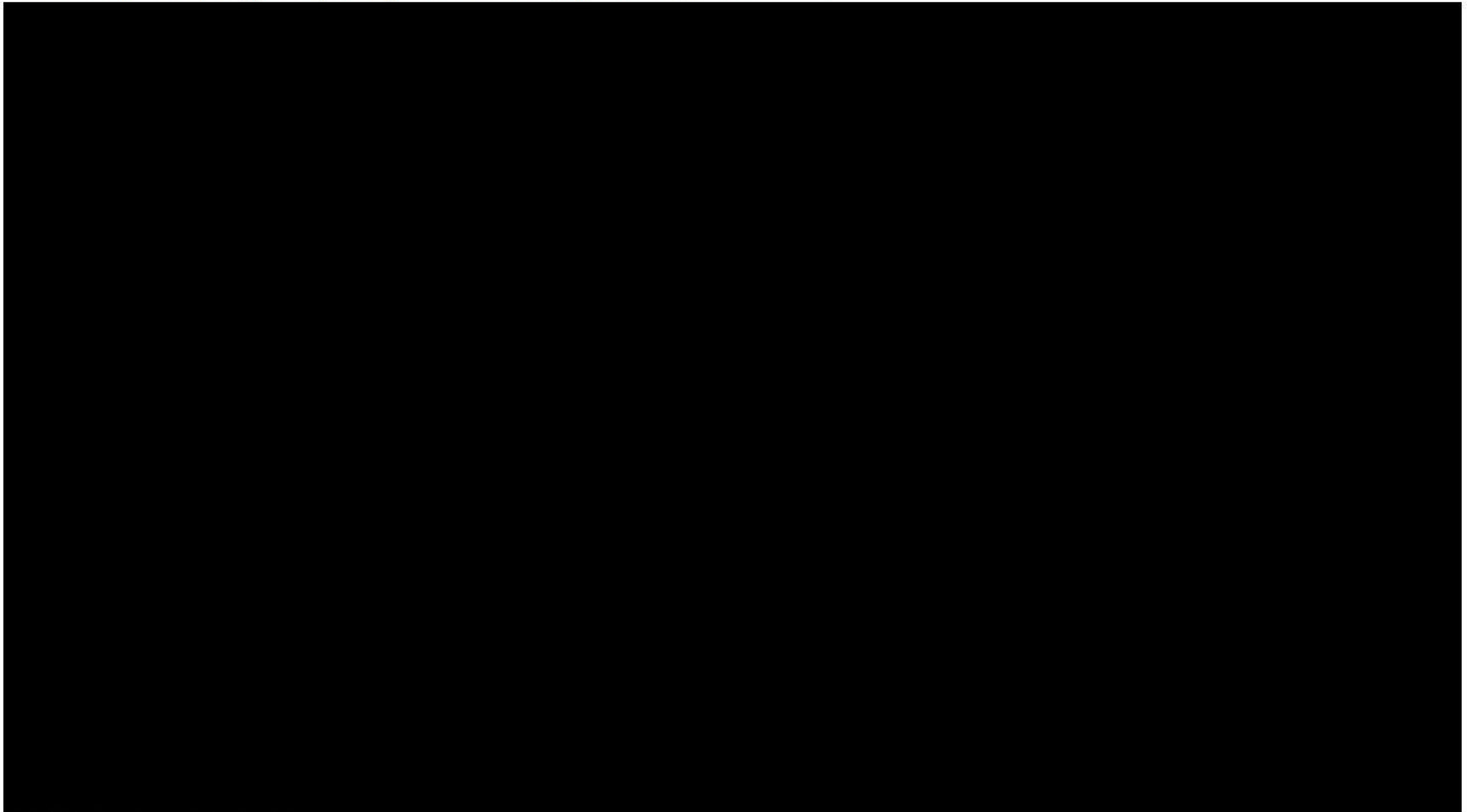
9.2 The Supplier should submit all invoices through the Buyer's electronic system (Metis) or if that is not possible to:

HOSupplierInvoices@Homeoffice.gov.uk

Annex 1: Rates and Prices

All Charges subject to Indexation applied from commencement of ██████████
██████████

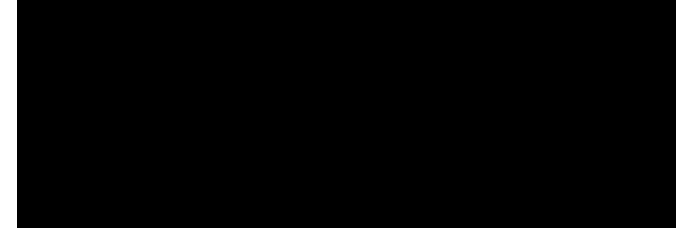
Table 1: Mobile Freight Capability – Firm Price Implementation Milestones



██████ – Provision of Supply and Maintenance of Mobile Freight X-Ray Scanners

Schedule 3 (Charges)

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1. FIRM PRICE IMPLEMENTATION MILESTONE PAYMENTS

- 1.1. Where Table 1 of this Annex 1 indicates that a Milestone Payment shall be calculated by reference to a Firm Price pricing mechanism, the relevant Charge shall be the amount set out against that Charge in Table 1 of Annex 1.
- 1.2. Charges calculated by reference to a Firm Price pricing mechanism shall not be subject to increase by way of Indexation.

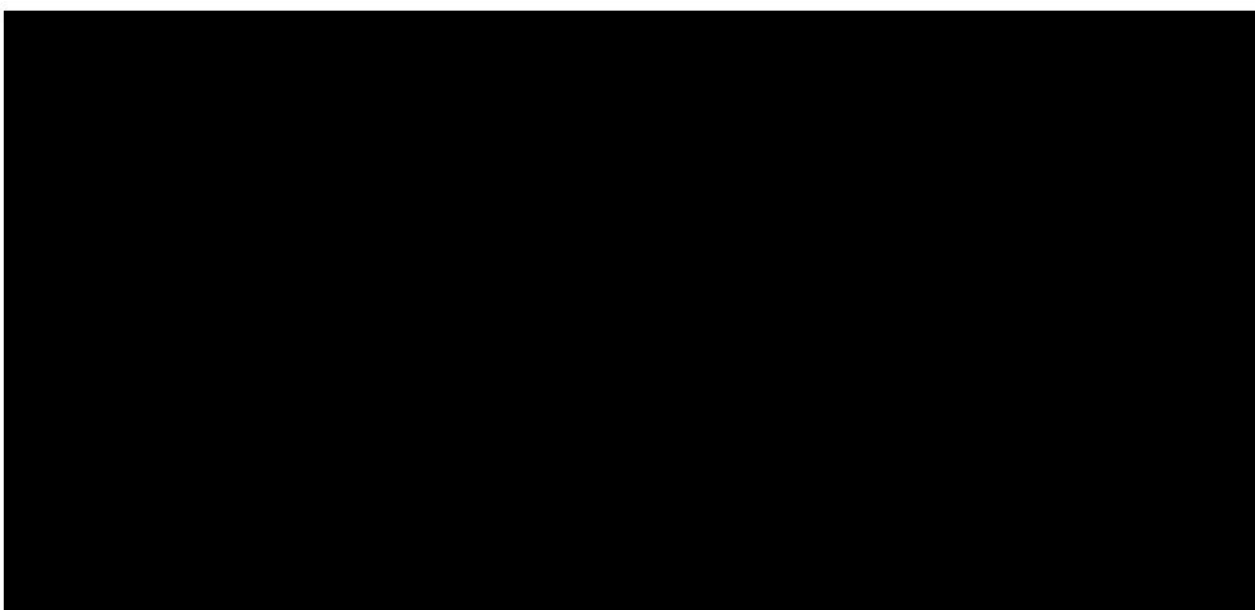
2. MILESTONE PAYMENTS

- 2.1. On the Achievement of a Milestone the Supplier shall be entitled to invoice the Buyer for the Milestone Payment associated with that Milestone less the applicable Milestone Retention in accordance with this Annex 1 paragraph 1.
- 2.2. Each invoice relating to a Milestone Payment shall be supported by a Milestone Achievement Certificate. The “Milestone Retention” for each Milestone shall be calculated as follows:
 - 2.2.1 The Milestone Payment for the relevant Milestone is determined by reference to Firm Price pricing mechanism, 10% of the Charges for that Milestone shall be retained.

3. RELEASE OF MILESTONE RETENTIONS

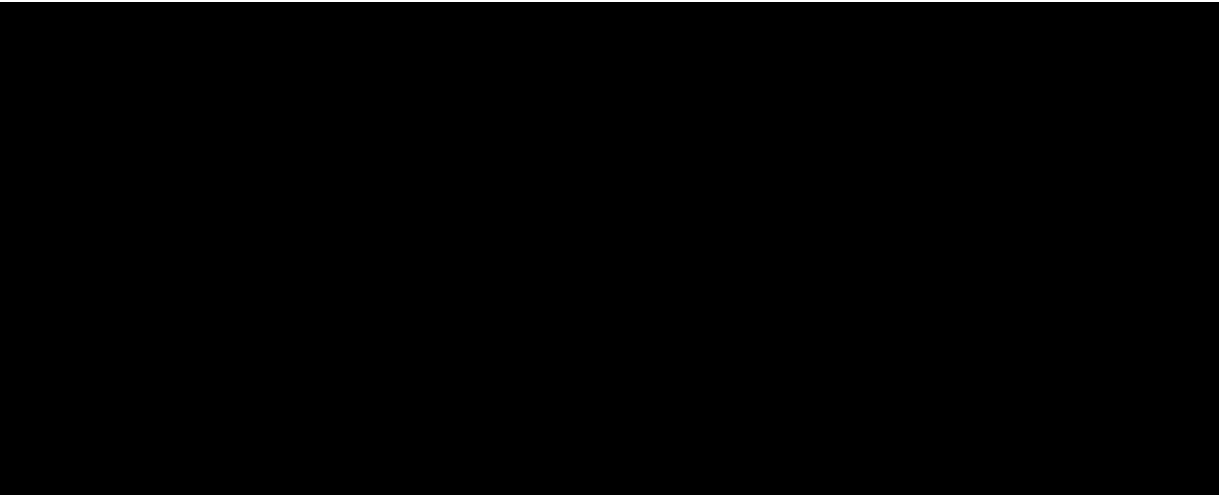
- 3.1. After the Service has commenced, the Supplier shall be entitled to invoice the Buyer for an amount equal to all Milestone Retentions that relate to the Milestones set out in Table 1 of Annex 1 60 days after the Achievement of all Milestones.

4. MOBILE FREIGHT CAPABILITY



Schedule 3 (Charges)

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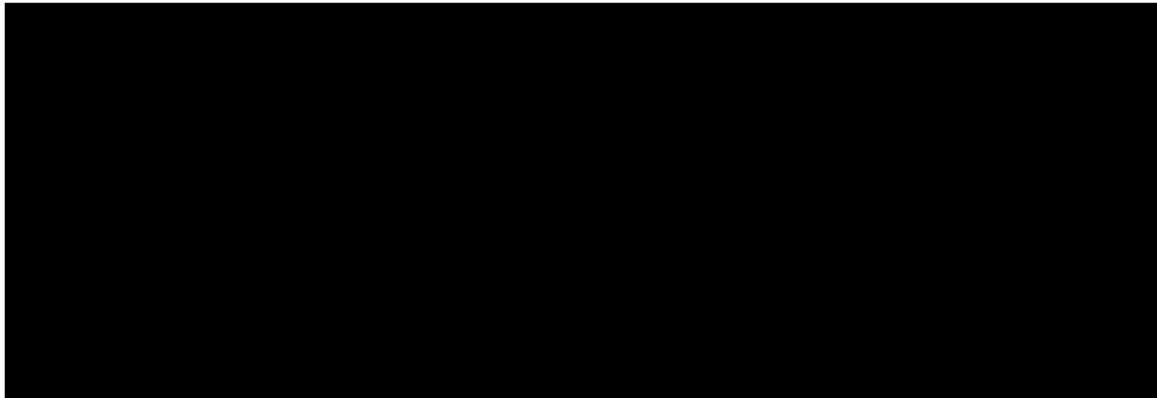
5. SERVICE CHARGES

- 5.1. All Service Charges shall be Fixed Price pricing mechanism and the relevant Charge shall be the amount set out against that Charge in Tables 2 to 7 (inclusive) of this Annex 1.
- 5.2. Charges calculated by reference to a Fixed Price pricing mechanism shall be subject to increase by way of Indexation.
- 5.3. The Supplier may invoice for the Charges set out in Table 2 of this Annex 1 only once the Capability has been delivered, installed, Buyer acceptance provided (in accordance with Schedule 9 (Installation Works)) and training has been delivered in accordance with Schedule 2 (Specification).
- 5.4. Outside UK
 - 5.4.1. In the case of a Capability that is ordered for installation outside the UK, the Contract Charges for Goods and Software will be the same as for an installation within the UK. Charges relating to delivery, installation, training and maintenance will be subject to agreement between the Parties at the time of order.

6. MOBILE FREIGHT CAPABILITY – GOODS (AND TRAINING) VOLUME REDUCTIONS

- 6.1. The volume reductions set out in Table 3 below shall apply in the case of multiple orders for multiple Capabilities placed during the same Contract Year.

Table 3: Volume Reductions

A large black rectangular box redacting the content of Table 3.

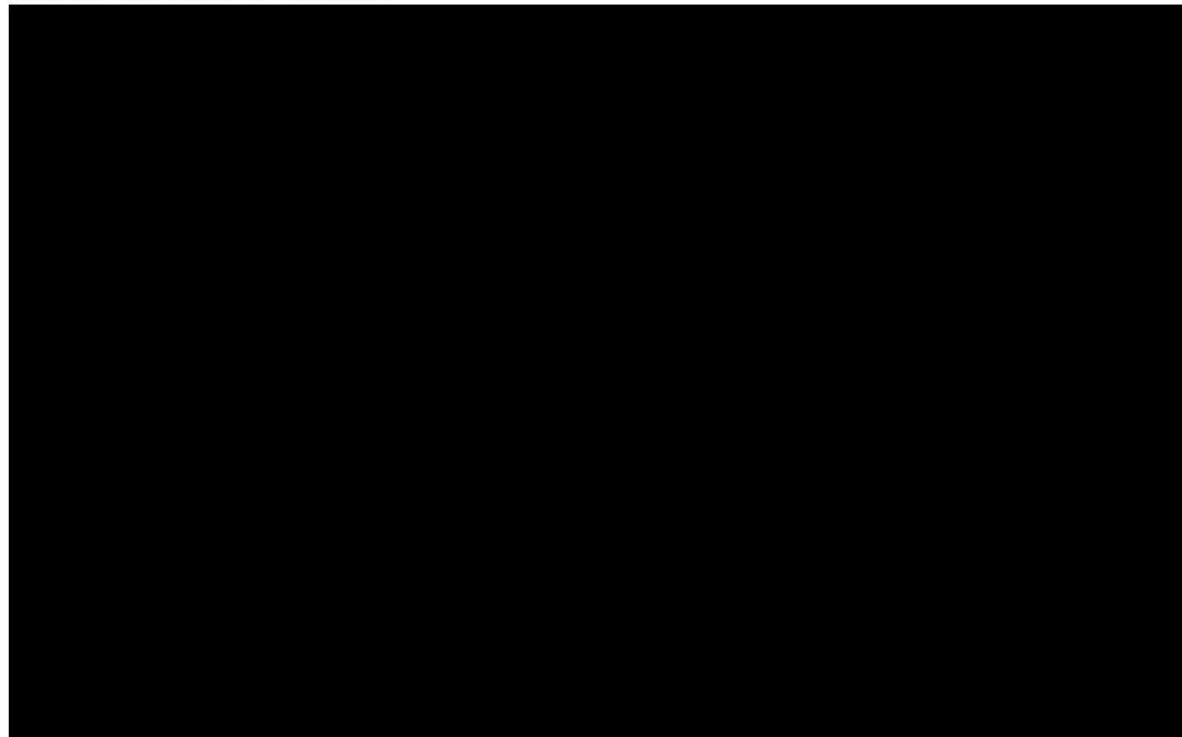
7. MAINTENANCE SERVICE CHARGE

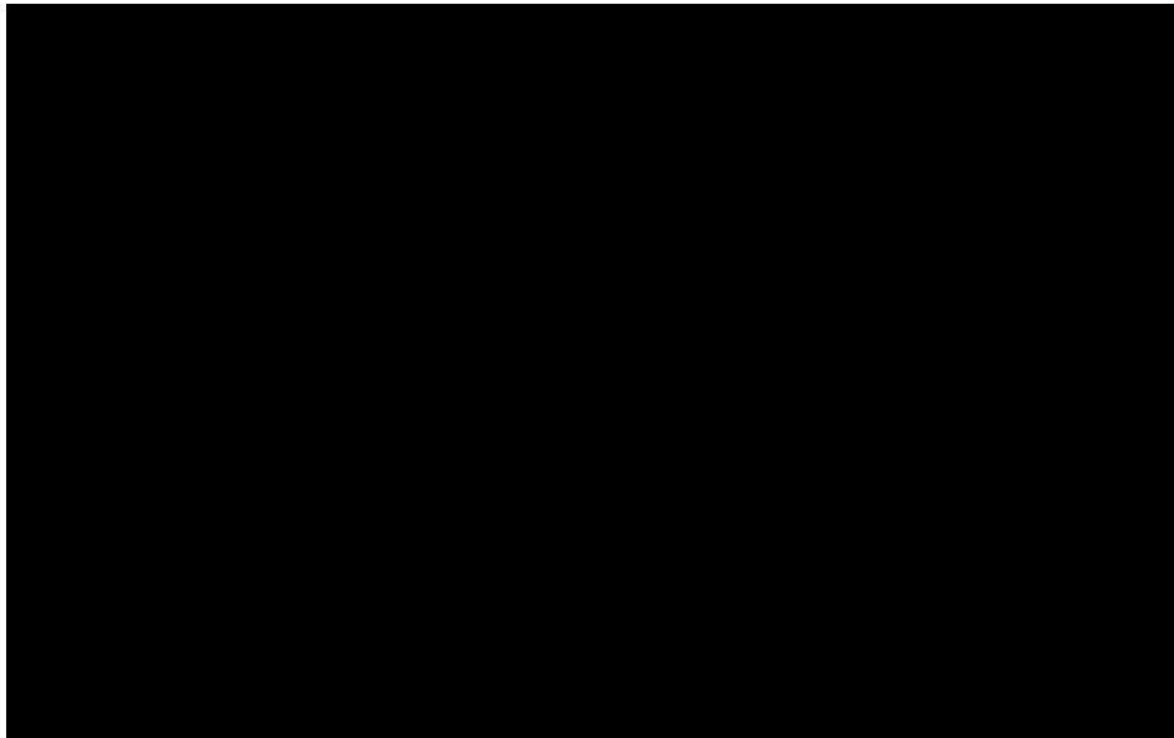
7.1. The Service Charges set out in Table 4 below shall be the annual charge per Capability for the Maintenance Service (combined, planned and reactive). For the avoidance of doubt, these charges are all-inclusive and include, for example, all labour, travel, spare parts and consumables necessary.

7.2. The Supplier shall invoice the Buyer for the Service Charge quarterly in arrears.

Note to Supplier – B and C will be taken from the winning Suppliers Financial Pricing Model and added together to give D.

Table 4: Service Charge:

A large black rectangular box redacting the content of Table 4.



8. MAINTENANCE VOLUME DEDUCTIONS

8.1. The Supplier may offer the Buyer volume deductions for Planned Maintenance Service Charges as detailed in Table 5 – Maintenance Volume Deductions.

8.1.1. The Percentage Deduction will:

8.1.1.1. only be applied to Planned Maintenance Service Charges;

8.1.1.2. not be backdated against previous Service invoices; and

8.1.1.3. be applied to Service invoices for all existing and future call-offs from the date that the volume threshold set out in Table 5 - Maintenance Volume Deductions is met.

Table 5 Maintenance Volume Deductions

9. DECOMMISSIONING CHARGE

- 9.1. The Decommissioning Charge for Capabilities which reach the end of their 10-year maintenance, in accordance with paragraph 16.17 of Schedule 2 (Specification), are set out in Table 6.

Table 6 Decommissioning Charge

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10. OPTIONAL CHARGES

- 10.1. Any Optional Charges within Table 7 will need to be instructed via the appropriate Variation Form (Schedule 21 (Variation Form)).

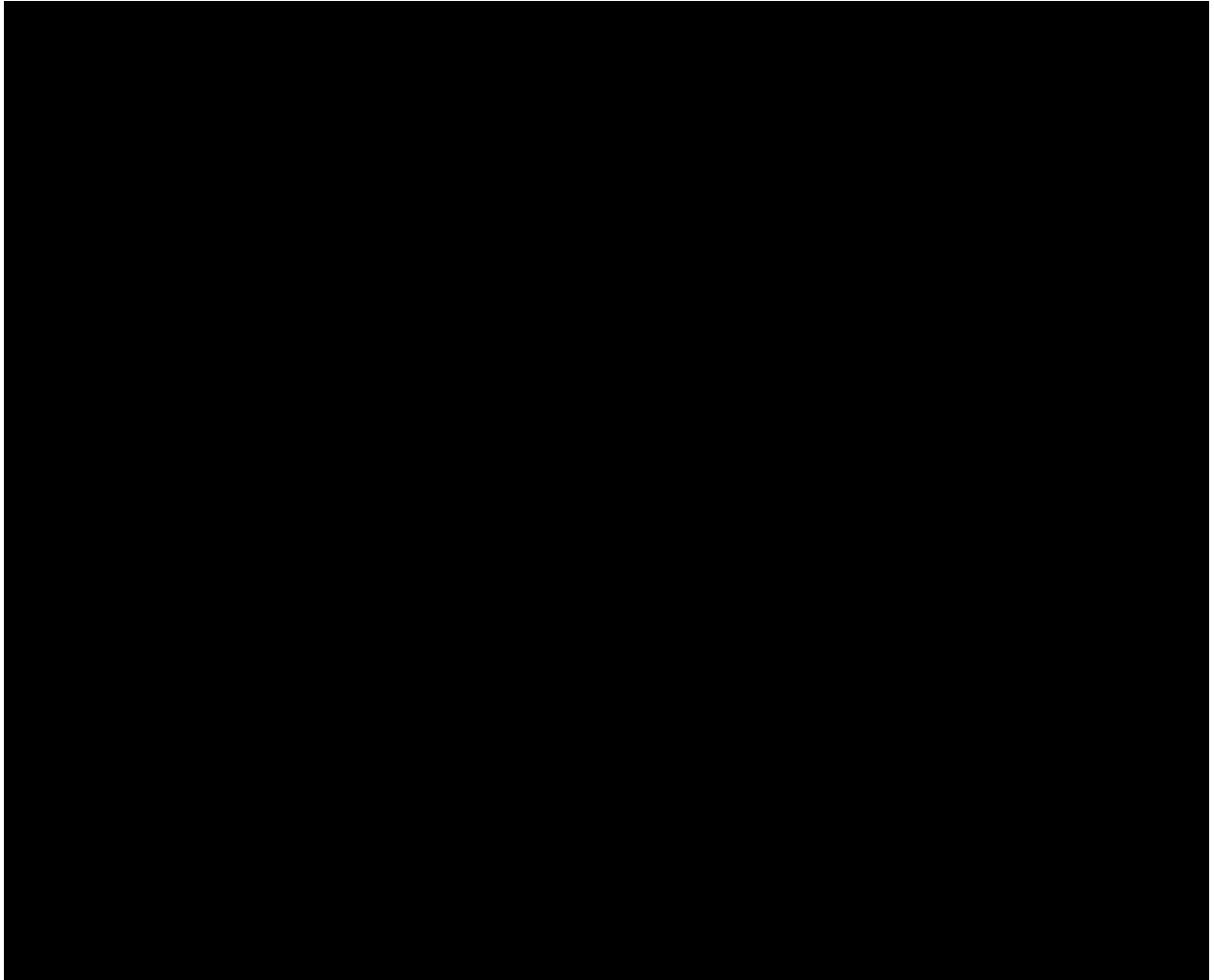
Note to Supplier – additional optional charges from the winning Suppliers Financial Pricing Model will be included within the table below.

Table 7 Optional Charges

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Schedule 3 (Charges)

Crown Copyright 2022



Annex 2: Financial Pricing Mode



Schedule 4 (Tender)

Crown Copyright 2022

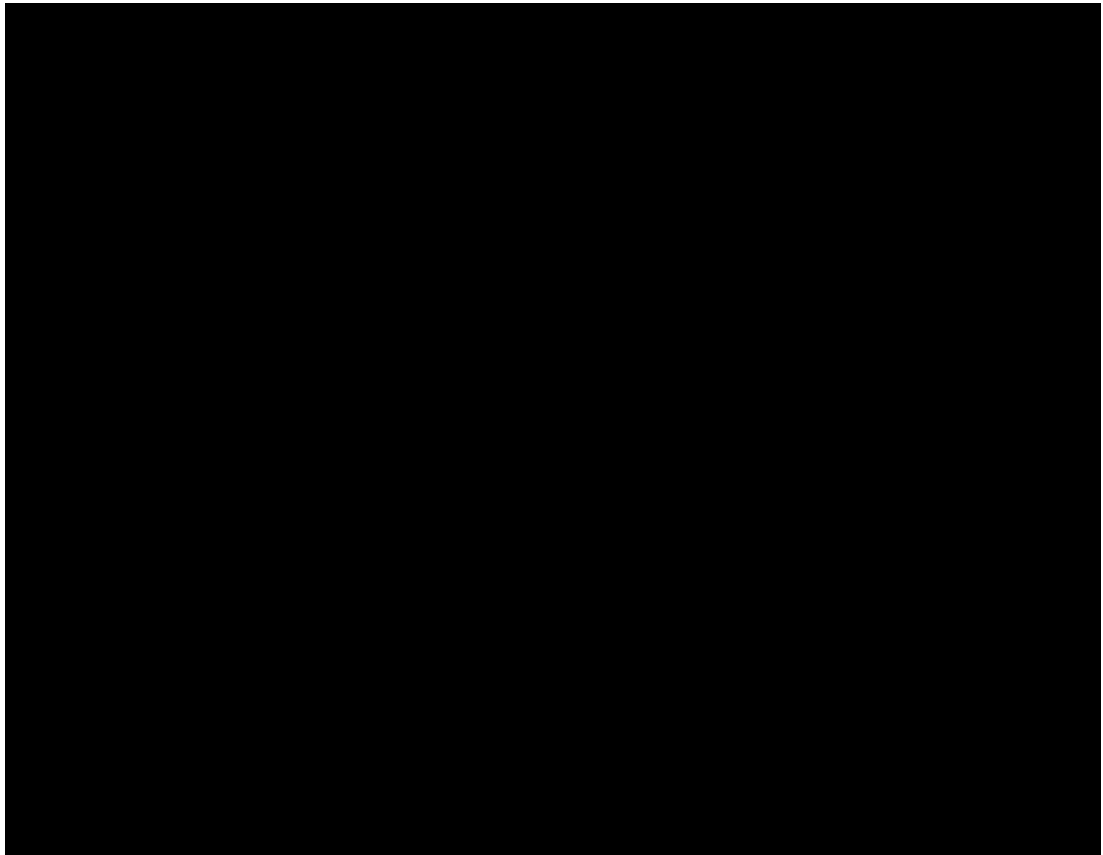
Schedule 4 (Tender)

Tender response provided per question for Standard Selection Questionnaire,
Invitation To Tender and Due Diligence stages:

Schedule 5 (Commercially Sensitive Information)

1. What is the Commercially Sensitive Information?

- 1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below and in the Award Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Buyer's obligation to disclose Information in accordance with FOIA or Clause 20 (When you can share information), the Buyer will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:



Schedule 6 (Transparency Reports)

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

Annex A: List of Transparency Reports

Title	Content	Format	Frequency
Performance	<p>Reports shall contain but shall not be limited to all of the following:</p> <ul style="list-style-type: none"> • Service Period covered; • Number of calls to the helpdesk in the period; • Number of reactive maintenance visits; • Average response time (attendance and repair) to calls received requiring attendance for serious operational failures • Average response time (attendance and repair) to calls received requiring attendance for non-serious operational failures • Longest response time in period; and • Longest repair time in period; • Calculation of Goods downtime/availability per device. 	As per Appendix A	Quarterly or more frequently when reasonably requested by the Buyer
Maintenance Service Report/Engineer Reports	<p>Service reports provided upon each maintenance visit. In the event that the Supplier cannot fulfil the maintenance obligations during a visit, for any reason, this service report must still be completed containing justification for the failed visit. Reports to include, but shall not be limited to all of the following:</p> <ul style="list-style-type: none"> • Time of arrival and departure; • Date; • Name of engineer; • What work has been carried out, i.e. planned or reactive; • For reactive maintenance, the time and date of the Buyer initial notification. • The unit name and serial/model number and what location the work was carried out; • Any other details requested by the Buyer; and • A copy must be left on site, with a further copy emailed (with invoices) to the Buyer Authorised Representative. 	As agreed	Each engineer visit

Appendix A – Format of Reporting

Reports shall be in the following format, unless otherwise agreed in writing with the Buyer

Title: *[insert title]*

Description: *[insert details of the report type]*

Frequency: *[insert Frequency]*

Report content:

Author: *[inset name and role]*

Period covering: *[insert dates from and to]*

Report purpose: *[Insert report purpose]*

Summary: *[Insert summary of report findings]*

Analysis of Performance: *[this will be based on the detail of the report]*

Schedule 7 (Staff Transfer)

1. Definitions

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

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

	including any payments arising in respect of pensions;
	(f) claims whether in tort, contract or statute or otherwise;
	any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;
“Fair Deal Employees”	as defined in Part D;
“Former Supplier”	a supplier supplying the Services to the Buyer 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 subcontractor of such supplier (or any subcontractor of any such subcontractor);
“New Fair Deal”	<p>the revised Fair Deal position set out in the HM Treasury guidance: <i>“Fair Deal for staff pensions: staff transfer from central government”</i> issued in October 2013 including:</p> <p>(a) any amendments to that document immediately prior to the Relevant Transfer Date;</p> <p>(b) any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer;</p>
“Notified Subcontractor”	a Subcontractor identified in the Annex to this Schedule to whom Transferring Buyer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
“Old Fair Deal”	HM Treasury Guidance <i>“Staff Transfers from Central Government: A Fair Deal for Staff Pensions”</i> issued in June 1999 including the supplementary guidance <i>“Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues”</i> issued in June 2004;

"Partial Termination"	the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 14.4 (When the Buyer can end this contract) or 14.6 (When the Supplier can end the contract);
"Replacement Subcontractor"	a subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any subcontractor of any such subcontractor);
"Relevant Transfer"	a transfer of employment to which the Employment Regulations applies;
"Relevant Transfer Date"	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place, and for the purposes of Part D and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date;
"Service Transfer"	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
"Service Transfer Date"	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
"Staffing Information"	in relation to all persons identified on the Supplier's Provisional Supplier Staff List or Supplier's Final Supplier Staff List, as the case may be, , all information required in Annex E2 (<i>Table of Staffing Information</i>) in the format specified and with the identities of Data Subjects anonymised where possible. The Buyer may acting reasonably make changes to the format or information requested in Annex E2 from time to time.
"Statutory Schemes"	means the CSPS, NHSPS or LGPS as defined in the Annexes to Part D of this Schedule;

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

2. Interpretation

Where a provision in this Schedule imposes any obligation on the Supplier including to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

3. Which parts of this Schedule apply

Only the following parts of this Schedule shall apply to this Contract:

- 3.1 Part C (No Staff Transfer on Start Date)
- 3.2 Part E (Staff Transfer on Exit)
 - 3.2.1 Annex E1 (List of Notified Subcontractors)
 - 3.2.2 Annex E2 (Staffing Information)

Part C: No Staff Transfer on the Start Date

1. What happens if there is a staff transfer

- 1.1 The Buyer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Buyer and/or any Former Supplier.
- 1.2 Subject to Paragraphs 1.3, 1.4 and 1.5, if any employee of the Buyer and/or a Former Supplier claims, or it is determined in relation to any employee of the Buyer and/or a Former Supplier, that his/her contract of employment has been transferred from the Buyer and/or the Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then:
 - 1.2.1 the Supplier shall, and shall procure that the relevant Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing and, where required by the Buyer, give notice to the Former Supplier; and;
 - 1.2.2 the Buyer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 15 Working Days of receipt of notice from the Supplier or the Subcontractor, provided always that such steps are in compliance with applicable Law;
 - 1.2.3 if such offer of employment is accepted, the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from its employment;
 - 1.2.4 if after the period referred to in Paragraph 1.2.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 1.2.1 to 1.2.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 1.5:

- a) the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2 provided that the Supplier takes, or shall procure that the Notified Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities; and
- b) the Buyer will procure that the Former Supplier indemnifies the Supplier and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2 provided that the Supplier takes, or shall procure that the

relevant Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

- 1.3 If any such person as is described in Paragraph 1.2 is neither re employed by the Buyer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Subcontractor within the 15 Working Day period referred to in Paragraph 1.2 such person shall be treated as having transferred to the Supplier and/or the Subcontractor (as appropriate) and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under Law.
- 1.4 Where any person remains employed by the Supplier and/or any Subcontractor pursuant to Paragraph 1.3, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Subcontractor and the Supplier shall indemnify the Buyer and any Former Supplier, and shall procure that the Subcontractor shall indemnify the Buyer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.
- 1.5 The indemnities in Paragraph 1.2 shall not apply to any claim:
 - 1.5.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief;
 - 1.5.2 or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,in relation to any alleged act or omission of the Supplier and/or Subcontractor; or
 - 1.5.3 any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and
- 1.6 The indemnities in Paragraph 1.2 shall not apply to any termination of employment occurring later than 3 Months from the Start Date.
- 1.7 If the Supplier and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Subcontractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.

2. Limits on the Former Supplier's obligations

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

Part E: Staff Transfer on Exit

1. Obligations before a Staff Transfer

- 1.1 The Supplier agrees that within 20 Working Days of the earliest of:
 - 1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
 - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract;
 - 1.1.3 the date which is 12 Months before the end of the Term; and
 - 1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any 6 Month period),it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Supplier's Provisional Supplier Staff List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Staff List and it shall provide an updated Supplier's Provisional Supplier Staff List at such intervals as are reasonably requested by the Buyer.
- 1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor
 - 1.2.1 the Supplier's Final Supplier Staff List, which shall identify the basis upon which they are Transferring Supplier Employees and
 - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Staff List (insofar as such information has not previously been provided).
- 1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.
- 1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor 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 Paragraphs 1.1.1 1.1.2 and 1.1.3, the Supplier agrees that it shall not assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Staff List and shall, unless otherwise instructed by the Buyer (acting reasonably):
 - 1.5.1 not replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Staff 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 not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Supplier Staff (including any payments connected with the termination of employment);
- 1.5.3 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Staff save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.4 not introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Staff List;
- 1.5.5 not increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
- 1.5.6 not terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Staff List save by due disciplinary process;
- 1.5.7 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor;
- 1.5.8 give the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor reasonable access to Supplier Staff and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Buyer, Replacement Supplier and/or Replacement Subcontractor in respect of persons expected to be Transferring Supplier Employees;
- 1.5.9 co-operate with the Buyer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
- 1.5.10 promptly notify the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any notice to terminate employment given by the Supplier or received from any persons listed on the Supplier's Provisional Supplier Staff List regardless of when such notice takes effect;
- 1.5.11 not for a period of 12 Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Subcontractors whose employment or engagement is transferred to the Buyer and/or the Replacement Supplier (unless otherwise instructed by the Buyer (acting reasonably));

- 1.5.12 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
 - 1.5.13 fully fund any Broadly Comparable pension schemes set up by the Supplier;
 - 1.5.14 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract (including identification of the Fair Deal Employees);
 - 1.5.15 promptly provide to the Buyer such documents and information mentioned in Paragraph 3.1.1 of Part D: Pensions which the Buyer may reasonably request in advance of the expiry or termination of this Contract; and
 - 1.5.16 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract.
- 1.6 On or around each anniversary of the Start Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide such information as the Buyer may reasonably require which shall include:
- 1.6.1 the numbers of employees engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
 - 1.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part D: Pensions); and
 - 1.6.4 a description of the nature of the work undertaken by each employee by location.
- 1.7 The Supplier shall provide all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each

person on the Supplier's Final Supplier Staff 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. Staff Transfer when the contract ends

- 2.1 The Buyer 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 or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Buyer 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 Subcontractor (as the case may be) and each such Transferring Supplier Employee
- 2.2 The Supplier shall, and shall procure that each Subcontractor 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 Subcontractor 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 and all such sums due as a result of any Fair Deal Employees' participation in the Schemes 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 Subcontractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Subcontractor.
- 2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:

- 2.3.1 any act or omission of the Supplier or any Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date.
- 2.3.2 the breach or non-observance by the Supplier or any Subcontractor 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 Subcontractor 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 Subcontractor 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 identified in the Supplier's Final Supplier Staff List, 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 Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, 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 Subcontractor 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 Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be

- liable by virtue of this Contract and/or the Employment Regulations;
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 Subcontractor 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 Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnity in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor 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 Subcontractor 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 Subcontractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 Subject to Paragraphs 2.6 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations then:
 - 2.5.1 the Replacement Supplier and/or Replacement Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing;
 - 2.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 15 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law;
 - 2.5.3 if such offer of employment is accepted, or if the situation has otherwise been resolved by the Supplier or a Subcontractor, the Replacement Supplier and/or Replacement Subcontractor shall

immediately release the person from its employment or alleged employment;

- 2.5.4 if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Replacement Supplier and/or Replacement Subcontractor may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Replacement Supplier's and/or Replacement Subcontractor's compliance with Paragraphs 2.5.1 to 2.5.4 the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees referred to in Paragraph 2.5 provided that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

- 2.6 The indemnity in Paragraph 2.5 shall not apply to:

- 2.6.1 any claim for:

a) 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

b) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

arising as a result of any alleged act or omission of the Replacement Supplier and/or Replacement Subcontractor; or

- 2.6.2 any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor neglected to follow a fair dismissal procedure.

- 2.7 The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than 6 Months from the Service Transfer Date.

- 2.8 If at any point the Replacement Supplier and/or Replacement Subcontractor accepts the employment of any such person as is described in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 2.5 shall cease to apply to such person.

- 2.9 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Staff list 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 and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme

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:

2.9.1 the Supplier and/or any Subcontractor; and

2.9.2 the Replacement Supplier and/or the Replacement Subcontractor.

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

2.11 Subject to Paragraph 2.9, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:

2.11.1 any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee.

2.11.2 the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:

a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List; and/or

b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;

2.11.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List arising from or connected with any failure by the Replacement Supplier and/or Replacement Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;

2.11.4 any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List on or after their transfer to the Replacement Supplier or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and

- conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Staff List 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 Service Transfer Date as a result of or for a reason connected to such proposed changes;
- 2.11.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Subcontractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- 2.11.6 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 identified in the Supplier's Final Supplier Staff List, 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 identified in the Supplier's Final Supplier Staff List, 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 Subcontractor, to the Replacement Supplier or Replacement Subcontractor 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;
- 2.11.7 a failure of the Replacement Supplier or Replacement Subcontractor 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 identified in the Supplier's Final Supplier Staff List in respect of the period from (and including) the Service Transfer Date; and
- 2.11.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.
- 2.12 The indemnity in Paragraph 2.10 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee

Liabilities arising from the failure by the Supplier and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Supplier's Final Supplier Staff List in accordance with Paragraph 2.5 (and subject to the limitations set out in Paragraphs 2.6 and 2.7 above).

ANNEX E1: LIST OF NOTIFIED SUBCONTRACTORS

ANNEX E2: STAFFING INFORMATION

EMPLOYEE INFORMATION (ANONYMISED)

Name of Transferor:

Number of Employees in-scope to transfer:

Completion notes

- 1 *If you have any Key Subcontractors, please complete all the above information for any staff employed by such Key Subcontractor(s) in a separate spreadsheet.*
- 2 *This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.*
- 3 *If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.*

EMPLOYEE DETAILS & KEY TERMS							
Details	Job Title	Grade / band	Work Location	Age	Employment status (for example, employee, fixed-term employee, self-employed, agency worker)?	Continuous service date (dd/mm/yy)	Date employment started with existing employer
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							

EMPLOYEE DETAILS & KEY TERMS							
Details	Contract end date (if fixed term contract or temporary contract)	Contractual notice period	Contractual weekly hours	Regular overtime hours per week	Mobility or flexibility clause in contract?	Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector	Any collective agreements?
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							

Emp No								
	ASSIGNMENT	CONTRACTUAL PAY AND BENEFITS						
Details	% of working time dedicated to the provision of services under the contract	Salary (or hourly rate of pay)	Payment interval (weekly / fortnightly / monthly)	Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)	Pay review method	Frequency of pay reviews	Agreed pay increases	Next pay review date
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								

Emp No								
Emp No								

CONTRACTUAL PAY AND BENEFITS

Details	Any existing or future commitment to training that has a time-off or financial implication	Car allowance (£ per year)	Lease or company car details	Any other allowances paid (e.g. shift allowance, standby allowance, travel allowance)	Private medical insurance (please specify whether single or family cover)	Life assurance (xSalary)	Long Term Disability / PHI (% of Salary)	Any other benefits in kind
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								
Emp No								

Emp No								
--------	--	--	--	--	--	--	--	--

CONTRACTUAL PAY AND BENEFITS						
Details	Annual leave entitlement (excluding bank holidays)	Bank holiday entitlement	Method of calculating holiday pay (i.e. based on fixed salary only or incl. entitlements to variable remuneration such as bonuses, allowances, commission or overtime pay?)	Maternity or paternity or shared parental leave entitlement and pay	Sick leave entitlement and pay	Redundancy pay entitlement (statutory / enhanced / contractual / discretionary)
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

PENSIONS						
Details	Employee pension contribution rate	Employer pension contribution rate	Please provide the name of the pension scheme and a link to the pension scheme website	Is the scheme an occupational pension scheme as defined in the Pension Schemes Act 1993?	If the scheme is not an occupational pension scheme, what type of scheme is it? E.g. personal pension scheme?	Type of pension provision e.g. defined benefit (CARE or final salary, and whether a public sector scheme e.g. CSPA, NHSPS, LGPS etc. or a broadly comparable scheme) or a defined contribution scheme or an auto enrolment master trust?
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

PENSIONS						
Details	If the Employee is in the Local Government Pension Scheme, please supply details of Fund and Administering Authority.	If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Agreement.	If the Employee is in the NHSPS, please provide details of the Direction Letter.	If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.	Did Fair Deal or any other similar pension protection for ex-public sector employees apply to the employee when they TUPE transferred into your employment? If so, what was the nature of that protection (e.g. right to participate in a public sector pension scheme, or a broadly comparable scheme, or to bulk transfer past pension service into their current scheme)?	If Fair Deal, Best Value or other pension protection applied, which public sector employer did they originally transfer out of and when?
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

OTHER			
Details	Security Check Level	Security Clearance Expiry date	Additional info or comments
Emp No 1			
Emp No 2			
Emp No			
Emp No			
Emp No			
Emp No			
Emp No			

Schedule 8 (Implementation Plan and Testing)

Part A - Implementation

1. Definitions

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

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

2. Agreeing and following the Implementation Plan

- 2.1 A draft of the Implementation Plan is set out in the Annex to this Schedule. The Supplier shall provide an updated draft Implementation Plan 30 days after the Start Date.
- 2.2 The draft Implementation Plan:
- 2.2.1 must contain information at the level of detail necessary to manage the implementation stage effectively and as the Buyer may otherwise require; and
 - 2.2.2 it shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
- 2.3 Following receipt of the draft Implementation Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the Implementation Plan. If the Parties are unable to agree the contents of the Implementation Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

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

3. Reviewing and changing the Implementation Plan

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

4. Security requirements before the Start Date

- 4.1 The Supplier shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Supplier Staff have the necessary security clearance in place before the Start Date. The Supplier shall ensure that this is reflected in their Implementation Plan.
- 4.2 The Supplier shall ensure that all Supplier Staff and Subcontractors do not access the Buyer's IT systems, or any IT systems linked to the Buyer, unless they have satisfied the Buyer's security requirements.
- 4.3 The Supplier shall be responsible for providing all necessary information to the Buyer to facilitate security clearances for Supplier Staff and Subcontractors in accordance with the Buyer's requirements.
- 4.4 The Supplier shall provide the names of all Supplier Staff and Subcontractors and inform the Buyer of any alterations and additions as they take place throughout the Contract Period.
- 4.5 The Supplier shall ensure that all Supplier Staff and Subcontractors requiring access to the Buyer Premises have the appropriate security clearance. It is the Supplier's responsibility to establish whether or not the level of clearance will be sufficient for access. Unless prior approval has been received from the Buyer, the Supplier shall be responsible for meeting the costs associated with the provision of security cleared escort services.
- 4.6 If a property requires Supplier Staff or Subcontractors to be accompanied by the Buyer's Authorised Representative, the Buyer must be given reasonable notice of such a requirement, except in the case of emergency access.

5. What to do if there is a Delay

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

6. Compensation for a Delay

- 6.1 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Buyer such Delay Payments (calculated as set out by the Buyer in the Implementation Plan) and the following provisions shall apply:
 - 6.1.1 the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to Achieve the corresponding Milestone;
 - 6.1.2 Delay Payments shall be the Buyer's exclusive financial remedy for the Supplier's failure to Achieve a Milestone by its Milestone Date except where:
 - a) the Buyer is also entitled to or does terminate this Contract pursuant to Clause 14.4 (When the Buyer can end the contract); or
 - b) the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;
 - 6.1.3 the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;
 - 6.1.4 no payment or other act or omission of the Buyer shall in any way affect the rights of the Buyer to recover the Delay Payments or be deemed to be a waiver of the right of the Buyer to recover any such damages; and
 - 6.1.5 Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 15 (How much you can be held responsible for).

7. Implementation Plan

- 7.1 The Implementation Period will be as agreed within the Implementation Plan set out in Annex 1.
- 7.2 In accordance with the Implementation Plan, the Supplier shall:
 - 7.2.1 Produce an Implementation Plan, to be agreed by the Buyer, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.
- 7.3 The Implementation Plan will include detail stating:
 - 7.3.1 a communications plan, to be produced and implemented by the Supplier, but to be agreed with the Buyer, including the frequency, responsibility for and nature of communication with the Buyer and end users of the Services.
- 7.4 The Supplier shall:
 - 7.4.1 appoint a Supplier Authorised Representative who shall be responsible for the management of the Implementation Period, to ensure that the Implementation Period is planned and resourced adequately, and who will act as a point of contact for the Buyer;
 - 7.4.2 mobilise all the Services specified in the Specification within the Contract;
 - 7.4.3 produce an Implementation Plan report for each Buyer Premises to encompass programmes that will fulfil all the Buyer's obligations to landlords and other tenants:
 - a) the format of reports and programmes shall be in accordance with the Buyer's requirements and particular attention shall be paid to establishing the operating requirements of the occupiers when preparing these programmes which are subject to the Buyer's approval; and
 - b) the Parties shall use reasonable endeavours to agree the contents of the report but if the Parties are unable to agree the contents within twenty (20) Working Days of its submission by the Supplier to the Buyer, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
 - 7.4.4 manage and report progress against the Implementation Plan;
 - 7.4.5 construct and maintain an Implementation risk and issue register in conjunction with the Buyer detailing how risks and issues will be effectively communicated to the Buyer in order to mitigate them;
 - 7.4.6 attend progress meetings (frequency of such meetings shall be as set out in the Award Form) in accordance with the Buyer's requirements during the Implementation Period. Implementation meetings shall be

chaired by the Buyer and all meeting minutes shall be kept and published by the Supplier.

8. Milestones

- 8.1 The indicative Milestones to be achieved at ITT stage are provided at Annex 2 - Milestones to be Achieved.
- 8.2 Bidders are encouraged to supply their own deliverables and milestones for review by the Buyer. The Buyer is under no obligation to use Milestones provided by the Bidders. The final decision on milestones will rest with the Buyer.
- 8.3 Bidders will add proposed milestones in table format in Annex 2 of this Schedule. Submission of these is optional and will not form any part of the scoring or evaluation process.
- 8.4 The Milestone Table should include, but is not restricted to the following:

Milestone Name

Milestone Reference

Key Milestone

Milestone Achievement Date

Retention Release Date

Retention Release Trigger Event

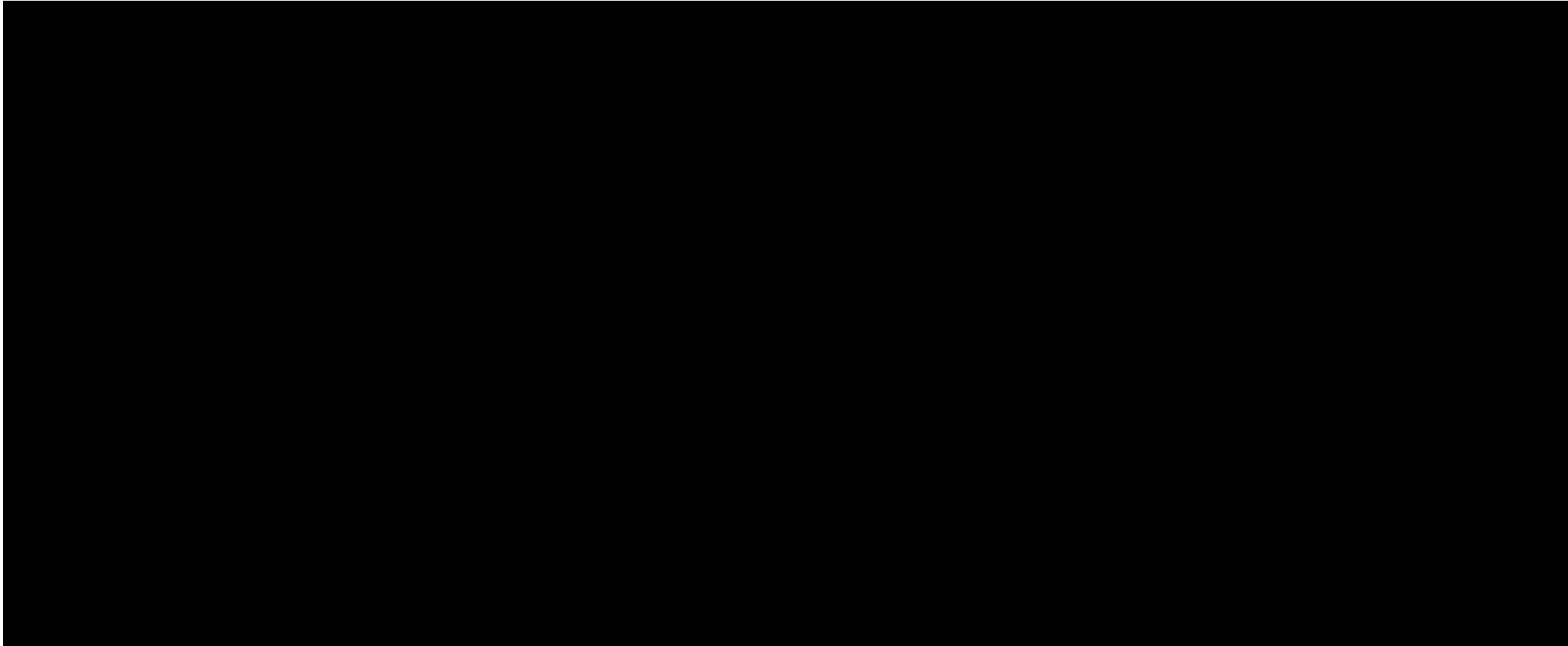
Percentage (%) of Total Unit Charges for Delivery of Initial Four Units Due for Payment (Including Retention)

Retention % ██████

Annex 1: Implementation Plan

[To populate once contract has been awarded]

Annex 2 - Milestones to be Achieved



Part B – Testing

Factory Acceptance Test

1. The Factory Acceptance Test (FAT) will be carried out on a date and at a time agreed between the Buyer and Supplier.
2. The agreed date and time will be:
 - (a) when the Supplier is able to provide a Capability that meets Border Force requirements, as detailed in Schedule 2 (Specification); and
 - (b) prior to the delivery of the first Capability.
3. The requirements which may require inspection and testing, include one or more of the requirements set out in the Specification and Volume 2 Detailed Evaluation Guidance, which was issued with the Selection Questionnaire (SQ) and the Invitation To Tender (ITT), including, without limitation:
 - (a) requirements that the Suppliers Capability must “pass,” and
 - (b) requirements that were scored.

Table 1 below lists the requirements that may need to be inspected and tested.

4. Suppliers must demonstrate that their Capability meets their submitted tender.
5. If the Suppliers Capability fails to meet the minimum mandatory standards, or the standards submitted in the tender, it will be subject to further checks prior to the delivery of the first Capability. Any further checks required shall be undertaken at the expense of the Supplier.
6. The Suppliers Capability will not be accepted until those carrying out the inspection and testing have concluded that it meets all requirements, including the standards referred to above.

Schedule 8: (Implementation Plan and Testing)
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	Scanning	Imaging	Host Vehicle	Human Machine Interface	Data Management and Storage	Networking	Delivery, Training & Conformance	Environmental and Climatic	Safety and Legislation	Reliability	Maintainability	Infrastructure	Security	Personnel
2.1		x												
2.2		x												
2.3		x												
2.4		x												
2.5		x												
2.6		x												
2.7		x												
2.8		x												
3.1			x											
3.2			x											
3.3			x											
3.4			X											
3.5			X											
3.7			X											
3.10			x											
3.12			x											
3.13			X											
3.16			X											
3.17			X											
3.18			X											
3.19			x											
3.20			X											
3.21			x											
3.22			X											
3.23			x											
3.24			x											
3.25			x											
3.26			X											
3.27			X											
3.28			X											
3.29			X											
3.30			X											
3.31			x											
4.1				x										
4.2				X										
4.3				X										
4.4				X										
4.5				x										
4.6				x										
5.1					X									
5.2					X									
5.3					x									
5.4					x									
5.5					x									
5.6					x									
6.1						x								

Schedule 8: (Implementation Plan and Testing)
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7.9							x								
9.21									x						
9.22									x						
9.23									x						
10.1										x					
10.2										x					
10.3										x					
11.2											x				
12.1												x			
13.2													X		
13.3													X		
13.4													x		
13.5													x		
13.6													x		
13.10													x		
14.1															x

Table 1 Factory Acceptance Tests

Schedule 9 (Installation Works)

1. When this Schedule should be used

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

2. How things must be installed

- 2.1 Where the Supplier reasonably believes, it has completed the Installation Works it shall notify the Buyer in writing. Following receipt of such notice, the Buyer shall inspect the Installation Works and shall, by giving written notice to the Supplier:
- 2.1.1 accept the Installation Works, or
 - 2.1.2 reject the Installation Works and provide reasons to the Supplier if, in the Buyer's reasonable opinion, the Installation Works do not meet the requirements set out in the Award Form, Annex 1 to this Schedule (or elsewhere in this Contract).
- 2.2 If the Buyer rejects the Installation Works in accordance with Paragraph 2.1.2, the Supplier shall immediately rectify or remedy any defects and if, in the Buyer's reasonable opinion, the Installation Works do not, within five (5) Working Days of such rectification or remedy, meet the requirements set out in the Award Form (or elsewhere in this Contract), the Buyer may terminate this Contract for material Default.
- 2.3 The Installation Works shall be deemed to be completed when the Supplier receives a notice (Annex 2) issued by the Buyer in accordance with Paragraph 2.1 Notwithstanding the acceptance of any Installation Works in accordance with Paragraph 2.2), the Supplier shall remain solely responsible for ensuring that the Goods and the Installation Works conform to the specification in the Award Form (or elsewhere in this Contract). No rights of estoppel or waiver shall arise as a result of the acceptance by the Buyer of the Installation Works.

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

4. Installation Specifics

4.1 Site Conditions

- 4.1.1 The Supplier shall comply with the site entry requirements and site regulations at the premises where the Capability is Delivered and be responsible for obtaining any necessary security passes and permits prior to starting work.

Schedule 9 (Installation Works)

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Annex 1: Site Delivery Acceptance Test

Initial vehicle checks

Tested Area	Pass	Fail	Comments
Headlights			
Internal lights			
Indicators			
Tyre check			
Screen wash / Wipers			
Horn			
Seat Belts			
In vehicle climate control			
Fuel in tank			
Mirrors			
Number of Keys (min x2)			
Locks in working order			
Automatic transmission (mandatory)			
Confirm the scanner is right hand drive			
Confirm the scanner has British number plates with necessary registration paperwork.			
Check bodywork for damage			
Check Livery/BF branding			
Check First Aid kits in the Driver and Image cabs			
Check there is 2-litre foam fire extinguishers in both the Driver Cab & Image Cab			
Check there is 12kg powder fire extinguishers in the drivers & image cabs			
Check there is an emergency break glass hammer and seat belt cutter in the driver's cab within reach of the driver			
Test drive (up to 5 miles)			
Does it deploy			
Complete a scan			
Test the full colour A4 laser printer using the test scan image.			
Confirm 4 hard copies and 2 digital copies of the Operator Manuals (English) have been delivered			
Confirm 4 hard copies and 2 digital copies of the Maintenance Manuals (English) have been delivered			

Additional Comments:

Delivery date:

Checks completed by:.....

Signature:.....

Annex 2: Site Handover Document



ENGINEERS/SUB-CONTRACTORS – OPERATING AGREEMENT

The content of this 'Safety Instruction' has been agreed with the Department's contractors and **must** be fully completed by the contractor's engineers and/or their agents prior to commencing any work.

Part A

Equipment: Mobile Freight scanner

Location:

WORK TO BE CARRIED OUT (full details):

To ensure a safe system of work, the following procedures must be adhered to prior, during and/or on completion of any work in any designated controlled area.

- The Contractor will take on the responsibility of Employer under the Ionising Radiations Regulations 2017 (IRR17) for any engineer, sub-contractor or agent employed by them (but not UKBF staff) from the acceptance of the equipment by the service engineer until it is handed back to UKBF.

Schedule 9 (Installation Works)

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- The Contractor's engineer (and/or any sub-contractor or agent acting on behalf of the Contractor) will be responsible for designating controlled areas under IRR17 Reg. 17 and all associated requirements of IRR17 whilst the equipment is under their control.
- The signing of this safety instruction is acceptance by the Contractor's engineers and/or agents that they have prepared local rules and associated risk assessments for the work described in Part A.
- The Contractor's engineer and sub-contractor/agent must ensure all safety features are operational if the zone is left unattended at any time. If this occurs, the control of the zone must be handed back to UKBF by completing Part B of this Site Handover Document. Re-entry to the controlled area will require a new Site Handover Document to be issued.
- The Contractor's engineer and sub-contractor/agent will ensure all safety features are operational on completion of works.
- The Contractor's engineer or sub-contractor/agent signature confirms acceptance of adherence to procedures detailed above.

Name (Contractor):	Signature:	
Company:	Date:	Time:
Name (BF Rep):	Signature:	
	Date:	Time:

--	--	--

Part B

Return control of scanner zone:

	Yes	No
All service equipment has been removed from the operational area	<input type="checkbox"/>	<input type="checkbox"/>
The Mobile Freight Scanner has been tested and is operating correctly.	<input type="checkbox"/>	<input type="checkbox"/>
All safety features are functioning as intended.	<input type="checkbox"/>	<input type="checkbox"/>
Radiation dose rate around the perimeter* of the controlled area is $<1\text{mSv h}^{-1}$.	<input type="checkbox"/>	<input type="checkbox"/>

**during x-ray generation*

Instrument used: Border Force Mini Rad ☐ Other ☐ Calibration Date

Border Force Victoreen Fluke ☐

To: UKBF

*The Mobile Freight Scanner has been re-commissioned and is now available for operation.

*The work on the Mobile Freight Scanner is incomplete and is not fit for operation. Refer to engineer's report for details

**Delete as appropriate*

Total calculated Downtime

Name (Contractor):	Signature:	
Company:	Date:	Time:
Name (BF Rep):	Signature:	
	Date:	Time:

Schedule 10 (Service Levels)

1. Definitions

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

"Critical Service Level Failure"	means the failure of the Supplier to provide the Services above the Service Level Thresholds identified within Annex A to Part A of this Schedule such that the Supplier may be considered in breach of this Contract; and which is subject to one or more of the remedies in paragraph 3 of this Schedule.
"Performance Monitoring Reports"	has the meaning given in Paragraph 1.2 of Part B of this Schedule;
"Repeat Failures"	Supplier fails to achieve the Service Level Performance Measure for two (2) consecutive Service Periods;
"Service Credits"	any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
"Service Credit Cap"	has the meaning given to it in the Award Form and is as described in Part A paragraph 4 of this Schedule.
"Service Level Failure"	means a failure to meet the Service Level Performance Measure in respect of a Service Level;
"Service Level Performance Measure"	shall be as set out against the relevant Service Level in the Annex A to Part A of this Schedule; and
"Service Level Threshold"	is as described in each Service Level in the Annex A to Part A of this Schedule.

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

- 2.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.

Schedule 10 (Service Levels)

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- 2.2 The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 2.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 2.4 A Service Credit shall be the Buyer's exclusive financial remedy for a Service Level Failure except where:
 - 2.4.1 the Supplier has over the previous twelve (12) Month period exceeded the Service Credit Cap; and/or
 - 2.4.2 the Service Level Failure:
 - a) exceeds the relevant Service Level Threshold;
 - b) has arisen due to a Prohibited Act or wilful Default by the Supplier;
 - c) results in the corruption or loss of any Government Data; and/or
 - d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or
 - 2.4.3 the Buyer is also entitled to or does terminate this Contract pursuant to Clause 14.4 of the Core Terms (When the Buyer can end the contract).
- 2.5 Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:
 - 2.5.1 the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;
 - 2.5.2 the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and
 - 2.5.3 there is no change to the Service Credit Cap.

3. Critical Service Level Failure

On the occurrence of a Critical Service Level Failure:

- 3.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 3.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would

Schedule 10 (Service Levels)

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otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"),

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

4. Additional Rights if Service Level Threshold Exceeded

- 4.1 If the Suppliers performance against a Service Level result in a Service Level Failure that exceeds the Service Level Threshold then the Buyer shall be entitled to treat that Service Level Failure as if it were a Critical Service Level Failure.

Part A: Service Levels and Service Credits

1. Service Levels

If the level of performance of the Supplier:

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

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

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

- 1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;
- 1.2.2 instruct the Supplier to comply with the Rectification Plan Process;
- 1.2.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Buyer; and/or
- 1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

2. Service Credits

- 2.1 The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.
- 2.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Part A of this Schedule.
- 2.3 For the purposes of calculating the Service Credit for any Service Periods where the Supplier does not charge a Service Charge, the Buyer will use the next Service Charge due to calculate any Service Credit.
- 2.4 Any Service Credits accrued during the period detailed at 2.3 will be deducted from the next Service Charge invoice.

3. Repeat Failures (per Capability)

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

4. Service Credit Cap

4.1 The Service Credit Cap for each capability is as follows:

4.1.1 For Service Level Performance Criterion (SLPC) 001, the Service Credit Cap will be ████████ of the total amount payable in respect of the Capability as per the Service Level Performance Measure, and

4.1.2 For Service Level Performance Criterion (SLPC) 002 through to 007, the Service Credit Cap will be ████████ of the Service Charge payable for all other service levels.

4.2 The Service Credit Cap for all SLPC's will be calculated on a quarterly basis.

Annex A to Part A: Service Levels and Service Credits Table

Part B: Performance Monitoring

1. Performance Monitoring and Performance Review

- 1.1 Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 1.2 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to Paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
 - 1.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 1.2.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 1.2.3 details of any Critical Service Level Failures;
 - 1.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 1.2.5 number of calls received in reporting period by Supplier for operational failures (serious and non-serious);
 - 1.2.6 number and percentage of calls resolved without engineer attendance;
 - 1.2.7 scheduled planned maintenance date/s and the actual planned maintenance attendance date/s (per Capability);
 - 1.2.8 downtime, in hours, of Capability during each planned maintenance visit;
 - 1.2.9 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
 - 1.2.10 such other details as the Buyer may reasonably require from time to time.

Additional copies of the Maintenance Service Reports, which were provided to the Buyer at the time of the engineers visit, must be available from the Supplier if requested by the Buyer.

- 1.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("Performance Review Meetings") on a quarterly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
 - 1.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
 - 1.3.2 be attended by the Supplier's Representative and the Buyer's Representative; and
 - 1.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.
- 1.4 The minutes of the preceding Quarterly Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.
- 1.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

2. Satisfaction Surveys

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

Schedule 11 (Continuous Improvement)

1. Supplier's Obligations

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

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

Schedule 13 (Contract Management)

1. Definitions

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

"Operational Board"	the board established in accordance with Paragraph 4.1 of this Schedule;
"Project Manager"	the manager appointed in accordance with Paragraph 2.1 of this Schedule;

2. Project Management

- 2.1 The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
- 2.3 Without prejudice to Paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

3. Role of the Supplier Project Manager

- 3.1 The Supplier Project Manager shall be:
 - 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
 - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Project Manager's responsibilities and obligations;
 - 3.1.3 able to cancel any delegation and recommence the position himself; and
 - 3.1.4 replaced only after the Buyer has received notification of the proposed change.
- 3.2 The Buyer may provide revised instructions to the Supplier's Project Manager in regards to the Contract and it will be the Supplier Project Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 3.3 Receipt of communication from the Supplier Project Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

4. Role of The Operational Board


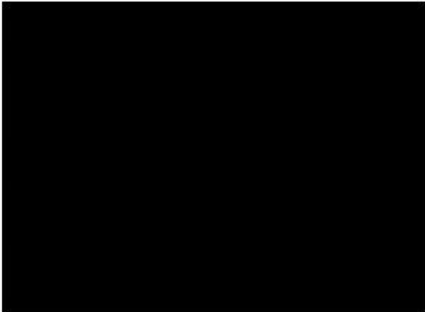
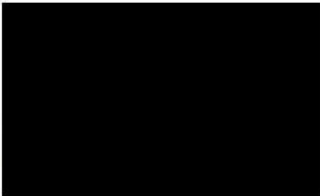
- 4.1 The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set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

5. Contract Risk Management

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

Annex: Operational Boards

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

Type	ATTENDEES	Agenda items	LOCATION/TIMINGS
Performance (Day to Day)	Buyer attendees: <ul style="list-style-type: none"> Buyer Contract Manager Supplier Project Manager Optional invitees if required.	<ul style="list-style-type: none"> Escalation issues Service Levels Quality assurance Risks and issues Financial performance/MI. 	Quarterly (or as appropriate) Regional office 
Senior Management review	Authority Attendees: <ul style="list-style-type: none"> Buyer Contract Manager Buyer Senior Contract Manager Buyer Commercial Lead [if determined by the Buyer] Supplier Attendees:  Optional invitees if required.	<ul style="list-style-type: none"> Service Levels Strategic direction Continuous Improvement Relationship direction Efficiencies Quality Future planning Issues and Risk management Corporate Social Responsibility 	Annual performance review: 

The Buyer will arrange the Operational Boards and the Supplier will produce the minutes and provide these to the Buyer within 10 Working Days of the meeting.

Schedule 14 (Business Continuity and Disaster Recovery)

1. Definitions

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

"BCDR Plan"	has the meaning given to it in Paragraph 2.1 of this Schedule;
"Business Continuity Plan"	has the meaning given to it in Paragraph 2.2.2 of this Schedule;
"Disaster Recovery Plan"	has the meaning given to it in Paragraph 2.2.3 of this Schedule;
"Related Supplier"	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
"Review Report"	has the meaning given to it in Paragraph 6.3 of this Schedule; and
"Supplier's Proposals"	has the meaning given to it in Paragraph 6.3 of this Schedule;

2. BCDR Plan

- 2.1 At least ninety (90) Working Days prior to the Start Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a **"BCDR Plan"**), which shall detail the processes and arrangements that the Supplier shall follow to:
- 2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
 - 2.1.2 the recovery of the Deliverables in the event of a Disaster
- 2.2 The BCDR Plan shall be divided into three sections:
- 2.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;
 - 2.2.2 Section 2 which shall relate to business continuity (the **"Business Continuity Plan"**); and
 - 2.2.3 Section 3 which shall relate to disaster recovery (the **"Disaster Recovery Plan"**).
- 2.3 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty

(20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

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

3.1 Section 1 of the BCDR Plan shall:

- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
- 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
- 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
- 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
- 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
- 3.1.6 contain a risk analysis, including:
 - a) failure or disruption scenarios and assessments of likely frequency of occurrence;
 - b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
 - c) identification of risks arising from an Insolvency Event of the Supplier, any Key Subcontractors and/or Supplier Group member;
 - d) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
 - e) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
- 3.1.9 identify the procedures for reverting to "normal service";
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;

- 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and
- 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
 - 3.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
 - 3.2.4 it details a process for the management of disaster recovery testing.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

4. Business Continuity (Section 2)

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
 - 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
 - 4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
 - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
 - 4.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other

Deliverables during any period of invocation of the Business Continuity Plan; and

- 4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

5. Disaster Recovery (Section 3)

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

6. Review and changing the BCDR Plan

- 6.1 The Supplier shall review the BCDR Plan:
 - 6.1.1 on a regular basis and as a minimum once every six (6) Months;
 - 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and

- 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.
- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.
- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a **"Review Report"**) setting out the Supplier's proposals (the **"Supplier's Proposals"**) for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

7. Testing the BCDR Plan

- 7.1 The Supplier shall test the BCDR Plan:
 - 7.1.1 regularly and in any event not less than once in every Contract Year;
 - 7.1.2 in the event of any major reconfiguration of the Deliverables
 - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).

- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.
- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
 - 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

8. Invoking the BCDR Plan

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

9. Circumstances beyond your control

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

Schedule 15 (Minimum Standards of Reliability)

1. Standards

- 1.1 If this Contract has an anticipated contract value in excess of £20 million (excluding VAT) it shall not be awarded unless the Supplier can demonstrate that it meets the minimum standards of reliability as set out in the Find a Tender Service Notice (“**Minimum Standards of Reliability**”) at the time of the proposed award of the Contract.
- 1.2 The Buyer shall assess the Supplier’s compliance with the Minimum Standards of Reliability whenever it considers (in its absolute discretion) that it is appropriate to do so.
- 1.3 In the event that the Supplier does not demonstrate that it meets the Minimum Standards of Reliability in an assessment carried out pursuant to Paragraph 1.2, the Buyer shall so notify the Supplier and the Buyer reserves the right to terminate its Contract for material Default under Clause 14.4 (When the Buyer can end the contract).

Schedule 16 (Security)

Part A: Short Form Security Requirements

1. Definitions

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

"Breach of Security"

the occurrence of:

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

in either case as more particularly set out in the Security Policy where the Buyer has required compliance there with in accordance with Paragraph 2.1;

"Security Management Plan"

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

2. Complying with security requirements and updates to them

- 2.1 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 2.2 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.

- 2.3 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.
- 2.4 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

3. Security Standards

- 3.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
 - 3.2.1 is in accordance with the Law and this Contract;
 - 3.2.2 as a minimum demonstrates Good Industry Practice;
 - 3.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
 - 3.2.4 where specified by the Buyer in accordance with Paragraph 2.1 complies with the Security Policy and the ICT Policy.
- 3.3 The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

4. Security Management Plan

4.1 Introduction

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

4.2 Content of the Security Management Plan

4.2.1 The Security Management Plan shall:

- a) comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
- b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- c) detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- d) be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with the Security Policy as set out in Paragraph 2.1 ; and
- g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

4.3 Development of the Security Management Plan

- 4.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 4.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
- 4.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However, a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
- 4.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.2 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.

4.4 Amendment of the Security Management Plan

- 4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
- a) emerging changes in Good Industry Practice;
 - b) any change or proposed change to the Deliverables and/or associated processes;
 - c) where necessary in accordance with Paragraph 2.2, any change to the Security Policy;
 - d) any new perceived or changed security threats; and

- e) any reasonable change in requirements requested by the Buyer.
- 4.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include:
 - a) suggested improvements to the effectiveness of the Security Management Plan;
 - b) updates to the risk assessments; and
 - c) suggested improvements in measuring the effectiveness of controls.
- 4.4.3 Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.
- 4.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

5. Security breach

- 5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Supplier shall:
 - 5.2.1 immediately use all reasonable endeavours (which shall include any action or changes reasonably required by the Buyer) necessary to:
 - a) minimise the extent of actual or potential harm caused by any Breach of Security;
 - b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;

- c) prevent an equivalent breach in the future exploiting the same cause failure; and
- d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.

5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with Paragraph 2.1) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

Schedule 18 (Supply Chain Visibility)

1. Definitions

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

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

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

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

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

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

2. Visibility of Sub-Contract Opportunities in the Supply Chain

2.1 The Supplier shall:

- 2.1.1 subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Deliverables above a minimum threshold of £25,000 that arise during the Contract Period;
- 2.1.2 within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor;
- 2.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;

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- 2.1.4 provide reports on the information at Paragraph 2.1.3 to the Buyer in the format and frequency as reasonably specified by the Buyer; and
- 2.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.
- 2.2 Each advert referred to at Paragraph 2.1.1 of this Schedule 18 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 2.3 The obligations on the Supplier set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Start Date.
- 2.4 Notwithstanding Paragraph 2.1, the Buyer may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

3. Visibility of Supply Chain Spend

- 3.1 In addition to any other management information requirements set out in the Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the “SME Management Information Reports”) to the Buyer which incorporates the data described in the Supply Chain Information Report Template which is:
 - 3.1.1 the total contract revenue received directly on the Contract;
 - 3.1.2 the total value of sub-contracted revenues under the Contract (including revenues for non-SMEs/non-VCSEs); and
 - 3.1.3 the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Buyer from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 3.1.1 –3.1.3 and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Buyer issuing a replacement version. The Buyer agrees to give at least thirty (30) days’ notice in writing of any such change and shall specify the date from which it must be used.
- 3.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Buyer.

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4. Visibility of Payment Practice

- 4.1 If any Supply Chain Information Report shows that in either of the last two six month periods the Supplier failed to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt, the Supplier shall provide to the Buyer within 15 Working Days of submission of the latest Supply Chain Information Report an action plan (the “**Action Plan**”) for improvement. The Action Plan shall include, but not be limited to, the following:
- (a) identification of the primary causes of failure to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt;
 - (b) actions to address each of the causes set out in Sub-Paragraph ((a)); and
 - (c) mechanism for and commitment to regular reporting on progress to the Supplier’s Board.
- 4.2 Where the Supplier fails to pay any sums due to any Sub-contractor or Unconnected Sub-contractor in accordance with the terms set out in the relevant Sub-contract or Unconnected Sub-contract, the Action Plan shall include details of the steps the Supplier will take to address this.
- 4.3 The Supplier shall comply with the Action Plan or any similar action plan connected to the payment of Sub-contractors or Unconnected Sub-contractors which is required to be submitted to the Authority as part of the procurement process and such action plan shall be included as part of the Supplier’s Solution (to the extent it is not already included).
- 4.4 If the Supplier notifies the Buyer (whether in a Supply Chain Report or otherwise) that the Supplier has failed to pay 95% or above of its Unconnected Sub-contractors within sixty (60) days after the day on which the Supplier receives an invoice or otherwise has notice of an amount for payment, or the Buyer otherwise discovers the same, the Buyer shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

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Annex 1 - Supply Chain Information Report template

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

Schedule 19 (Cyber Essentials Scheme)

1. Definitions

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

"Cyber Essentials Scheme"	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at: https://www.gov.uk/government/publications/cyber-essentials-scheme-overview
"Cyber Essentials Basic Certificate"	the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;
"Cyber Essentials Certificate"	Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Award Form
"Cyber Essential Scheme Data"	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme
"Cyber Essentials Plus Certificate"	the certification awarded on the basis of external testing by an independent certification body of the Supplier's cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

2. What Certification do you need

- 2.1 Where the Award Form requires that the Supplier provide a Cyber Essentials Plus Certificate prior to Contract Award, the Supplier shall provide a valid Cyber Essentials Plus to the Buyer. Where the Supplier fails to comply with this Paragraph 2.1 it shall be prohibited from commencing the provision of

Schedule 19 (Cyber Essential Scheme)

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- Deliverables under the Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 2.1.
- 2.2 Where the Supplier continues to Process Cyber Essentials Scheme Data during the Contract Period of the Contract the Supplier shall deliver to the Buyer evidence of renewal of the Cyber Essentials Plus Certificate on each anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1.
- 2.3 Where the Supplier is due to Process Cyber Essentials Scheme Data after the Start date of the Contract but before the end of the Contact Period, the Supplier shall deliver to the Buyer evidence of:
- 2.3.1 a valid and current Cyber Essentials Plus Certificate before the Supplier Processes any such Cyber Essentials Scheme Data; and
 - 2.3.2 renewal of the valid Cyber Essentials Plus Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 2.1.
- 2.4 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), the Buyer reserves the right to terminate this Contract for material Default.
- 2.5 The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Data contain provisions no less onerous on the Subcontractors than those imposed on the Supplier under this Contract in respect of the Cyber Essentials Scheme under Paragraph 2.1 of this Schedule.
- 2.6 This Schedule shall survive termination or expiry of this Contract.

Schedule 20 (Processing Data) v1.1

1. Status of the Controller

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:
- 1.1.1 “Controller” in respect of the other Party who is “Processor”;
 - 1.1.2 “Processor” in respect of the other Party who is “Controller”;
 - 1.1.3 “Joint Controller” with the other Party;
 - 1.1.4 “Independent Controller” of the Personal Data where the other Party is also “Controller”,
- in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

2. Where one Party is Controller and the other Party its Processor

- 2.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.
- 2.2 The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
- 2.3 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:
- 2.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;
 - 2.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Services;
 - 2.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 2.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 2.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
- 2.4.1 Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;

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- 2.4.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18.4 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
- a) nature of the data to be protected;
 - b) harm that might result from a Personal Data Breach;
 - c) state of technological development; and
 - d) cost of implementing any measures;
- 2.4.3 ensure that:
- a) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
 - b) it uses all reasonable endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 18 (Data protection), 19 (What you must keep confidential) and 20 (When you can share information);
 - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;
- 2.4.4 not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- a) the transfer is in accordance with Article 45 of the UK GDPR (or section 73 of DPA 2018); or
 - b) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) as determined by the Controller which could include relevant parties entering into the International Data Transfer Agreement (the "**IDTA**"), or International Data Transfer Agreement Addendum to the European Commission's SCCs (the "**Addendum**"), as published by the Information

Commissioner's Office from time to time, as well as any additional measures determined by the Controller;

- c) the Data Subject has enforceable rights and effective legal remedies;
- d) 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
- e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data;

2.4.5 where the Personal Data is subject to EU GDPR, 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:

- a) the transfer is in accordance with Article 45 of the EU GDPR; or
- b) the transferring Party has provided appropriate safeguards in relation to the transfer in accordance with Article 46 of the EU GDPR as determined by the non-transferring Party which could include relevant parties entering into Standard Contractual Clauses in the European Commission's decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time as well as any additional measures determined by the non-transferring Party;
- c) the Data Subject has enforceable rights and effective legal remedies;
- d) the transferring Party 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 non-transferring Party in meeting its obligations); and
- e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

2.4.6 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

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- 2.5 Subject to Paragraph 2.6 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
 - 2.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 2.5.2 receives a request to rectify, block or erase any Personal Data;
 - 2.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - 2.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
 - 2.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - 2.5.6 becomes aware of a Personal Data Breach.
- 2.6 The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
- 2.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 2.5 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
 - 2.7.1 the Controller with full details and copies of the complaint, communication or request;
 - 2.7.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 2.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 2.7.4 assistance as requested by the Controller following any Personal Data Breach; and/or
 - 2.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 2.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
 - 2.8.1 the Controller determines that the Processing is not occasional;

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- 2.8.2 the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
- 2.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 2.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 2.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 2.11 Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
 - 2.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
 - 2.11.2 obtain the written consent of the Controller;
 - 2.11.3 enter into a written agreement with the Subprocessor which give effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and
 - 2.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 2.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 2.13 The Buyer may, at any time on not less than 30 Working Days' notice, revise this Schedule 20 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
- 2.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Buyer may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

3. Where the Parties are Joint Controllers of Personal Data

- 3.1 In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 to this Schedule 20 (*Processing Data*).

Independent Controllers of Personal Data

- 3.2 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.

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- 3.3 Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 3.4 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 3.2 of this Schedule 20 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
- 3.5 The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
- 3.6 The Parties shall only provide Personal Data to each other:
 - 3.6.1 to the extent necessary to perform their respective obligations under the Contract;
 - 3.6.2 in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
 - 3.6.3 where it has recorded it in Annex 1 (*Processing Personal Data*).
- 3.7 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
- 3.8 A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
- 3.9 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
 - 3.9.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or

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- 3.9.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
- a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
- 3.10 Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
- 3.10.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
 - 3.10.2 implement any measures necessary to restore the security of any compromised Personal Data;
 - 3.10.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - 3.10.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 3.11 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
- 3.12 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
- 3.13 Notwithstanding the general application of Paragraphs 2.1 to 2.14 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Paragraphs 3.2 to 3.12 of this Schedule 20.

Annex 1 - Processing Personal Data

1. This Annex shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.
 - 1.1 The contact details of the Buyer's Data Protection Officer are: ██████████
 - 1.2 The contact details of the Supplier's Data Protection Officer are ██████████
 - 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
 - 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Parties are Independent Controllers of Personal Data</p> <p>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none">• <i>Business contact details of Supplier Personnel for which the Supplier is the Controller,</i>• <i>Business contact details of any directors, officers, employees, agents, consultants and contractors of Buyer (excluding the Supplier Personnel) engaged in the performance of the Buyer's duties under the Contract) for which the Buyer is the Controller,</i>
Duration of the Processing	From the Start Date to the Expiry Date as set out in the Award Form.
Nature and purposes of the Processing	Engagement between Buyer and Supplier in relation to the management and operation of the Contract
Type of Personal Data	Name Work E-mail address Work Telephone numbers

Schedule 20 (Processing Data)

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	Supplier personnel information needed for site visits: Date of Birth
Categories of Data Subject	Staff
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under law to preserve that type of data	<i>Personal Data forming a record shall be retained in accordance with clause 6.2 of the Core Terms and subsequently destroyed in accordance with government policy on secure disposal.</i>
Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract	To be added
Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to data) or a	To be added

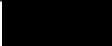
Schedule 20 (Processing Data)

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Personal Data Breach	
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Schedule 21 (Variation Form)

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

Contract Details		
This variation is between:	[Buyer] ("the Buyer") And [insert] name of Supplier ("the Supplier")	
Contract name:	Supply & Maintenance of Mobile Freight X-Ray Scanners ("the Contract")	
Contract reference number:		
Details of Proposed Variation		
Variation initiated by:	[delete] as applicable: Buyer/Supplier]	
Variation number:	[insert] variation number]	
Date variation is raised:	[insert] date]	
Proposed variation		
Reason for the variation:	[insert] reason]	
An Impact Assessment shall be provided within:	[insert] number] days	
Impact of Variation		
Likely impact of the proposed variation:	[Supplier to insert] assessment of impact]	
Outcome of Variation		
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> [Buyer to insert] original Clauses or Paragraphs to be varied and the changed clause] 	
Financial variation:	Original Contract Value:	£ [insert] amount]
	Additional cost due to variation:	£ [insert] amount]
	New Contract value:	£ [insert] amount]

Schedule 21 (Variation Form)

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

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

Signature

Date

Name (in Capitals)

Address

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

Signature

Date

Name (in Capitals)

Address

Schedule 22 (Insurance Requirements)

1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than the Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
- 1.2 The Insurances shall be:
 - 1.2.1 maintained in accordance with Good Industry Practice;
 - 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
 - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
 - 1.2.4 maintained until the End Date except in relation to Professional Indemnity where required under the Annex Part C which shall be maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

2. How to manage the insurance

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
 - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
 - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
 - 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3. What happens if you aren't insured

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which

would entitle any insurer to refuse to pay any claim under any of the Insurances.

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

4. Evidence of insurance you must provide

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

5. Making sure you are insured to the required amount

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

6. Cancelled Insurance

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

7. Insurance claims

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or the Contract for which it may be entitled to claim under any of the Insurances. In the event that the Buyer receives a claim relating to or arising out of the Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of ██████ relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the

applicable policy excess, would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.

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

ANNEX: REQUIRED INSURANCES

PART A: THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE

1 Insured

1.1 The Supplier

2 Interest

2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

- (a) death or bodily injury to or sickness, illness or disease contracted by any person; and
- (b) loss of or damage to physical property;

happening during the period of insurance (as specified in Paragraph 5) and arising out of or in connection with the provision of the Deliverables and in connection with this Contract.

3 Limit of indemnity

3.1 Not less than ████████ in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period, but ████████ in the aggregate per annum in respect of products and pollution liability (to the extent insured by the relevant policy).

4 Territorial limits

United Kingdom

5 Period of insurance

5.1 From the date of this Contract for the period of the Contract and renewable on an annual basis unless agreed otherwise by the Buyer in writing.

6 Cover features and extensions

6.1 Indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Contract and for which the Supplier is legally liable.

7 Principal exclusions

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

Schedule 22 (Insurance Requirements)

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- 7.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured arising out of the course of their employment.
- 7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.
- 7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- 7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended, unexpected and accidental occurrence.
- 8 Maximum deductible threshold**
- 8.1 Not to exceed ██████ for each and every third party property damage claim (personal injury claims to be paid in full).

PART B: UNITED KINGDOM COMPULSORY INSURANCES

The Supplier shall meet its insurance obligations under applicable Law in full, including, United Kingdom employers' liability insurance and motor third party liability insurance.

Schedule 23 (Guarantee)

1. Definitions

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

"Guarantee"	a deed of guarantee in favour of a Buyer in the form set out in the Annex to this Schedule; and
"Guarantor"	the person acceptable to a Buyer to give a Guarantee;

2. Guarantee

- 2.1 Where a Buyer has notified the Supplier that the award of the Contract by the Buyer shall be conditional upon receipt of a valid Guarantee, then, on or prior to the execution of the Contract, as a condition for the award of the Contract, the Supplier shall deliver to the Buyer:
 - 2.1.1 an executed Guarantee from a Guarantor; and
 - 2.1.2 a certified copy extract of the board minutes and/or resolution of the Guarantor approving the execution of the Guarantee.
- 2.2 Where a Buyer has procured a Guarantee from the Supplier under Paragraph 2.1 above, the Buyer may terminate the Contract for material Default where:
 - 2.2.1 the Guarantor withdraws the Guarantee for any reason whatsoever;
 - 2.2.2 the Guarantor is in breach or anticipatory breach of the Guarantee;
 - 2.2.3 an Insolvency Event occurs in respect of the Guarantor;
 - 2.2.4 the Guarantee becomes invalid or unenforceable for any reason whatsoever; or
 - 2.2.5 the Supplier fails to provide the documentation required by Paragraph 2.1 by the date so specified by the Buyer;
 - 2.2.6 and in each case the Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Buyer.

Annex 1 – Form of Guarantee

[INSERT NAME OF THE GUARANTOR]

- AND -

SECRETARY OF STATE FOR THE HOME DEPARTMENT

DEED OF GUARANTEE

DEED OF GUARANTEE

THIS DEED OF GUARANTEE is made the day of 20[]

PROVIDED BY:

[Insert the name of the Guarantor] [a company incorporated in England and Wales] with number [insert company no.] whose registered office is at [insert details of the Guarantor's registered office here] [OR] [a company incorporated under the laws of [insert country], registered in [insert country] with number [insert number] at [insert place of registration], whose principal office is at [insert office details] ("**Guarantor**")

WHEREAS:

- (A) The Guarantor has agreed, in consideration of the Beneficiary entering into the Guaranteed Agreement with the Supplier, to guarantee all of the Supplier's obligations under the Guaranteed Agreement.
- (B) It is the intention of the Parties that this document be executed and take effect as a deed.

Now in consideration of the Beneficiary entering into the Guaranteed Agreement, the Guarantor hereby agrees for the benefit of the Beneficiary as follows:

1. DEFINITIONS AND INTERPRETATION

In this Deed of Guarantee:

- 1.1 unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms shall have the same meaning as they have for the purposes of the Guaranteed Agreement;
- 1.2 the words and phrases below shall have the following meanings:

[Guidance Note: Insert and/or settle Definitions, including from the following list]

"Beneficiary(s)"	means all the Buyer(s) under a Contract with Secretary of State for the Home Department and "Beneficiaries" shall be construed accordingly;
"Goods"	has the meaning given to it in the Contract;
"Guaranteed Agreement"	means the contract with Contract Reference C18766 for the Goods and/or Services dated on or about the date hereof made between the Beneficiary and the Supplier;
"Guaranteed Obligations"	means all obligations and liabilities of the Supplier to the Beneficiary under the Guaranteed Agreement together with all obligations owed by the Supplier to the Beneficiary that are supplemental to, incurred

under, ancillary to or calculated by reference to the Guaranteed Agreement;

"Services" has the meaning given to it in the Contract;

"Supplier" means [Insert the name, address and registration number of the Supplier as each appears in the Award Form].

- 1.3 references to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to the Guaranteed Agreement) are to be construed as references to this Deed of Guarantee, those provisions or that document or agreement in force for the time being and as amended, varied, restated, supplemented, substituted or novated from time to time;
- 1.4 unless the context otherwise requires, words importing the singular are to include the plural and vice versa;
- 1.5 references to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
- 1.6 the words "other" and "otherwise" are not to be construed as confining the meaning of any following words to the class of thing previously stated where a wider construction is possible;
- 1.7 unless the context otherwise requires, reference to a gender includes the other gender and the neuter;
- 1.8 unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
- 1.9 unless the context otherwise requires, any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
- 1.10 references to Clauses and Schedules are, unless otherwise provided, references to Clauses and Schedules to this Deed of Guarantee; and
- 1.11 references to liability are to include any liability whether actual, contingent, present or future.

2. GUARANTEE AND INDEMNITY

- 2.1 The Guarantor irrevocably and unconditionally guarantees and undertakes to the Beneficiary to procure that the Supplier duly and punctually performs all of the Guaranteed Obligations now or hereafter due, owing or incurred by the Supplier to the Beneficiary.
- 2.2 The Guarantor irrevocably and unconditionally undertakes upon demand to pay to the Beneficiary all monies and liabilities which are now or at any time hereafter shall have become payable by the Supplier to the Beneficiary

under or in connection with the Guaranteed Agreement or in respect of the Guaranteed Obligations as if it were a primary obligor.

- 2.3 If at any time the Supplier shall fail to perform any of the Guaranteed Obligations, the Guarantor, as primary obligor, irrevocably and unconditionally undertakes to the Beneficiary that, upon first demand by the Beneficiary it shall, at the cost and expense of the Guarantor:

2.3.1 fully, punctually and specifically perform such Guaranteed Obligations as if it were itself a direct and primary obligor to the Beneficiary in respect of the Guaranteed Obligations and liable as if the Guaranteed Agreement had been entered into directly by the Guarantor and the Beneficiary; and

2.3.2 as a separate and independent obligation and liability, indemnify and keep the Beneficiary indemnified against all losses, damages, costs and expenses (including VAT thereon, and including all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such Beneficiary may suffer, incur or sustain arising in any way whatsoever out of a failure by the Supplier to perform the Guaranteed Obligations save that, subject to the other provisions of this Deed of Guarantee, this shall not be construed as imposing greater obligations or liabilities on the Guarantor than are purported to be imposed on the Supplier under the Guaranteed Agreement.

- 2.4 As a separate and independent obligation and liability from its obligations and liabilities under Clauses 2.1 to 2.3 above, the Guarantor as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the Beneficiary indemnified on demand against all losses, damages, costs and expenses (including VAT thereon, and including all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such Beneficiary may suffer or incur if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the Guarantor's liability shall be no greater than the Supplier's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

3. OBLIGATION TO ENTER INTO A NEW CONTRACT

If the Guaranteed Agreement is terminated for any reason, whether by the Beneficiary or the Supplier, or if the Guaranteed Agreement is disclaimed by a liquidator of the Supplier or the obligations of the Supplier are declared to be void or voidable for any reason, then the Guarantor will, at the request of the Beneficiary enter into a contract with the Beneficiary in terms mutatis mutandis the same as the Guaranteed Agreement and the obligations of the Guarantor under such substitute agreement shall be the same as if the Guarantor had been original obligor under the Guaranteed Agreement or under an agreement entered into on the same terms and at the same time as the Guaranteed Agreement with the Beneficiary.

4. DEMANDS AND NOTICES

- 4.1 Any demand or notice served by the Beneficiary on the Guarantor under this Deed of Guarantee shall be in writing, addressed to:

[Insert Address of the Guarantor in England and Wales]

[Insert Facsimile Number]

For the Attention of **[Insert details]**

or such other address in England and Wales or facsimile number as the Guarantor has from time to time notified to the Beneficiary in writing in accordance with the terms of this Deed of Guarantee as being an address or facsimile number for the receipt of such demands or notices.

- 4.2 Any notice or demand served on the Guarantor or the Beneficiary under this Deed of Guarantee shall be deemed to have been served:

4.2.1 if delivered by hand, at the time of delivery; or

4.2.2 if posted, at 10.00 a.m. on the second Working Day after it was put into the post; or

4.2.3 if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any Working Day, and in any other case at 10.00 a.m. on the next Working Day.

- 4.3 In proving service of a notice or demand on the Guarantor or the Beneficiary it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.

- 4.4 Any notice purported to be served on the Beneficiary under this Deed of Guarantee shall only be valid when received in writing by the Beneficiary.

5. BENEFICIARY'S PROTECTIONS

- 5.1 The Guarantor shall not be discharged or released from this Deed of Guarantee by any arrangement made between the Supplier and the Beneficiary (whether or not such arrangement is made with or without the assent of the Guarantor) or by any amendment to or termination of the Guaranteed Agreement or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the Beneficiary in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the Guarantor) or by the Beneficiary doing (or omitting to do) any other matter or thing which but for this provision might exonerate the Guarantor.

- 5.2 This Deed of Guarantee shall be a continuing security for the Guaranteed Obligations and accordingly:
- 5.2.1 it shall not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the Supplier of the Guaranteed Obligations or by any omission or delay on the part of the Beneficiary in exercising its rights under this Deed of Guarantee;
 - 5.2.2 it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Supplier, the Beneficiary, the Guarantor or any other person;
 - 5.2.3 if, for any reason, any of the Guaranteed Obligations shall prove to have been or shall become void or unenforceable against the Supplier for any reason whatsoever, the Guarantor shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor in respect thereof; and
 - 5.2.4 the rights of the Beneficiary against the Guarantor under this Deed of Guarantee are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Beneficiary.
- 5.3 The Beneficiary shall be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the breach or non performance by the Supplier of any Guaranteed Obligation shall not preclude the Beneficiary from making a further demand in respect of the same or some other default in respect of the same Guaranteed Obligation.
- 5.4 The Beneficiary shall not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to obtain judgment against the Supplier or the Guarantor or any third party in any court, or to make or file any claim in a bankruptcy or liquidation of the Supplier or any third party, or to take any action whatsoever against the Supplier or the Guarantor or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the Beneficiary in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the Guarantor hereunder.
- 5.5 The Beneficiary's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Beneficiary deems expedient.
- 5.6 Any waiver by the Beneficiary of any terms of this Deed of Guarantee, or of any Guaranteed Obligations shall only be effective if given in writing and

then only for the purpose and upon the terms and conditions, if any, on which it is given.

- 5.7 Any release, discharge or settlement between the Guarantor and the Beneficiary shall be conditional upon no security, disposition or payment to the Beneficiary by the Guarantor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Beneficiary shall be entitled to enforce this Deed of Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The Beneficiary shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Beneficiary from the Guarantor for such period as the Beneficiary may determine.
- 5.8 The Guarantor shall afford any auditor of the Beneficiary appointed under the Guaranteed Agreement access to such records and accounts at the Guarantor's premises and/or provide such records and accounts or copies of the same, as may be required and agreed with any of the Beneficiary's auditors from time to time, in order that the Auditor may identify or investigate any circumstances which may impact upon the financial stability of the Guarantor.

6. GUARANTOR INTENT

Without prejudice to the generality of Clause 5 (Beneficiary's protections), the Guarantor expressly confirms that it intends that this Deed of Guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Agreement and any associated fees, costs and/or expenses.

7. RIGHTS OF SUBROGATION

- 7.1 The Guarantor shall, at any time when there is any default in the performance of any of the Guaranteed Obligations by the Supplier and/or any default by the Guarantor in the performance of any of its obligations under this Deed of Guarantee, exercise any rights it may have:

- 7.1.1 of subrogation and indemnity;
- 7.1.2 to take the benefit of, share in or enforce any security or other guarantee or indemnity for the Supplier's obligations; and
- 7.1.3 to prove in the liquidation or insolvency of the Supplier,

only in accordance with the Beneficiary's written instructions and shall hold any amount recovered as a result of the exercise of such rights on trust for the Beneficiary and pay the same to the Beneficiary on first demand. The Guarantor hereby acknowledges that it has not taken any security from the Supplier and agrees not to do so until Beneficiary receives all moneys

payable hereunder and will hold any security taken in breach of this Clause on trust for the Beneficiary.

8. DEFERRAL OF RIGHTS

- 8.1 Until all amounts which may be or become payable by the Supplier under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not:
- 8.1.1 exercise any rights it may have to be indemnified by the Supplier;
 - 8.1.2 claim any contribution from any other guarantor of the Supplier's obligations under the Guaranteed Agreement;
 - 8.1.3 take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiary under the Guaranteed Agreement or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Agreement;
 - 8.1.4 demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the Supplier; or
 - 8.1.5 claim any set-off or counterclaim against the Supplier;
- 8.2 If the Guarantor receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so received and any benefit derived directly or indirectly by the Guarantor therefrom shall be held on trust for the Beneficiary and applied in or towards discharge of its obligations to the Beneficiary under this Deed of Guarantee.

9. REPRESENTATIONS AND WARRANTIES

- 9.1 The Guarantor hereby represents and warrants to the Beneficiary that:
- 9.1.1 the Guarantor is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;
 - 9.1.2 the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee;
 - 9.1.3 the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee including entry into and performance of a contract pursuant to Clause 3, have been duly authorised by all necessary corporate action and do not contravene or conflict with:
 - a) the Guarantor's memorandum and articles of association or other equivalent constitutional documents;

- b) any existing law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is subject; or
 - c) the terms of any agreement or other document to which the Guarantor is a Party or which is binding upon it or any of its assets;
- 9.1.4 all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed of Guarantee, and to make this Deed of Guarantee admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and
- 9.1.5 this Deed of Guarantee is the legal, valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

10. PAYMENTS AND SET-OFF

- 10.1 All sums payable by the Guarantor under this Deed of Guarantee shall be paid without any set-off, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the Guarantor will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.
- 10.2 The Guarantor shall pay interest on any amount due under this Deed of Guarantee at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- 10.3 The Guarantor will reimburse the Beneficiary for all legal and other costs (including VAT) incurred by the Beneficiary in connection with the enforcement of this Deed of Guarantee.

11. GUARANTOR'S ACKNOWLEDGEMENT

The Guarantor warrants, acknowledges and confirms to the Beneficiary that it has not entered into this Deed of Guarantee in reliance upon, nor has it been induced to enter into this Deed of Guarantee by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed of Guarantee.

12. ASSIGNMENT

- 12.1 The Beneficiary shall be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the Guarantor being required and any such assignment or transfer shall not release the Guarantor from its liability under this Guarantee.

12.2 The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed of Guarantee.

13. SEVERANCE

If any provision of this Deed of Guarantee is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

14. THIRD PARTY RIGHTS

Other than the Beneficiary, a person who is not a Party to this Deed of Guarantee shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

15. SURVIVAL

This Deed of Guarantee shall survive termination or expiry of the Guaranteed Agreement.

16. GOVERNING LAW

16.1 This Deed of Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.

16.2 The Guarantor irrevocably agrees for the benefit of the Beneficiary that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.

16.3 Nothing contained in this Clause shall limit the rights of the Beneficiary to take proceedings against the Guarantor in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).

16.4 The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.

[Guidance Note: Include the above provision when dealing with the appointment of English process agent by a non English incorporated Guarantor]

16.5 [The Guarantor hereby irrevocably designates, appoints and empowers [the Supplier] [a suitable alternative to be agreed if the Supplier's registered office is not in England or Wales] either at its registered office or on

facsimile number [insert fax no.] from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the Beneficiary in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

EXECUTED as a DEED by

[Insert name of the Guarantor] acting by [Insert/print names]

Director

Director/Secretary

**Buyer: The Secretary of State for the Home
Department**

Schedule 24

Financial Difficulties


**Supply & Maintenance of Mobile Freight X-Ray
Scanners**

1 DEFINITIONS

In this Schedule, the following definitions shall apply:

“Accounting Reference Date”	means in each year, the date to which each entity in the FDE Group prepares its annual audited financial statements;
“Applicable Financial Indicators”	means the financial indicators from Paragraph 5.1 of this Schedule which are to apply to the Monitored Suppliers as set out in Paragraph 6 of this Schedule;
“Appropriate Accepted Mitigation”	<p>means a mitigation to a Financial Distress Event as agreed between the Parties, as follows:</p> <p>(a) as at the Effective Date, as set out in Annex 2 of this Schedule; and</p> <p>(b) during the term of the Contract, as set out in Paragraph 3.4 of this Schedule.</p> <p>All Appropriate Accepted Mitigations, including any new or amended Appropriate Accepted Mitigations must be documented and recorded in a format and location agreed between the Parties;</p>
“Board”	means the Supplier’s board of directors;
“Board Confirmation”	means written confirmation from the Board in accordance with Paragraph 8 of this Schedule;
“Credit Rating Level”	means a credit rating level as specified in Annex 1 of this Schedule;
“Credit Rating Threshold”	means the minimum Credit Rating Level for each entity in the FDE Group as set out in Annex 3 of this Schedule;
“Financial Distress Event” or “FDE”	means the occurrence of one or more events as listed in Paragraph 3.1 of this Schedule;
“Financial Distress Event Group” or “FDE Group”	means the Supplier, Key Sub-contractors, the Guarantor, the Supplier’s ultimate parent undertaking, Key Sub-contractors’ ultimate parent undertakings, and the Monitored Suppliers;
“Financial Indicators”	in respect of the Supplier, Key Sub-contractors, the Guarantor, the Supplier’s ultimate parent undertaking, the Key Sub-contractors’ ultimate parent undertakings, means each of the financial indicators set out at Paragraph 5.1 of

	this Schedule; and in respect of each Monitored Supplier, means those Applicable Financial Indicators;
“Financial Target Thresholds”	means the target thresholds for each of the Financial Indicators set out at Paragraph 5.1 of this Schedule;
“Monitored Suppliers”	means those entities specified at Paragraph 6 of this Schedule;
“Primary Credit Ratings”	means Dun & Bradstreet credit ratings;
“Primary Credit Ratings Agency”	means Dun & Bradstreet
“Rating Agencies”	means the rating agencies listed in Annex 1 of this Schedule or such other rating agencies as the Buyer may decide to use;

2 WARRANTIES AND DUTY TO NOTIFY

- 2.1 The Supplier warrants and represents to the Buyer for the benefit of the Buyer that as at the Effective Date:
- (a) the long-term Primary Credit Ratings issued for each entity in the FDE Group by each of the Rating Agencies are as set out in Annex 3 of this Schedule; and
 - (b) either:
 - (i) the financial position or, as appropriate, the financial performance of each of the Supplier, Guarantor, Supplier’s ultimate parent undertaking, Key Sub-contractors, and Key Subcontractors’ ultimate parent undertakings satisfies the Financial Target Thresholds, or
 - (ii) the relevant Appropriate Accepted Mitigations are in place.
- 2.2 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing if there is any downgrade in the credit rating issued by the Primary Credit Ratings Agency for any entity in the FDE Group, which results in the level of risk being assessed as high or greater than average (and in any event within 5 Working Days of the occurrence of the downgrade). The categorisation of credit ratings by risk level is defined in Annex 1.
- 2.3 The Supplier shall:
- (a) regularly monitor the credit ratings of each entity in the FDE Group with the Primary Credit Ratings Agency;

- (b) monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds at least quarterly from the effective date, and update the Financial Indicators when public information becomes available, and in any event, no less than once a year within 285 days after the Accounting Reference Date;
 - (c) provide regular updates to the Buyer on, as a minimum, the Primary Credit Ratings for each entity in the FDE Group;
 - (d) promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event (and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event).; and
 - (e) ensure when complying with this Paragraph 2.3 that it complies with the law of England and Wales, including all market regulations and local law that applies to England and Wales.
- 2.4 For the purposes of determining whether a Financial Distress Event has occurred pursuant to the provisions of Paragraphs 3.1(a), the credit rating of an FDE Group entity shall be deemed to have dropped below the applicable Credit Rating Threshold if:
- (a) any of the Rating Agencies have given a Credit Rating Level for that entity which is below the applicable Credit Rating Threshold; or
 - (b) a Rating Agency that is specified as holding a Credit Rating Level for an entity as set out at Annex 3 of this Schedule ceases to hold or is unable to provide a Credit Rating Level for that entity, and the Supplier fails to provide an acceptable explanation to the Buyer.
- 2.5 Each report submitted by the Supplier pursuant to Paragraph 2.3(b) shall:
- (a) be a single report with separate sections for each of the FDE Group entities;
 - (b) contain a sufficient level of information to reasonably enable the Buyer to verify the calculations that have been made in respect of the Financial Indicators;
 - (c) include key financial, explanatory narrative, and other supporting information (including any accounts data that has been relied on) as separate annexes;
 - (d) be based on the audited accounts or any other publicised financial information for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable; and

- (e) include a history of the Financial Indicators reported by the Supplier in graph form to enable the Buyer to easily analyse and assess the trends in financial performance

3 FINANCIAL DISTRESS EVENTS AND APPROPRIATE ACCEPTED MITIGATIONS

3.1 The following shall be Financial Distress Events, unless an Appropriate Accepted Mitigation is in place:

- (a) the credit rating of an FDE Group entity dropping below the applicable Credit Rating Threshold;
- (b) an FDE Group entity issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;
- (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of an FDE Group entity;
- (d) an FDE Group entity committing a material breach of covenant to its lenders;
- (e) a Key Sub-contractor notifying the Buyer that the Supplier has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
- (f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than 9 months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) consider to be adequate;
- (g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer acting reasonably considers to be adequate;
- (h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors;
- (i) any of the following:
 - (i) any FDE Group entity makes a public announcement which contains adverse commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;
 - (ii) commencement of any litigation against an FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
 - (iii) non-payment by an FDE Group entity of any financial indebtedness;

- (iv) any financial indebtedness of an FDE Group entity becoming due as a result of an event of default;
- (v) the cancellation or suspension of any financial indebtedness in respect of an FDE Group entity; or
- (vi) the external auditor of an FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE entity,

in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Deliverables in accordance with this Contract;

- (g) any one of the Financial Indicators set out at Paragraph 5 for any of the FDE Group entities failing to meet the required Financial Target Threshold; or
- (h) if a previously Appropriate Accepted Mitigation is no longer available for a particular FDE or is no longer sufficient to constitute an Appropriate Accepted Mitigation.

3.2 On the occurrence of an FDE pursuant to Paragraph 3.1(a) to (h):

- (a) the Supplier shall:
 - (i) notify the Buyer in accordance with Paragraph 2.3(d) above; and
 - (ii) provide to the Buyer in writing within 10 Working Days or as otherwise agreed between the Parties of the date on which the Supplier first becomes aware of the FDE or of the date on which the Buyer has brought the FDE to the Supplier's attention, its proposed mitigation; and
- (b) the Parties shall then discuss the proposed mitigation in good faith and the Buyer shall, as soon as practicable, either:
 - (i) agree that the proposed mitigation constitutes an Appropriate Accepted Mitigation; or
 - (ii) exercise its rights under Paragraph 4 of this Schedule.

3.3 Failure by the Buyer to exercise its rights under Paragraph 4 of this Schedule shall constitute acceptance of the Appropriate Accepted Mitigation, unless such failure was due to an act or omission of the Supplier.

3.4 For the purposes of this Paragraph 3 Appropriate Accepted Mitigations include:

- (a) for the Supplier:
 - (i) the existence of a valid Guarantee provided by a Parent Undertaking as Guarantor; and
 - (ii) the Guarantor is not subject to an FDE for which there is no Appropriate Accepted Mitigation; and

- (iii) the Supplier's ultimate parent undertaking is not subject to an FDE for which there is no Appropriate Accepted Mitigation; and
- (b) for Sub-contractors:
 - (i) The existence of a valid Guarantee provided by a Parent Undertaking as Guarantor; and
 - (ii) the Guarantor is not subject to an FDE for which there is no Appropriate Accepted Mitigation; and
 - (iii) the Sub-contractor's ultimate parent undertaking is not subject to an FDE for which there is no Appropriate Accepted Mitigation; and
- (c) for all entities within the FDE Group:

a mitigation that reduces the level of risk of the FDE to a level acceptable to the Buyer. This may include access to sufficient unused credit facilities or other risk mitigations, as listed in the Outsourcing Playbook '*Assessing and Monitoring the Economic and Financial Standing of Suppliers*' Guidance note available at: [Assessing and monitoring the economic and financial standing of suppliers guidance note May 2021.pdf \(publishing.service.gov.uk\)](#).

- 3.5 All Appropriate Accepted Mitigations including any new or amended Appropriate Accepted Mitigations will be documented and recorded in a format and location agreed between the Parties (for example in a dedicated and access-controlled area of the Virtual Library).

4 CONSEQUENCES OF FINANCIAL DISTRESS EVENTS

- 4.1 Immediately upon notification by the Supplier of a Financial Distress Event in accordance with Paragraph 2.3(d) (or if the Buyer becomes aware of a Financial Distress Event without notification and brings the event to the attention of the Supplier) and subject to Paragraph 3, the Supplier shall have the obligations and the Buyer shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.
- 4.2 In the event of the first instance within a rolling 3-month period of a late or non-payment of a Key Sub-contractor pursuant to Paragraph 3.1, the Buyer shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier 10 Working Days to:
- (a) rectify such late or non-payment; or
 - (b) demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.
- 4.3 The Supplier shall (and shall procure that any Guarantor, Key Sub-contractor, Monitored Supplier, and any relevant Parent Undertaking (for the Supplier or a Key Sub-contractor) shall):

- (a) at the reasonable request of the Buyer, meet the Buyer as soon as reasonably practicable (and in any event within 3 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Buyer may permit and notify to the Supplier in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Deliverables in accordance with this Contract; and
 - (b) where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3(a)) that the Financial Distress Event could impact on the continued performance and delivery of the Deliverables in accordance with this Contract:
 - (i) submit to the Buyer for its approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within 10 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Buyer may permit and notify to the Supplier in writing); and
 - (ii) to the extent that it is legally permitted to do so and subject to Paragraph 4.8, provide such information relating to the Supplier, Guarantor, Key Sub-contractor, Monitored Supplier, and any relevant Parent Undertaking (for the Supplier or a Key Sub-contractor), as the Buyer may reasonably require in order to understand the risk to the Deliverables, which may include without limitation forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the Financial Distress Event and other information that might be price sensitive.
- 4.4 The Buyer shall not withhold its approval of a draft Financial Distress Service Continuity Plan unreasonably. If the Buyer does not approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Buyer within 5 Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Service Continuity Plan is either:
- (a) approved by the Buyer;
 - (b) referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Service Continuity Plan has not been approved, to commercial negotiation led by senior representatives who have Buyer to agree the Financial Distress Service Continuity Plan to be held within 28 days of the date of the notice; or
 - (c) finally rejected by the Buyer.
- 4.5 If the Buyer considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the Supplier's obligations in accordance with the Contract, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.

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

- (a) on a regular basis (which shall not be less than fortnightly):
 - (i) review and make any updates to the Financial Distress Service Continuity Plan as the Supplier may deem reasonably necessary and/or as may be reasonably requested by the Buyer, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Deliverables in accordance with this Contract; and
 - (ii) provide a written report to the Buyer setting out its progress against the Financial Distress Service Continuity Plan, the reasons for any changes made to the Financial Distress Service Continuity Plan by the Supplier and/or the reasons why the Supplier may have decided not to make any changes;
- (b) where updates are made to the Financial Distress Service Continuity Plan in accordance with Paragraph 4.6(a), submit an updated Financial Distress Service Continuity Plan to the Buyer for its approval, and the provisions of Paragraphs 4.4 and 4.5 shall apply to the review and approval process for the updated Financial Distress Service Continuity Plan; and
- (c) comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

4.7 Where the Supplier reasonably believes that the relevant Financial Distress Event under Paragraph 4.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Buyer and the Parties may agree that the Supplier shall be relieved of its obligations under Paragraph 4.6.

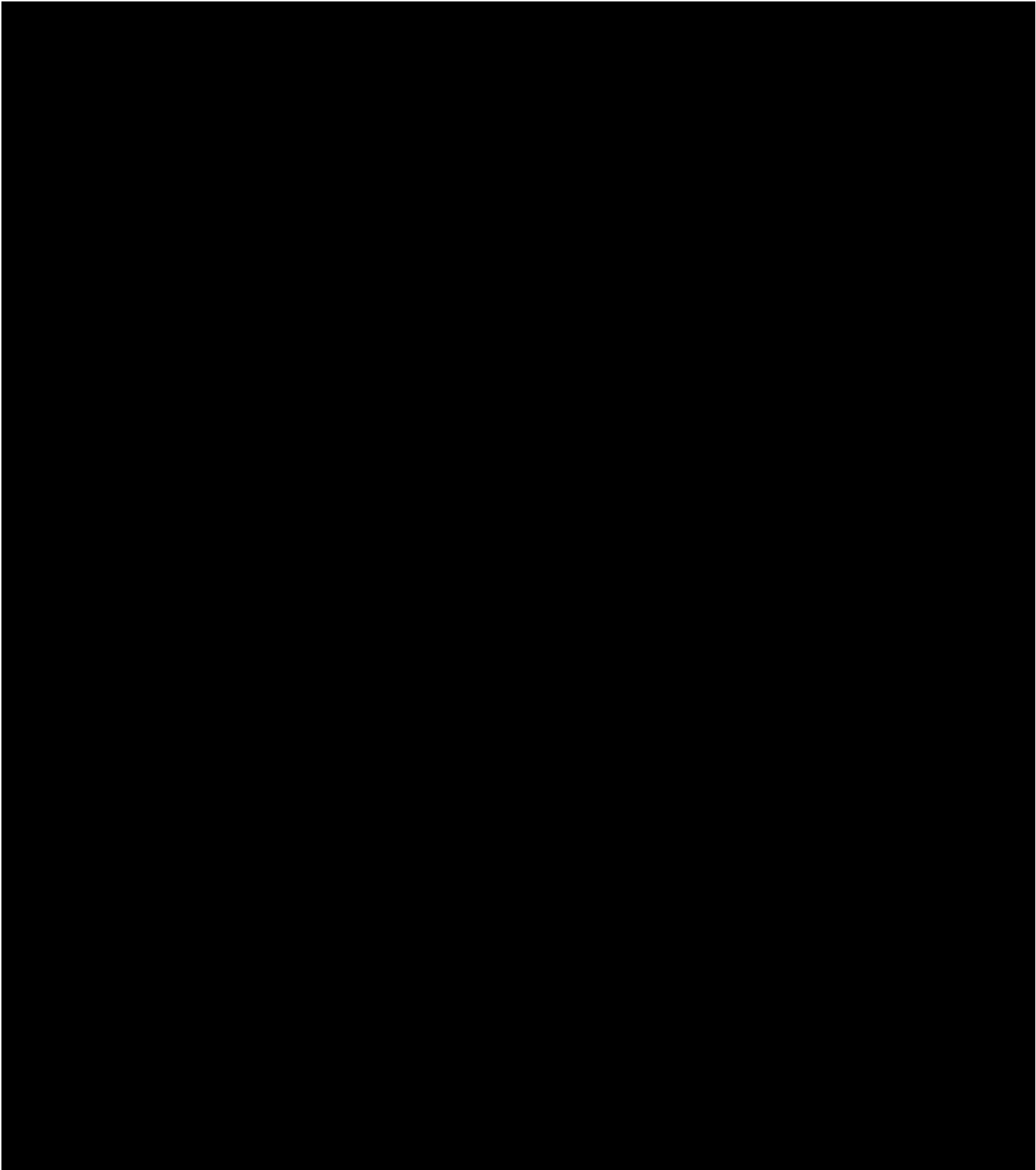
4.8 The Supplier shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at Paragraph 4.3(b)(ii) is available when required and on request from the Buyer and within reasonable timescales. Such measures may include:

- (a) obtaining in advance written Buyer from Key Sub-contractors, the Guarantor, Monitored Suppliers, and any relevant Parent Undertaking (for the Supplier or a Key Sub-contractor) authorising the disclosure of the information to the Buyer and/or entering into confidentiality agreements which permit disclosure;
- (b) agreeing in advance with the Buyer, Key Sub-contractors, the Guarantor Monitored Suppliers, and any relevant Parent Undertaking (for the Supplier or a Key Sub-contractor) a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the Buyer;
- (c) putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Buyer (which may include (without limitation) making information available to nominated Buyer personnel through confidential arrangements, subject to their consent); and

- (d) disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymisation and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

5 FINANCIAL INDICATORS

- 5.1 Subject to the calculation methodology set out at Annex 4 of this Schedule, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as follows:



Key: ¹ – See Annex 4 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

6 MONITORED SUPPLIERS

6.1 Monitored Suppliers shall be designated at contract signature.

6.2 A Monitored Supplier could include any Sub-contractor that is not a Key Subcontractor, which in the opinion of the Buyer, performs (or would perform if appointed) a role:

- (a) in the provision of all or any part of the Deliverables that is such that the discontinued provision of that role would be detrimental to the ability of the Supplier to deliver the Deliverables to its established performance standards; and/or
- (b) in the provision of all or any part of the deliverables that is such that the discontinued provision of that role may affect the Supplier's financial stability; and/or
- (c) for which it would be difficult for the Supplier to find a replacement Sub-contractor within a reasonable time.

7 TERMINATION RIGHTS

7.1 The Buyer shall be entitled to terminate this Contract under Clause 14.4.2 if:

- (a) the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 2.3(c);
- (b) the supplier fails to comply with any part of Paragraph 4.3;
- (c) the Buyer finally rejects a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 4.4 to 4.5; and/or
- (d) the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 4.6(c).

8 BOARD CONFIRMATION

- 8.1 The Supplier, subject to Paragraph 8.4 of this Schedule, shall within 120 days after each Accounting Reference Date or within 15 months of the previous Board Confirmation (whichever is the earlier) provide a Board Confirmation to the Buyer in the form set out at Annex 5 of this Schedule, confirming that to the best of the Board's knowledge and belief, it is not aware of and has no knowledge:
- (a) that a Financial Distress Event has occurred since the later of the Effective Date or the previous Board Confirmation or is subsisting; or
 - (b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event.
- 8.2 The Supplier shall ensure that in its preparation of the Board Confirmation it exercises due care and diligence and has made reasonable enquiry of all relevant Supplier Personnel and other persons as is reasonably necessary to understand and confirm the position.
- 8.3 In respect of the first Board Confirmation to be provided under this Contract, the Supplier shall provide the Board Confirmation within 15 months of the Effective Date if earlier than the timescale for submission set out in Paragraph 8.1 of this Schedule.
- 8.4 Where the Supplier is unable to provide a Board Confirmation in accordance with Paragraphs 8.1 to 8.3 of this Schedule due to the occurrence of a Financial Distress Event or knowledge of subsisting matters which could reasonably be expected to cause a Financial Distress Event, it will be sufficient for the Supplier to submit in place of the Board Confirmation, a statement from the Board of Directors to the Buyer (and where the Supplier is a Strategic Supplier, the Supplier shall send a copy of the statement to the Cabinet Office Markets and Suppliers Team) setting out full details of any Financial Distress Events that have occurred and/or the matters which could reasonably be expected to cause a Financial Distress Event.

ANNEX 1: RATING AGENCIES AND THEIR STANDARD RATING SYSTEM

This Annex sets out the standard rating scales for each of the Rating Agencies selected. The Buyer reserves the right to use other rating scales from other Rating Agencies that are not listed in this Annex.

Rating Agency	Credit Rating Level	Risk level
Standard and Poor's	Credit Rating Level 1 = [AAA] [AA+] [AA] [AA-] [A+] [A] [A-]	Low Risk
	Credit Rating Level 2 = [BBB+] [BBB] [BBB-] [BB+] [BB] [BB-] [B+] [B] [B-]	Greater Than Average Risk
	Credit Rating Level 3 = [CCC] [CC] [C] [D] [NR]	High Risk
Moody's	Credit Rating Level 1 = [Aaa] [Aa] [A]	Low Risk
	Credit Rating Level 2 = [Baa] [Ba] [B]	Greater Than Average Risk
	Credit Rating Level 3 = [Caa] [Ca] [C]	High Risk
Dun and Bradstreet	Credit Rating Level 1 = Failure Score of 51 or above	Low Risk
	Credit Rating Level 2 = Failure Score of 11 to 50	Greater Than Average Risk
	Credit Rating Level 3 = Failure Score of 10 or below	High Risk
Experian	Credit Rating Level 1 = 51 or above	Low Risk
	Credit Rating Level 2 = 26 to 50	Greater Than Average Risk
	Credit Rating Level 3 = 25 or below	High Risk
Companywatch	Credit Rating Level 1 = 36 and above	Low Risk
	Credit Rating Level 2 = 26 to 35	Greater Than Average Risk
	Credit Rating Level 3 = 25 or below	High Risk

ANNEX 2: APPROPRIATE ACCEPTED MITIGATIONS

N/A

ANNEX 3: Credit Ratings And Credit Rating Thresholds



ANNEX 4: Calculation Methodology for Financial Indicators

The Supplier shall ensure that it uses the following general and specific methodologies for calculating the Financial Indicators against the Financial Target Thresholds:

General methodology

1. **Terminology:** The terms referred to in this Annex are those used by UK companies in their financial statements. Where the entity is not a UK company, the corresponding items should be used even if the terminology is slightly different (for example a charity would refer to a surplus or deficit rather than a profit or loss).
2. **Groups:** Where the entity is the holding company of a group and prepares consolidated financial statements, the consolidated figures should be used.
3. **Foreign currency conversion:** Figures denominated in foreign currencies should be converted at the exchange rate in force at the relevant date for which the Financial Indicator is being calculated.
4. **Treatment of non-underlying items:** Financial Indicators should be based on the figures in the financial statements before adjusting for non-underlying items.

Specific Methodology

Financial Indicator	Specific Methodology
1 <u>Operating Margin</u>	<p>The elements used to calculate the Operating Margin should be shown on the face of the Income Statement (or Statement of Financial Activities) in a standard set of financial statements.</p> <p>Operating Profit is to exclude exceptional items, such as restructuring costs or impairments, and to include any share of Subsidiaries' Operating Profit.</p> <p>Where an entity has an operating loss (i.e. where the operating profit is negative), Operating Profit should be taken to be zero.</p> <p>For Charities Operating Profit would be Net Income or Expenditure after Charitable Activities / Income</p>
2 <u>Net Debt to EBITDA Ratio</u>	<p><i>"Net Debt" = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents</i></p>

Financial Indicator	Specific Methodology
	<p>“EBITDA” = Operating profit + Depreciation charge + Amortisation charge. EBITDA is to exclude exceptional items, such as restructuring costs or impairments, and to include any share of Subsidiaries’ EBITDA.</p> <p>The majority of the elements used to calculate the Net Debt to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement (or Statement of Financial Activities) and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.</p> <ul style="list-style-type: none"> • <u>Net Debt</u>: The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest-bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but not non-designated hedges). Borrowings should also include balances owed to other group members. <p>Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.</p> <p>Cash and cash equivalents should include short-term financial investments shown in current assets.</p> <p>Where Net debt is negative (i.e. an entity has net cash), the relevant Financial Target Threshold should be treated as having been met.</p> <p><u>EBITDA</u>: Operating profit should be shown on the face of the Income Statement (or Statement of Financial Activities) and, for the purposes of calculating this Financial Indicator. The depreciation and amortisation charges for the</p>

Financial Indicator	Specific Methodology
	<p><i>period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts. Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless Net Debt is also negative, in which case the relevant Financial Target Threshold should be treated as having been met).</i></p> <p>For Charities Operating Profit would be Net Income or Expenditure after Charitable Activities / Income</p>
<p>3</p> <p>[Net Debt + Net Pension Deficit to EBITDA ratio]</p>	<p>“Net Debt” = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents</p> <p>“Net Pension Deficit” = Retirement Benefit Obligations – Retirement Benefit Assets</p> <p>“EBITDA” = Operating profit + Depreciation charge + Amortisation charge. EBITDA is to exclude exceptional items, such as restructuring costs or impairments, and to include any share of Subsidiaries’ EBITDA.</p> <p>The majority of the elements used to calculate the Net Debt + Net Pension Deficit to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement (or Statement of Financial Activities) and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.</p> <ul style="list-style-type: none"> • Net Debt: The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest-bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but <i>not</i> non-designated hedges). Borrowings should also

Financial Indicator	Specific Methodology
	<p>include balances owed to other group members.</p> <p>Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.</p> <p>Cash and cash equivalents should include short-term financial investments shown in current assets.</p> <ul style="list-style-type: none"> • <u>Net Pension Deficit</u>: Retirement Benefit Obligations and Retirement Benefit Assets may be shown on the face of the Balance Sheet or in the notes to the financial statements. They may also be described as pension benefits / obligations, post-employment obligations or other similar terms. <p>Where 'Net Debt + Net Pension Deficit' is negative, the relevant Financial Target Threshold should be treated as having been met.</p> <ul style="list-style-type: none"> • <u>EBITDA</u>: Operating profit should be shown on the face of the Income Statement (or Statement of Financial Activities) and, for the purposes of calculating this Financial Indicator. <p>The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts.</p> <p>Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless 'Net Debt + Net Pension Deficit' is also negative, in which case the relevant Financial Target Threshold should be regarded as having been met).</p> <p>For Charities Operating Profit would be Net Income or Expenditure after Charitable Activities / Income</p>

Financial Indicator	Specific Methodology
<p>4</p> <p>Net Interest Payable Cover</p>	<p><i>“Earnings Before Interest and Tax” = Operating profit</i></p> <p><i>“Net Interest Payable” = Interest payable – Interest receivable</i></p> <p>Operating profit should be shown on the face of the Income Statement (or Statement of Financial Activities) in a standard set of financial statements. Operating Profit is to exclude exceptional items, such as restructuring costs or impairments, and to include any share of Subsidiaries’ Operating Profit</p> <p>Interest receivable and interest payable should be shown on the face of the Cash Flow statement.</p> <p>Where Net interest payable is negative (i.e. the entity has net interest receivable), the relevant Financial Target Threshold should be treated as having been met.</p> <p>For Charities Operating Profit would be Net Income or Expenditure after Charitable Activities / Income</p>
<p>5</p> <p>Current Ratio</p>	<p>All elements that are used to calculate the Current Ratio are available on the face of the Balance Sheet in a standard set of financial statements.</p>
<p>6</p> <p>Net Asset value</p>	<p>Net Assets are shown (but sometimes not labelled) on the face of the Balance Sheet of a standard set of financial statements. Net Assets are sometimes called net worth or ‘Shareholders’ Funds’. They represent the net assets available to the shareholders. Where an entity has a majority interest in another entity in which there are also minority or non-controlling interests (i.e. where it has a subsidiary partially owned by outside investors), Net Assets should be taken inclusive of</p>

Financial Indicator	Specific Methodology
	<p>minority or non-controlling interests (as if the entity owned 100% of such entity).</p> <p>For Charities Net Assets would be Total Charity Funds</p>
<p>7</p> <p>Group Exposure Ratio</p>	<p><i>“Group Assets” = Current and Non-Current Balances owed by Group Undertakings</i></p> <p><u>Group Exposure:</u> Balances owed by (i.e. receivable from) Group Undertakings are shown within Non-Current assets or Current assets either on the face of the Balance Sheet or in the relevant notes to the financial statements. In many cases there may be no such balances, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.</p> <p><u>Current Assets & Current Liabilities:</u> Both Current assets and Current Liabilities are shown on the face of the Balance Sheet</p>
<p>8</p> <p>Free Reserve Ratio</p>	<p><i>“Free Reserves” = Unrestricted Reserves – Designated Reserves (Unless these are for Continuity purposes) – Non-cashable Assets (e.g. PPE, Intangible Assets etc.)</i></p> <p>Expenditure is shown on the face of the Income Statement (or Statement of Financial Activities)</p>

ANNEX 5: BOARD CONFIRMATION

Supplier Name:

Contract Reference Number:

The Board of Directors acknowledge the requirements set out at Paragraph 8 of Schedule 24 (Financial Difficulties)] and confirm that the Supplier has exercised due care and diligence and made reasonable enquiry of all relevant Supplier Staff and other persons as is reasonably necessary to enable the Board to prepare this statement.

The Board of Directors confirms, to the best of its knowledge and belief, that as at the date of this Board Confirmation it is not aware of and has no knowledge:

1. that a Financial Distress Event has occurred since the later of the previous Board Confirmation and the Effective Date or is subsisting; or
2. of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event

On behalf of the Board of Directors:

Chair

Signed

Date

Director

Signed

Date

Schedule 25 (Rectification Plan)

Request for [Revised] Rectification Plan			
Details of the Notifiable Default:	[Guidance: Explain the Notifiable Default, with clear schedule and clause references as appropriate]		
Deadline for receiving the [Revised] Rectification Plan:	[add] date (minimum 10 days from request)		
Signed by Buyer:		Date:	
Supplier [Revised] Rectification Plan			
Cause of the Notifiable Default	[add] cause]		
Anticipated impact assessment:	[add] impact]		
Actual effect of Notifiable Default:	[add] effect]		
Steps to be taken to rectification:	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	
Timescale for complete Rectification of Notifiable Default	[X] Working Days		
Steps taken to prevent recurrence of Notifiable Default	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	

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

Schedule 26 (Sustainability)

Definitions

“Modern Slavery Assessment Tool”	means the modern slavery risk identification and management tool which can be found online at: https://supplierregistration.cabinetoffice.gov.uk/msat]
“Supply Chain Map”	means details of (i) the Supplier, (ii) all Subcontractors and (iii) any other entity that the Supplier is aware is in its supply chain that is not a Subcontractor, setting out at least: <ul style="list-style-type: none">(a) the name, registered office and company registration number of each entity in the supply chain;(b) the function of each entity in the supply chain; and(c) the location of any premises at which an entity in the supply chain carries out a function in the supply chain;]
“Waste Hierarchy”	means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011: <ul style="list-style-type: none">(a) Prevention;(b) Preparing for re-use;(c) Recycling;(d) Other Recovery; and(e) Disposal.

Part A

1. Public Sector Equality Duty

1.1. In addition to legal obligations, where the Supplier is providing a Deliverable to which the Public Sector Equality duty applies, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under the Contract in a way that seeks to:

1.1.1. eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and

1.1.2. advance:

1.1.2.1. equality of opportunity; and

1.1.2.2. good relations,

between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

2. Employment Law

2.1. The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.

3. Modern Slavery

3.1. The Supplier:

- 3.1.1. shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
- 3.1.2. shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identity papers with the employer and shall be free to leave their employer after reasonable notice;
- 3.1.3. warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- 3.1.4. warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;
- 3.1.5. shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world;
- 3.1.6. shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7. shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;
- 3.1.8. shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply

chains or in any part of its business with its annual certification of compliance with this Paragraph 3;

- 3.1.9. shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10. shall not use or allow child or slave labour to be used by its Subcontractors; and
- 3.1.11. shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to the Buyer and Modern Slavery Helpline.

4. Environmental Requirements

- 4.1. The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.
- 4.2. In performing its obligations under the Contract, the Supplier shall, where applicable to the Contract, to the reasonable satisfaction of the Buyer:
 - 4.2.1. prioritise waste management in accordance with the Waste Hierarchy as set out in Law;
 - 4.2.2. be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the Law; and
 - 4.2.3. ensure that it and any third parties used to undertake recycling, disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal.
- 4.3. In circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Supplier shall cease to carry or send waste or allow waste to be carried by any Subcontractor until authorisation is obtained from the Environment Agency.
- 4.4. In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Buyer (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21), publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.

- 4.5. The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>.

5. Supplier Code of Conduct

- 5.1. In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier Code of Conduct.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf)

The Buyer expects to meet, and expects its suppliers and subcontractors to meet, the standards set out in that Code.

6. Reporting

The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs 1-5 of this Part A above within fourteen (14) days of such request, [provided that such requests are limited to [two] per requirement per Contract Year].

Part B

1. Equality, Diversity and Inclusion – Further Requirements

- 1.1. In delivering the Deliverables, the Supplier will comply with the Buyer's equality, diversity and inclusion requirements, to be provided to the Supplier by the Buyer.
- 1.2. The Supplier shall ensure that it fulfils its obligations under the Contract in a way that does not discriminate against individuals because of socio-economic background, working pattern or having parental or other caring responsibilities.

2. Environmental – Further Requirements

- 2.1. The Supplier must have a documented management system and controls in place to manage the environmental impacts of delivering the Deliverables.
- 2.2. The Supplier shall ensure that any Deliverables are designed, sourced and delivered in a manner which is environmentally and socially responsible.
- 2.3. In delivering the Deliverables, the Supplier must comply with the Buyer's sustainability requirements, to be provided to the Supplier by the Buyer.
- 2.4. The Supplier warrants that it has obtained relevant Environment Management System (EMS) certified to ISO 14001 or an equivalent certification from a UKAS accredited body and shall comply with and maintain certification requirements throughout the Term.

- 2.5. In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Buyer:
- 2.5.1. avoid consumable single use items (including packaging) unless otherwise agreed with the Buyer, and unless the use is primarily related to the management of the Supplier's own facilities or internal operations as opposed to the provision of Deliverables;
 - 2.5.2. demonstrate that the whole life cycle impacts (including end of use) associated with the Deliverables that extend beyond direct operations into that of the supply chain have been considered and reduced;
 - 2.5.3. minimise the consumption of resources and use them efficiently (including water and energy), working towards a circular economy including designing out waste and non-renewable resources, using re-use and closed loop systems;
 - 2.5.4. demonstrate protection of the environment including understanding and reduction of biosecurity risks (which include risks to plant and tree health from harmful pests and diseases), and reducing and eliminating hazardous/harmful substances to the environment and preventing pollution;
 - 2.5.5. enhance the natural environment and connecting communities with the environment;
 - 2.5.6. achieve continuous improvement in environmental (and social) performance and
 - 2.5.7. demonstrate to the Buyer that it has an environmental management system in place that is at least equivalent to the standards required to be certified to ISO 14001.
- 2.6. The Supplier shall inform the Buyer within one Working Day in the event that a permit, licence or exemption to carry or send waste generated under this Contract is revoked.

3. Modern Slavery– Further Requirements

- 3.1. The Supplier shall comply with any request by the Buyer to complete the Modern Slavery Assessment Tool within sixty (60) days of such request.
- 3.2. The following shall be added to the definition of "Audit" in Schedule 1 immediately after limb (k):
- “(l) carry out an unannounced or semi-announced inspection of any Site and speak directly to any Supplier Staff in a confidential manner and in the native language of such Supplier Staff in respect of workforce conditions, working or employment practices and recruitment practices;”
- 3.3. For the purposes of an audit carried out pursuant to limb (l) of the definition of "Audit", in addition to any other rights under the Contract, the Buyer may instruct the Supplier to carry out such an audit of any Subcontractor by an

independent third party and, if so instructed, the Supplier shall deliver a report to the Buyer within ninety (90) days of such instruction.

- 3.4. If the Supplier or the Buyer identifies any occurrence of modern slavery connected to this Contract, the Supplier shall comply with any request of the Buyer to submit a remedial action plan which follows the form set out in Annex D of the guidance *Tackling Modern Slavery in Government Supply Chains*, which can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830150/September_2019_Modern_Slavery_Guidance.pdf

and such remedial action plan shall be deemed to be a Rectification Plan.

- 3.5. The Supplier shall comply with any request by the Buyer to provide a Supply Chain Map within fourteen (14) days of such request.
- 3.6. The Supplier shall comply with any request by the Buyer to provide a copy of any reports of any Subcontractor regarding any or all of workforce conditions, working or employment practices and recruitment practices within fourteen (14) days of such request.
- 3.7. The Supplier shall carry out due diligence to ensure workers in its business and its supply chains are not paying illegal or exploitative recruitment fees to secure employment, and where these fees are uncovered shall ensure that workers are remedied.
- 3.8. The Supplier shall report the discovery or suspicion of any slavery, forced labour, child labour, involuntary prison labour or labour rights abuses in its operations and supply chains to the Buyer and relevant national or local law enforcement agencies.

4. Further Reporting Requirements

- 4.1. The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs 1 and 2 of this Part B above within thirty (30) days of such request, provided that such requests are limited to two per requirement per Contract Year.
- 4.2. The Supplier shall complete the reports in Table A of this Part B in relation to its provision of the Deliverables under this Contract and provide these to the Buyer on the date and frequency outlined in Table A of this Part B.

Table A

Schedule 26 (Sustainability)

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Sustainability Report Name	Content of Report	Frequency of Report
Sustainability - General	As proportionate and relevant to the Contract, the key sustainability impacts identified; the sustainability improvements planned or delivered; and the risks to the Deliverables of climate change, including mitigation, adaptation and continuity plans employed by the Supplier in response to those risks.	On the anniversary of the Effective Date

Schedule 27 (Key Subcontractors)

1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under the Contract to the Key Subcontractors set out in the Award Form.
- 1.2 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of the Buyer and the Supplier shall, at the time of requesting such consent, provide the Buyer with the information detailed in Paragraph 1.4. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Award Form. The Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
 - 1.2.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
 - 1.2.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - 1.2.3 the proposed Key Subcontractor employs unfit persons.
- 1.3 The Supplier shall provide the Buyer with the following information in respect of the proposed Key Subcontractor:
 - 1.3.1 the proposed Key Subcontractor's name, registered office and company registration number;
 - 1.3.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
 - 1.3.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
 - 1.3.4 the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Contract Period; and
 - 1.3.5 (where applicable) Credit Rating Threshold (as defined in Schedule 24 (Financial Difficulties)) of the Key Subcontractor.
- 1.4 If requested by the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.3, the Supplier shall also provide:
 - 1.4.1 a copy of the proposed Key Sub-Contract; and
 - 1.4.2 any further information reasonably requested by the Buyer.

Schedule 27 (Key Subcontractors)

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- 1.5 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
 - 1.5.1 provisions which will enable the Supplier to discharge its obligations under the Contract;
 - 1.5.2 a right under CRTPA for the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Buyer;
 - 1.5.3 a provision enabling the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
 - 1.5.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Buyer;
 - 1.5.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the Contract in respect of:
 - a) the data protection requirements set out in Clause 18 (Data protection);
 - b) the FOIA and other access request requirements set out in Clause 20 (When you can share information);
 - c) the obligation not to embarrass the Buyer or otherwise bring the Buyer into disrepute;
 - d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
 - e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
 - 1.5.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Buyer under Clauses 14.4 (When the Buyer can end this contract) and 14.5 (What happens if the contract ends) of this Contract;
 - 1.5.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Buyer; and
 - 1.5.8 a provision enabling the Supplier, the Buyer or any other person on behalf of the Buyer to step-in on substantially the same terms as are set out in Clause 13 (Step-in rights).
- 1.6 The Supplier shall not terminate or materially amend the terms of any Key Sub-Contract without the Buyer's prior written consent, which shall not be unreasonably withheld or delayed.

Schedule 28 (ICT Services)

1. Definitions

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

"Buyer Property"	the property, other than real property and IPR, including the Buyer System, any equipment issued or made available to the Supplier by the Buyer in connection with this Contract;
"Buyer Software"	any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Deliverables;
"Buyer System"	the Buyer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Buyer or the Supplier in connection with this Contract which is owned by or licensed to the Buyer by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Deliverables;
"Commercial off the shelf Software" or "COTS Software"	non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms;
"Defect"	any of the following: <ul style="list-style-type: none">a) any error, damage or defect in the manufacturing of a Deliverable; orb) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; orc) any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract; or

Schedule 28 (ICT Services)

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- d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract;

"Emergency Maintenance"

ad hoc and unplanned maintenance provided by the Supplier where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault;

"ICT Environment"

the Buyer System and the Supplier System;

"Licensed Software"

all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Buyer for the purposes of or pursuant to this Contract, including any COTS Software;

"Maintenance Schedule"

has the meaning given to it in Paragraph 8 of this Schedule;

"Malicious Software"

any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;

"New Release"

an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;

"Open Source Software"

computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the

	software to any and all persons and for any and all purposes free of charge;
"Operating Environment"	<p>means the Buyer System and any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:</p> <ul style="list-style-type: none">a) the Deliverables are (or are to be) provided; orb) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; orc) where any part of the Supplier System is situated;
"Permitted Maintenance"	has the meaning given to it in Paragraph 8.2 of this Schedule;
"Quality Plans"	has the meaning given to it in Paragraph 6.1 of this Schedule;
"Sites"	has the meaning given to it in Schedule 1 (Definitions), and for the purposes of this Schedule shall also include any premises from, to or at which physical interface with the Buyer System takes place;
"Software"	Specially Written Software, COTS Software and non-COTS Supplier and third party Software;
"Software Supporting Materials"	has the meaning given to it in Paragraph 9.1 of this Schedule;
"Source Code"	computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
"Specially Written Software"	any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-Contractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any

modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR;

"Supplier System"

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

2. When this Schedule should be used

- 2.1. This Schedule is designed to provide additional provisions necessary to facilitate the provision of ICT Services which are part of the Deliverables.

3. Buyer due diligence requirements

- 3.1. The Supplier shall satisfy itself of all relevant details, including but not limited to, details relating to the following;
- 3.1.1. suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Start Date) future Operating Environment;
 - 3.1.2. operating processes and procedures and the working methods of the Buyer;
 - 3.1.3. ownership, functionality, capacity, condition and suitability for use in the provision of the Deliverables of the Buyer Assets; and
 - 3.1.4. existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the Supplier will require the benefit of for the provision of the Deliverables.
- 3.2. The Supplier confirms that it has advised the Buyer in writing of:
- 3.2.1. each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;
 - 3.2.2. the actions needed to remedy each such unsuitable aspect; and
 - 3.2.3. a timetable for and the costs of those actions.

4. Licensed software warranty

- 4.1. The Supplier represents and warrants that:

- 4.1.1. it has and shall continue to have all necessary rights in and to the Licensed Software made available by the Supplier (and/or any Sub-Contractor) to the Buyer which are necessary for the performance of the Supplier's obligations under this Contract including the receipt of the Deliverables by the Buyer;
- 4.1.2. all components of the Specially Written Software shall:
 - 4.1.2.1. be free from material design and programming errors;
 - 4.1.2.2. perform in all material respects in accordance with the relevant specifications contained in Schedule 10 (Service Levels) and Documentation; and
 - 4.1.2.3. not infringe any IPR.

5. Provision of ICT Services

5.1. The Supplier shall:

- 5.1.1. ensure that the release of any new COTS Software in which the Supplier owns the IPR, or upgrade to any Software in which the Supplier owns the IPR complies with the interface requirements of the Buyer and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Buyer three (3) Months before the release of any new COTS Software or Upgrade;
- 5.1.2. ensure that all Software including upgrades, updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
- 5.1.3. ensure that the Supplier System will be free of all encumbrances;
- 5.1.4. ensure that the Deliverables are fully compatible with any Buyer Software, Buyer System, or otherwise used by the Supplier in connection with this Contract;
- 5.1.5. minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Deliverables.

6. Standards and Quality Requirements

- 6.1. The Supplier shall develop, in the timescales specified in the Award Form, quality plans that ensure that all aspects of the Deliverables are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").
- 6.2. The Supplier shall seek Approval from the Buyer (not be unreasonably withheld or delayed) of the Quality Plans before implementing them. Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Deliverables are provided to the standard required by this Contract.

- 6.3. Following the approval of the Quality Plans, the Supplier shall provide all Deliverables in accordance with the Quality Plans.
- 6.4. The Supplier shall ensure that the Supplier Personnel shall at all times during the Contract Period:
 - 6.4.1. be appropriately experienced, qualified and trained to supply the Deliverables in accordance with this Contract;
 - 6.4.2. apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Deliverables; and
 - 6.4.3. obey all lawful instructions and reasonable directions of the Buyer (including, if so required by the Buyer, the ICT Policy) and provide the Deliverables to the reasonable satisfaction of the Buyer.

7. ICT Audit

- 7.1. The Supplier shall allow any auditor access to the Supplier premises to:
 - 7.1.1. inspect the ICT Environment and the wider service delivery environment (or any part of them);
 - 7.1.2. review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
 - 7.1.3. review the Supplier's quality management systems including all relevant Quality Plans.

8. Maintenance of the ICT Environment

- 8.1. If specified by the Buyer in the Award Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance Schedule**") and make it available to the Buyer for Approval in accordance with the timetable and instructions specified by the Buyer.
- 8.2. Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.
- 8.3. The Supplier shall give as much notice as is reasonably practicable to the Buyer prior to carrying out any Emergency Maintenance.
- 8.4. The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Deliverables.

9. Intellectual Property Rights in ICT

9.1. Licences granted by the Supplier: Specially Written Software

9.1.1. The Supplier shall grant to the Buyer a perpetual, royalty-free and exclusive licence to use, adapt and sub-license the Specially Written Software together with and including:

9.1.1.1. the Documentation, Source Code and the Object Code of the Specially Written Software; and

9.1.1.2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR (together the **"Software Supporting Materials"**,

for any purpose relating to the Deliverables (or substantially equivalent deliverables) [or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Central Government Body, any other Central Government Body's) business or function] including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

9.2. Licences for non-COTS IPR from the Supplier and third parties to the Buyer

9.2.1. Unless the Buyer gives its Approval the Supplier must not use any:

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

9.2.1.2. third party software that is not COTS Software

9.2.2. Where the Buyer Approves the use of the Supplier's Existing IPR that is not COTS Software the Supplier shall grant to the Buyer a perpetual, royalty-free and non-exclusive licence to use adapt, and sub-license the same for any purpose relating to the Deliverables (or substantially equivalent deliverables) or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Central Government Body, any other Central Government Body's) business or function including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

9.2.3. Where the Buyer Approves the use of third party Software that is not COTS Software the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Buyer on terms at least equivalent to those set out in Paragraph [9.2.2]. If the Supplier cannot obtain such a licence for the Buyer it shall:

- 9.2.3.1. notify the Buyer in writing giving details of what licence terms can be obtained and whether there are alternative software providers which the Supplier could seek to use; and
- 9.2.3.2. only use such third party IPR as referred to at Paragraph [9.2.3] if the Buyer Approves the terms of the licence from the relevant third party.
- 9.2.4. Where the Supplier is unable to provide a licence to the Supplier's Existing IPR in accordance with Paragraph [9.3.2] above, it must meet the requirement by making use of COTS Software or Specially Written Software.
- 9.2.5. The Supplier may terminate a licence granted under Paragraph [9.2.2] by giving at least thirty (30) days' notice in writing if there is a Buyer Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.
- 9.3. Licences for COTS Software by the Supplier and third parties to the Buyer**
 - 9.3.1. The Supplier shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the Buyer on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
 - 9.3.2. Where the Supplier owns the COTS Software it shall make available the COTS Software to a Replacement Supplier at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
 - 9.3.3. Where a third party is the owner of COTS Software licensed in accordance with this Paragraph [9.3] the Supplier shall support the Replacement Supplier to make arrangements with the owner or authorised licensee to renew the license at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
 - 9.3.4. The Supplier shall notify the Buyer within seven (7) days of becoming aware of any COTS Software which in the next thirty-six (36) months:
 - 9.3.4.1. will no longer be maintained or supported by the developer; or
 - 9.3.4.2. will no longer be made commercially available.
- 9.4. Buyer's right to assign/novate licences**
 - 9.4.1. The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Paragraph [9.2]

(Licences for non-COTS IPR from the Supplier and third parties to the Buyer) to:

9.4.1.1. a Central Government Body; or

9.4.1.2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.

9.4.2. The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Paragraph [9.1] *(Licences granted by the Supplier: Specially Written Software)* to:

9.4.2.1. a Central Government Body; or

9.4.2.2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer

9.4.3. If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licences granted in Paragraphs [9.1] and/or [9.2].

9.5. Licence granted by the Buyer

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

9.6. Malicious Software

9.6.1. The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.

9.6.2. If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.

9.6.3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of Paragraph [9.6.2] shall be borne by the Parties as follows:

- 9.6.3.1. by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and
- 9.6.3.2. by the Buyer, if the Malicious Software originates from the Buyer Software or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

9.7. Restrictions on exploiting Specially Written Software

- 9.7.1. Notwithstanding the Supplier's ownership of the Specially Written Software or licence which allows it to exploit and commercialise the New IPR:
 - 9.7.1.1. the Supplier must always offer a price and solution to the Buyer which is in accordance with the Charges and must licence the New IPR and Supplier Existing IPR to the Buyer on equivalent terms as apply under this Contract;
 - 9.7.1.2. where the Supplier proposes to exploit the New IPR, that it provides a detailed proposal of its plans for exploitation of the New IPR and the forecast returns, including (but not limited to) details of the goods and services to be offered by the Supplier which use the New IPR, the target markets and territory, the estimated level of orders, the marketing strategy; full details of the estimated costs, prices, revenues and profits; impact assessment on services delivered under the Contract; and any other information that would reasonably be required by the Buyer to enable it to consider the commercial, legal and financial implications to the Parties of the proposal and any further information which the Buyer may reasonably request; and
 - 9.7.1.3. where the Supplier proposes to discount the prices offered to the Buyer in return for the right to exploit the New IPR, that it provides clear evidence to demonstrate how the exploitation plans and financial information provided under Paragraph 9.7.1.2 above have been applied to the price for the Deliverables offered to the Buyer and other potential End Users;
- 9.7.2. The Buyer shall be under no obligation to:
 - 9.7.2.1. offer the New IPR (where this is owned by the Buyer) or the Buyer Existing IPR on an exclusive licence basis or on any other alternative terms of licensing and ownership; or
 - 9.7.2.2. accept any alternative arrangement proposed by the Supplier under this Paragraph and the Buyer shall be

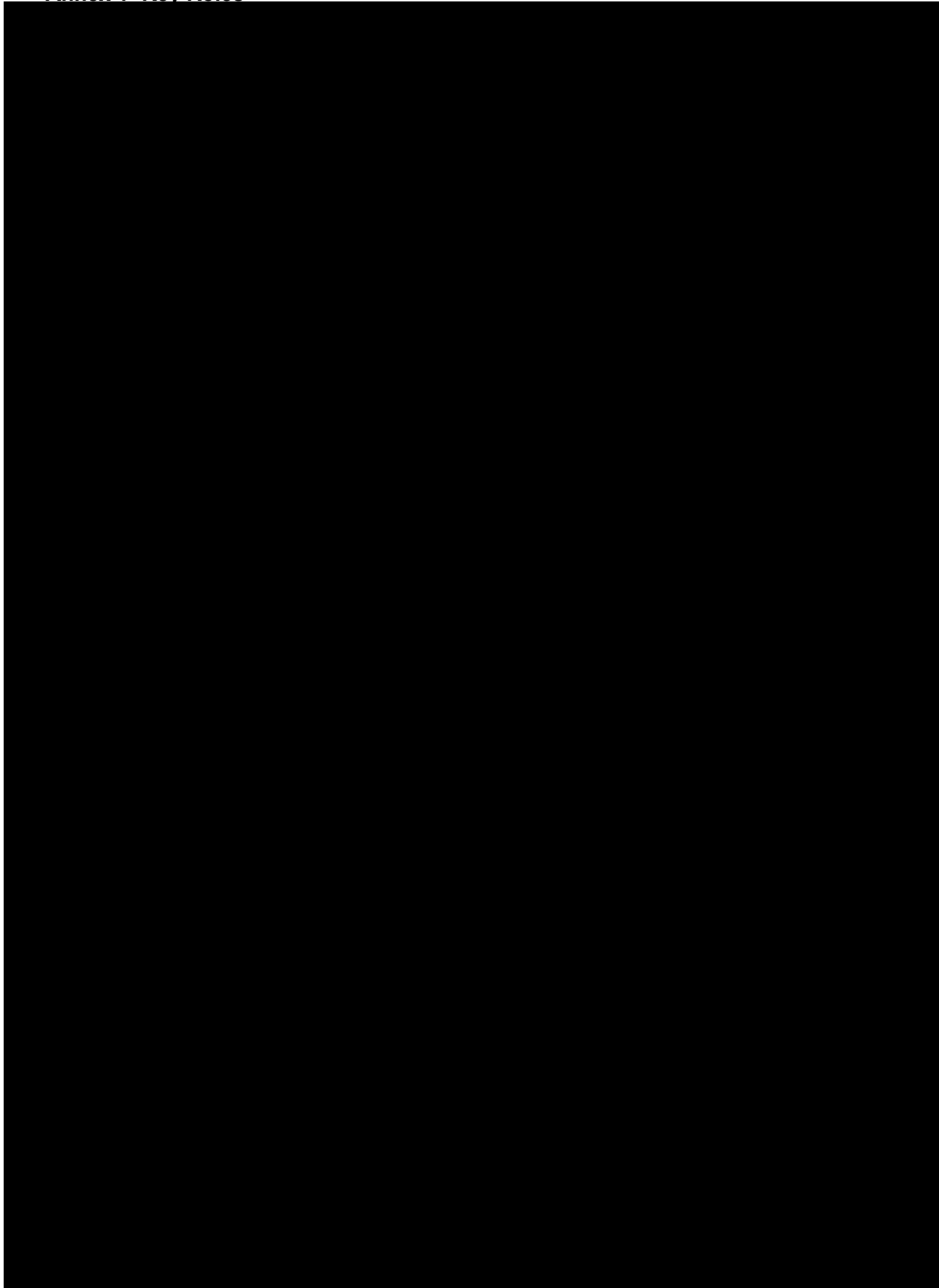
entitled to require the Supplier to deliver the solution on the basis of the same position on ownership and licensing of the New IPR (where this is owned by the Buyer) or Buyer Existing IPR applies as applies under this Contract.

- 9.7.3. This Contract does not confer any exclusive right on the Supplier to negotiate with the Buyer in relation to the New IPR (where this is owned by the Buyer), Buyer Existing IPR or any Crown IPR and the Buyer shall be entitled to licence, assign and otherwise deal with such IPR (where it owns such IPR) with any other person (except to the extent that the Buyer has entered into an exclusive licence with the Supplier in respect of such IPR pursuant to this Contract).
- 9.7.4. The Supplier acknowledges and agrees that the Buyer is under an obligation to comply with procurement Laws and state aid rules when considering proposals for alternative IPR arrangements and the Buyer will need to consider its position and approach on a case by case basis.

Schedule 29 (Key Supplier Staff)

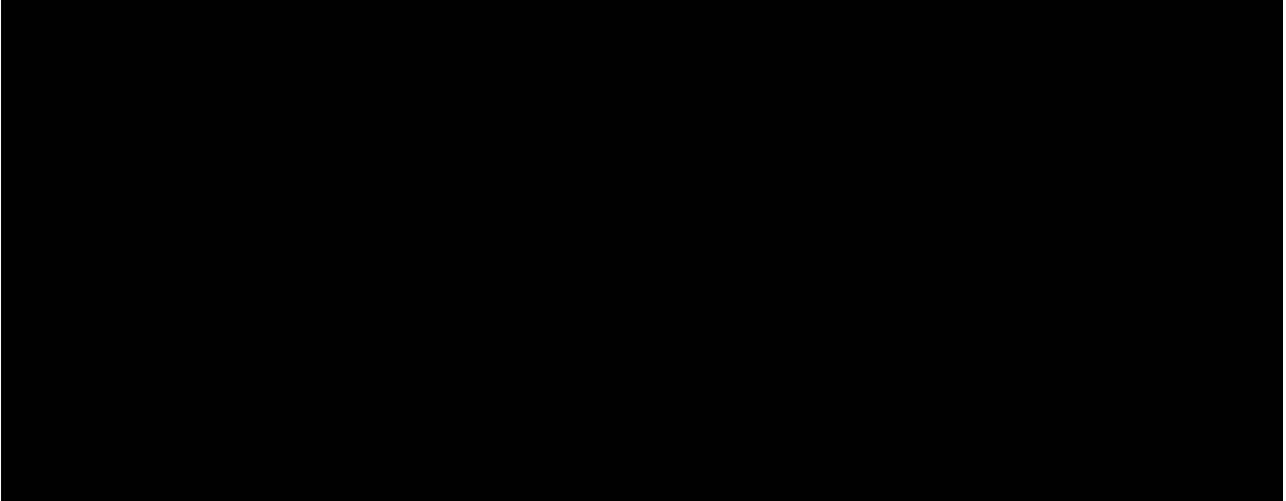
- 1.1 The Annex 1 to this Schedule lists the key roles (“**Key Roles**”) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date (“**Key Staff**”).
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
 - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
 - 1.4.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
 - 1.4.3 the person’s employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
 - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
 - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
 - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff’s employment contract, this will mean at least three (3) Months’ notice;
 - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
 - 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.
- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

Annex 1- Key Roles



Schedule 29 (Key Supplier Staff)

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Schedule 30 (Exit Management)

1. Definitions

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

"Exclusive Assets"	Supplier Assets used exclusively by the Supplier or a Key Subcontractor in the provision of the Deliverables;
"Exit Information"	has the meaning given to it in Paragraph 3.1 of this Schedule;
"Exit Manager"	the person appointed by each Party to manage their respective obligations under this Schedule;
"Net Book Value"	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
"Non-Exclusive Assets"	those Supplier Assets used by the Supplier or a Key Subcontractor in connection with the Deliverables but which are also used by the Supplier or Key Subcontractor for other purposes;
"Replacement Goods"	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Replacement Services"	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Termination Assistance Period"	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;

"Transferable Assets"	Exclusive Assets which are capable of legal transfer to the Buyer;
"Transferable Contracts"	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	has the meaning given to it in Paragraph 8.2.1 of this Schedule;
"Transferring Contracts"	has the meaning given to it in Paragraph 8.2.3 of this Schedule;
"Virtual Library"	the data repository hosted by the Supplier containing the accurate information about the Contract and the Deliverables in accordance with Paragraph 2.2 of this Schedule.

2. Supplier must always be prepared for contract exit

- 2.1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
- 2.2 During the Contract Period, the Supplier shall within 30 days from the Start Date (or such other period as is specified in the Award Form) create and maintain a Virtual Library containing:
 - 2.2.1 a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
 - 2.2.2 a configuration database detailing the technical infrastructure, a schedule of the IPRs which the Buyer reasonably requires to benefit from the Deliverables (including who is the owner of such IPRs, the contact details of the owner and whether or not such IPRs are held in escrow), any plans required to be delivered by the Supplier pursuant to Schedule 14 (Business Continuity and Disaster Recovery) or Schedule 24 (Financial Difficulties) and operating procedures through which the Supplier provides the Deliverables,
 and the Supplier shall ensure the Virtual Library is structured and maintained in accordance with open standards and the security requirements set out in this Contract and is readily accessible by the Buyer at all times. All

information contained in the Virtual Library should be maintained and kept up to date in accordance with the time period set out in the Award Form.

- 2.3 Where Schedule 7 (Staff Transfer) applies to this Contract, the Supplier shall add to the Virtual Library a list of Supplier Staff and Staffing Information (as that term is defined in Schedule 7 (Staff Transfer)) in connection with the Deliverables in accordance with the timescales set out in Paragraphs 1.1, 1.2 of Part E of Schedule 7 (Staff Transfer).
- 2.4 The Supplier shall:
 - 2.4.1 ensure that all Exclusive Assets listed in the Virtual Library are clearly physically identified as such; and
 - 2.4.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.
- 2.5 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

3. Assisting re-competition for Deliverables

- 3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").
- 3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
- 3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).
- 3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for

Schedule 30 (Exit Management)

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those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

4. Exit Plan

- 4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer a plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer (the "**Exit Plan**").
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

4.3 The Exit Plan shall set out, as a minimum:

- 4.3.1 how the Exit Information is obtained;
- 4.3.2 a mechanism for dealing with partial termination on the assumption that the Supplier will continue to provide the remaining Deliverables under this Contract;
- 4.3.3 the management structure to be employed during the Termination Assistance Period;
- 4.3.4 a detailed description of both the transfer and cessation processes, including a timetable;
- 4.3.5 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
- 4.3.6 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
- 4.3.7 the scope of Termination Assistance that may be required for the benefit of the Buyer (including which services set out in Annex 1 are applicable);
- 4.3.8 how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance;
- 4.3.9 any charges that would be payable for the provision of Termination Assistance (calculated in accordance with Paragraph 4.4 below) together with a capped estimate of such charges;
- 4.3.10 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
- 4.3.11 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
- 4.3.12 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
- 4.3.13 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
- 4.3.14 proposals for the disposal of any redundant Deliverables and materials;

- 4.3.15 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
- 4.3.16 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.
- 4.4 Any charges payable as a result of the Supplier providing Termination Assistance shall be calculated and charged in accordance with Schedule 3 (*Charges*). The Supplier shall be entitled to increase or vary the Charges only if it can demonstrate in the Exit Plan that the provision of Termination Assistance requires additional resources and, in any event, any change to the Charges resulting from the provisions of Termination Assistance will be strictly proportionate to the level of resources required for the provision of the Termination Assistance Services.
- 4.5 The Supplier shall:
 - 4.5.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
 - a) every six (6) months throughout the Contract Period;
 - b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
 - c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
 - d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and
 - 4.5.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.
- 4.6 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
- 4.7 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

5. Termination Assistance

- 5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any

event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

- 5.1.1 the nature of the Termination Assistance required; and
 - 5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.
- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:
- 5.2.1 no such extension shall extend the Termination Assistance Period beyond the date eighteen (18) Months after the End Date; and
 - 5.2.2 the Buyer shall notify the Supplier of any such extension by serving not less than twenty (20) Working Days' written notice upon the Supplier.
- 5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.4 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

6. Termination Assistance Period

- 6.1 Throughout the Termination Assistance Period the Supplier shall:
- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
 - 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
 - 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
 - 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Service Levels, the

- provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
- 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date contents of the Virtual Library to the Buyer; and
- 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

7. Obligations when the contract is terminated

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
- 7.2.1 cease to use the Government Data;
- 7.2.2 vacate any Buyer Premises;
- 7.2.3 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;
- 7.2.4 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:
- a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
- b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the

reasonable costs of the Supplier actually incurred in responding to such requests for access.

- 7.3 Upon partial termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Assistance or for statutory compliance purposes.
- 7.4 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

8. Assets, Sub-contracts and Software

- 8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:
- 8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
 - 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.
- 8.2 Within twenty (20) Working Days of receipt of the up-to-date contents of the Virtual Library provided by the Supplier, the Buyer shall notify the Supplier setting out:
- 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
 - 8.2.2 which, if any, of:
 - a) the Exclusive Assets that are not Transferable Assets; and
 - b) the Non-Exclusive Assets,the Buyer and/or the Replacement Supplier requires the continued use of; and
 - 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"), in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all

reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services. Where requested by the Supplier, the Buyer and/or its Replacement Supplier shall discuss in good faith with the Supplier which Transferable Contracts are used by the Supplier in matters unconnected to the Services or Replacement Services.

- 8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
 - 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 8.7 The Buyer shall:
- 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
 - 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
- 8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or

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novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 23 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by third party beneficiaries by virtue of the CRTPA.

9. No charges

- 9.1 Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

10. Dividing the bills

- 10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:
- 10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;
 - 10.1.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
 - 10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

ANNEX 1: SCOPE OF TERMINATION ASSISTANCE

- 1.1 The Buyer may specify that any of the following services will be provided by the Supplier as part of its Termination Assistance:
 - 1.1.1 notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
 - 1.1.2 providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Buyer and/or the Replacement Supplier after the end of the Termination Assistance Period;
 - 1.1.3 providing details of work volumes and staffing requirements over the 12 Months immediately prior to the commencement of Termination Assistance;
 - 1.1.4 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Deliverables and re-writing and implementing these during and for a period of 12 Months after the Termination Assistance Period;
 - 1.1.5 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Deliverables and re-writing and implementing these such that they are appropriate for the continuation of provision of the Deliverables after the Termination Assistance Period;
 - 1.1.6 agreeing with the Buyer an effective communication strategy and joint communications plan which sets out the implications for Supplier Staff, Buyer staff, customers and key stakeholders;
 - 1.1.7 agreeing with the Buyer a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
 - 1.1.8 providing an information pack listing and describing the Deliverables for use by the Buyer in the procurement of the Replacement Deliverables;
 - 1.1.9 answering all reasonable questions from the Buyer and/or the Replacement Supplier regarding the Deliverables;
 - 1.1.10 agreeing with the Buyer and/or the Replacement Supplier a plan for the migration of the Government Data to the Buyer and/or the Replacement Supplier;
 - 1.1.11 providing access to the Buyer and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding 6 Months afterwards for the purpose of the smooth

transfer of the provision of the Deliverables to the Buyer and/or the Replacement Supplier:

- a) to information and documentation relating to the Deliverables that is in the possession or control of the Supplier or its Subcontractors (and the Supplier agrees and will procure that its Subcontractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
- b) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Staff who have been involved in the provision or management of the provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors, including those employees filling the relevant Key Staff positions and Key Staff with specific knowledge in respect of the Exit Plan;

1.1.12 knowledge transfer services, including:

- a) making available to the Buyer and/or the Replacement Supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff at the time of termination or expiry as are nominated by the Buyer and/or the Replacement Supplier (acting reasonably);
- b) transferring all training material and providing appropriate training to those Buyer and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Deliverables;
- c) providing as early as possible for transfer to the Buyer and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Deliverables which may, as appropriate, include information, records and documents;
- d) providing the Supplier and/or the Replacement Supplier with access to sufficient numbers of the members of the Supplier Staff or Subcontractors' personnel of suitable experience and skill and as have been involved in the design, development, provision or management of provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors; and
- e) allowing the Buyer and/or the Replacement Supplier to work alongside and observe the performance of the Services by the Supplier at its Sites used to fulfil the Services (subject to compliance by the Buyer and the Replacement Supplier with any applicable security and/or health and safety restrictions, and any such person who is provided with knowledge transfer services will sign a confidentiality undertaking in

favour of the Supplier (in such form as the Supplier shall reasonably require)).

1.2 The Supplier will:

- 1.2.1 provide a documented plan relating to the training matters referred to in Paragraph 1.1.12 for agreement by the Buyer at the time of termination or expiry of this Contract; and
- 1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1.1.7, providing skills and expertise of a suitable standard.

1.3 To facilitate the transfer of knowledge from the Supplier to the Buyer and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services to the operations staff of the Buyer and/or the Replacement Supplier.

1.4 The information which the Supplier will provide to the Buyer and/or the Replacement Supplier pursuant to Paragraph 1.1.11 shall include:

- 1.4.1 copies of up-to-date procedures and operations manuals;
- 1.4.2 product information;
- 1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Buyer and/or the Replacement Supplier; and
- 1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Buyer pursuant to this Schedule,

and such information shall be updated by the Supplier at the end of the Termination Assistance Period.

1.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and suppliers) of the Replacement Supplier and/or the Buyer access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:

- 1.5.1 any such agent or personnel (including employees, consultants and suppliers) having such access to any Sites shall:
 - a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and
 - b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Buyer deems reasonable; and
- 1.5.2 the Buyer and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

Schedule 31 (Buyer Specific Terms)

1. Definitions

1.1 “Step-In Trigger Event” shall mean:

- 1.1.1 any event described in Clause in this Clause 1.1.1 of Schedule 31 (Buyer Specific Terms);
- 1.1.2 Not Used;
- 1.1.3 a breach of this Contract by the Supplier that is materially preventing or materially delaying the performance of the Services or any material part of the Services;
- 1.1.4 the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this Contract;
- 1.1.5 the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Paragraph 2 (Step-In Rights) is necessary;
- 1.1.6 the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Services; and/or
- 1.1.7 a need by the Buyer to take action to discharge a statutory duty, responsibility, or requirement under Law.

1.2 “Replacement Supplier” means any third-party service provider of Replacement Services appointed by the Buyer from time to time (or where the Buyer is providing replacement Services for its own account, the Buyer); and

1.3 “Replacement Services” any services which are the same as or substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the expiry or termination (in whole or in part) of this Contract, whether those services are provided by the Buyer internally and/or by any third party.

2. Step-in Rights

2.1 On the occurrence of a Step-In Trigger Event, the Buyer may serve notice on the Supplier (a “Step-In Notice”) that it will be taking action under this Paragraph 2, either itself or with the assistance of a third party (provided that the Supplier may require any third parties to comply with a confidentiality undertaking equivalent to Clause 15 (*What you must keep confidential*)). The Step-In Notice shall set out the following:

- 2.1.1 the action the Buyer wishes to take and in particular the Services that it wishes to control (the **“Required Action”**);
- 2.1.2 the Step-In Trigger Event that has occurred and whether the Buyer believes that the Required Action is due to the Supplier's Default;
- 2.1.3 the date on which it wishes to commence the Required Action;
- 2.1.4 the time period which it believes will be necessary for the Required Action;

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- 2.1.5 whether the Buyer will require access to the Supplier's premises and/or the Sites; and
 - 2.1.6 to the extent practicable, the impact that the Buyer anticipates the Required Action will have on the Supplier's obligations to provide the Services during the period that the Required Action is being taken.
- 2.2 Following service of a Step-In Notice, the Buyer shall:
 - 2.2.1 take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;
 - 2.2.2 keep records of the Required Action taken and provide information about the Required Action to the Supplier;
 - 2.2.3 co-operate wherever reasonable with the Supplier in order to enable the Supplier to continue to provide the Services in relation to which the Buyer is not assuming control; and
 - 2.2.4 act reasonably in mitigating the cost that the Supplier will incur as a result of the exercise of the Buyer's rights under this Paragraph 2.
- 2.3 For so long as and to the extent that the Required Action is continuing, then:
 - 2.3.1 the Supplier shall not be obliged to provide the Services to the extent that they are the subject of the Required Action;
 - 2.3.2 no deductions shall be applicable in relation to Charges in respect of Services that are the subject of the Required Action and the provisions of Paragraph 2.4 shall apply to deductions from Charges in respect of other Services; and
 - 2.3.3 the Buyer shall pay to the Supplier the Charges after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.
- 2.4 If the Supplier demonstrates to the reasonable satisfaction of the Buyer that the Required Action has resulted in:
 - 2.4.1 the degradation of any Services not subject to the Required Action; or
 - 2.4.2 the non-Achievement of a Milestone,beyond that which would have been the case had the Buyer not taken the Required Action, then the Supplier shall be entitled to an agreed adjustment of the Charges.
- 2.5 Before ceasing to exercise its step in rights under this Paragraph 2 the Buyer shall deliver a written notice to the Supplier (a **"Step-Out Notice"**), specifying:
 - 2.5.1 the Required Action it has actually taken; and
 - 2.5.2 the date on which the Buyer plans to end the Required Action (the **"Step-Out Date"**) subject to the Buyer being satisfied with the Supplier's ability to resume the provision of the Services and the Supplier's plan developed in accordance with Paragraph 2.2.
- 2.6 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 Buyer's approval a draft plan (a **"Step-Out Plan"**) relating to the resumption by the Supplier of the Services,

Schedule 31 (Buyer Specific Terms)

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including any action the Supplier proposes to take to ensure that the affected Services satisfy the requirements of this Contract.

2.7 If the Buyer does not approve the draft Step-Out Plan, the Buyer 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 Buyer for the Buyer's approval. The Buyer shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.

2.8 The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Paragraph 2, provided that the Buyer shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Buyer under:

2.8.1 limbs (c) or (d) of the definition of a Step-In Trigger Event; or

2.8.2 limbs (e) and (f) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Buyer serving the Step-In Notice is identified as not being the result of the Supplier's Default).

3. AGREEMENT WITH KEY-SUBCONTRACTORS

3.1 The Buyer may at any time after the Start Date (whether or not the Buyer serves a Termination Notice and/or a Step-In Notice) require the Supplier to enter into an agreement with the Buyer and any Key Subcontractor(s) as nominated by the Buyer on substantially the same terms as those set out in the Annex to this Schedule 31 to enable such Key Subcontractor(s) to provide the Deliverables or substantially similar deliverables to the Buyer in the event the Buyer elects to. The Supplier shall enter into, and shall procure that such nominated Key Subcontractor(s), such agreement promptly and in accordance with the Buyer's reasonable instructions.

4. ESCROW

4.1 At the Supplier's cost and upon written request by the Buyer, Supplier shall within 90 days of the date of the Start Date, upon terms to be agreed between the Parties (such agreement not to be unreasonably withheld), enter into an escrow agreement ("Escrow Agreement") with such escrow agent as the Parties shall agree from time to time ("Escrow Agent"). The Supplier shall procure that the Escrow Agent enters into the Escrow Agreement and shall and include or procure the inclusion of the Buyer in the relevant escrow arrangements in respect of the Software, and any and all relevant technical documentation reasonably required by the Buyer. The Buyer shall have the right to receive such Software and such technical documentation (to include but not limited to technical data, drawings, specifications and training materials) to reasonably allow the Buyer to arrange ongoing repairs and maintenance of the Mobile Freight X-Ray Vehicle Units purchased by the Buyer under this contract for the full term of the contract to cover the 10 year life expectancy of the Units from the Escrow Agent in accordance with the terms of the Escrow Agreement(s) and in any event only if:

4.1.1 the Supplier goes into receivership, administration, passes a resolution for its winding up or has a winding up order issued against it which (in each case) remains in effect for more than 30 days and the receiver, administrator, liquidator, trustee in bankruptcy or other equivalent officer fails to assure the Buyer (to the Buyer's reasonable satisfaction) that it will maintain the

Schedule 31 (Buyer Specific Terms)

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Software and will supply the Buyer with the Services pursuant to this Contract;

4.1.2 (where applicable) the Buyer exercises its right to step-in pursuant to paragraph 2 above;

4.1.3 the Buyer terminates the Contract pursuant to Clause 10.4; and/or

4.1.4 the Supplier is in material breach of its obligations under this Contract, and has failed to remedy such default notified by the Buyer within a reasonable time (and the Buyer has given at least 14 days' notice of its intention to invoke escrow).

4.2 Supplier shall, subject to agreement of the Escrow Agreement, at the Buyer's reasonable expense promptly (but not more than once every six months unless otherwise agreed between the Parties) deliver to the Escrow Agent the latest release of Software in respect of which the Buyer is licensed ("Deposited Software").

4.3 The Buyer shall only make and use copies of the whole or any part of Software as is strictly necessary for purposes of continued supply of Services for the benefit of the Buyer and such copies of the Software shall be subject to all limitations placed on the use of the Software under this Contract.

4.4 In circumstances where the Buyer obtains the release of the Deposited Software from escrow, the Supplier hereby grants to the Buyer (on behalf of itself and any Replacement Supplier) a perpetual, assignable, royalty-free and non-exclusive licence to use, support, modify and enhance the Deposited Software to the extent necessary for the receipt of the Services or any Replacement Services.

5. OPTION TO PURCHASE

5.1 Upon the commencement of any Supplier Insolvency Event the Buyer shall have the exclusive option to purchase such Goods (or any part thereof) as described in Schedule 2 (Specification) at the rates set out in Schedule 3 (Charges) or as otherwise agreed by the Parties. The Buyer shall exercise its option to purchase by giving to the Supplier not less than 10 days' written notice and the Supplier shall not be entitled to sell and/or otherwise dispose of the Goods described in Schedule 2 (Specification) unless the Buyer has informed the Supplier in writing it does not wish to purchase such Goods, or a period of 30 days has expired from the commencement of the Supplier Insolvency Event or Step-in Trigger Event.

ANNEX 1: Agreement Template

DATED

20[XX]

[BUYER]

and

[SUPPLIER LIMITED]

and

[KEY SUBCONTRACTOR]

SUB-CONTRACTOR'S DIRECT AGREEMENT

Schedule 31 (Buyer Specific Terms)

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THIS AGREEMENT ("Agreement") is made as a deed dated
20[XX]

BETWEEN:

- (1) **[NAME]** whose address is **[ADDRESS]** (the "**Buyer**");
- (2) **[SUPPLIER] LIMITED** (Company Registration Number: **[NUMBER]**),
Registered Office: **[ADDRESS]** (the "**Supplier**");
- (3) **[SUB-CONTRACTOR] LIMITED** (Company Registration Number:
[NUMBER]), Registered Office: **[ADDRESS]**) (the "**Sub-Contractor**").

WHEREAS:

- (A) The Supplier and the Sub-Contractor have entered into the Sub-Contract pursuant to which the Sub-Contractor will, inter alia, perform certain of the Supplier's obligations under the Project Agreement.
- (B) The Parties have entered into this Agreement for the purposes of, inter alia, regulating their relationship in circumstances where the Project Agreement and/or the Sub -Contract, is or is about to be, terminated.
- (C) This is the Sub-Contractor's Direct Agreement (Buyer) contemplated by the Project Agreement.

IT IS AGREED as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Agreement, including the recitals, the following words and expressions shall have the following meanings, insofar as the context shall admit:

"Continuing Services"	the Services (as amended under this Agreement);
"Buyer Step In Period"	a period of [x] months commencing on the date of either: (a) Service by the Buyer of a Project Agreement Termination Notice; or (b) Service by the Sub-Contractor of a notice under clause 2.4 below.
"Extended Period"	a period of [x] months from the Operative Date or such longer period as determined pursuant to the provisions of clause 5;

"Fee"	the technical Support and Maintenance fee and other amounts payable to the Sub-Contractor by the Supplier under the terms of the Sub-Contract;
"Sub-Contract Termination Notice"	any notice (or other act or omission evidenced in writing) pursuant to which the Sub-Contractor evinces an intention to terminate, rescind or repudiate the Sub-Contract;
"Operative Date"	the date upon which the Project Agreement terminates or such later date as may be requested by the Buyer in its notice served under Clause 3.1 below;
"Project Agreement"	the agreement dated on or about the date hereof between the Buyer and the Supplier relating to <i>[insert detail here]</i> ;
"Project Agreement Termination Notice"	any notice served by the Supplier or the Buyer under the terms of the Project Agreement (or other act or omission evidenced in writing) which evinces an intention by that party to terminate, rescind or repudiate the Project Agreement;;
"Proposed Assignment Notice"	has the meaning given to it in clause 5.1;
"Proposed Substitute"	a company or other legal entity (other than the Buyer) mentioned in a Proposed Assignment Notice;
"Services"	the technical Support and Maintenance services to be provided by the Sub-Contractor as set out in the Sub-Contract;
"Sub-Contract"	the agreement dated on or about the date hereof between the Supplier and the Sub-Contractor pursuant to which the Sub-Contractor agrees to provide the Services.
"Step Out Date"	the date set out in the notice referred to in clause 4.7 (or, if the Parties agree some other date, that date);

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1.2 **Interpretation**

In this Agreement (unless the context otherwise requires or save as expressly defined or provided):

- 1.2.1 where words and expressions appear in capitalised terms and not otherwise defined herein, those words and expressions have the same meaning as in the Project Agreement.
- 1.2.2 headings and sub-headings are for ease of reference only and shall not be taken into consideration in the interpretation or construction of this Agreement;
- 1.2.3 all references to clauses are references to clauses of this Agreement;
- 1.2.4 all references to agreements, documents or other instruments include (subject to all relevant approvals) a reference to that agreement, document or instrument as amended, supplemented, substituted, assigned or assigned from time to time;
- 1.2.5 all references to any statute or statutory provision shall include references to any statute or statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made under the relevant statute or statutory provision;
- 1.2.6 any reference to time of day shall be a reference to London time;
- 1.2.7 the words “**herein**”, “**hereto**” and “**hereunder**” refer to this Agreement as a whole and not to the particular clause in which such word may be used;
- 1.2.8 words importing the singular include the plural and vice versa;
- 1.2.9 words importing a particular gender include all genders;
- 1.2.10 “**person**” includes any individual, partnership, firm, authority, body corporate, government, governmental body, authority, agency, unincorporated body of persons or association;
- 1.2.11 “**Working Days**” means Monday to Friday excluding English public holidays;
- 1.2.12 any reference to a public organisation shall be deemed to include a reference to any successor to such public organisation or any organisation or entity which has taken over the functions or responsibilities of such public organisation;
- 1.2.13 references to “**Party**” means a party to this Agreement and references to “**Parties**” shall be construed accordingly;

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1.2.14 all monetary amounts are expressed in pounds sterling;

1.2.15 references to the word “**includes**” or “**including**” are to be construed without limitation; and

1.2.16 the obligations of any Party under this Agreement are to be performed at that party's own cost and expense.

2. SUB-CONTRACTOR WARRANTY AND UNDERTAKING

2.1 The Sub-Contractor warrants and undertakes to the Buyer that:

2.1.1 it has complied with and fulfilled; and

2.1.2 it shall continue to comply with and fulfil,

all of its obligations arising under or by virtue of the Sub -Contract.

The Buyer shall only be entitled to make a claim against the Sub-Contractor under this clause 2.1 if the Project Agreement has terminated.

2.2 The obligations of the Sub-Contractor under or pursuant to clause 2.1 are in addition to and without prejudice to any other present or future liability of the Sub-Contractor to the Buyer (including, without prejudice to the generality of the foregoing, any liability in negligence or any other liability under this Agreement) and shall not be released, diminished or in any other way be affected by any independent enquiry into any relevant matter which may be made or carried out by or on behalf of the Buyer by any person nor by any action or omission of any person whether or not such action or omission might give rise to an independent liability of such person to the Buyer.

2.3 Notwithstanding any provision to the contrary in the Sub-Contract (or any other agreement to which the Buyer is not a party), and other than where the Sub-Contract terminates or expires by (i) effluxion of time in accordance with the Sub-Contract or (ii) at the election of the Supplier, no act or omission of the Sub-Contractor will be effective to terminate, rescind or repudiate the Sub-Contract until the expiry of the Buyer's Step In Period or, if the Extended Period has arisen, that termination, rescission or repudiation is in accordance with clause 4.4.

2.4 If at any time the Sub-Contractor becomes entitled to terminate the Sub-Contract in accordance with its terms then prior to taking any action to terminate the Sub-Contract it shall serve on the Buyer written notice of its intention to terminate.

3. STEP IN

3.1 If:

3.1.1 the Buyer Step In Period has arisen; or

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- 3.1.2 the Supplier has served a Project Agreement Termination Notice on the Buyer,

the Buyer may give written notice to the Supplier and the Sub-Contractor that the Buyer will require the Sub-Contractor to:

- 3.1.3 provide the Continuing Services for the Extended Period but for a period no longer than that contemplated under the Sub-Contract; or

- 3.1.4 effect, within the period reasonably specified by the Buyer an orderly handover (to the Buyer or to another party (not being a competitor of Sub-Contractor) if the Buyer so directs) of the Services pursuant to the provisions of clause 5.3.

- 3.2 The Buyer must give notice in accordance with clause 3.1 above either within the Buyer's Step-In Period or within 3 months of the date of receipt of the Supplier's Project Agreement Termination Notice (as appropriate).

4. THE CONTINUING SERVICES AND THE EXTENDED PERIOD

- 4.1 In consideration for the Sub-Contractor providing the Continuing Services for the Extended Period (on the same terms and conditions, as the context shall admit, as set out in the Sub -Contract), the Buyer shall pay to the Sub-Contractor:

- 4.1.1 the Fee, on the basis (where applicable) set out in the Sub -Contract; and

- 4.1.2 in the case where the terms and conditions of the Sub-Contract have been amended under clause 4.2 below, any further costs, expenses and amounts as the Parties shall agree.

- 4.2 The Buyer and the Sub-Contractor may, by agreement, amend the terms of the Sub-Contract to properly reflect the Fee to be paid and the Continuing Services to be provided throughout the Extended Period (or any other relevant matters). If that agreement is so amended all references in this Agreement to the Fee and the Sub-Contract shall be construed accordingly.

- 4.3 During the Extended Period, the Sub-Contractor shall only be entitled to terminate, rescind or repudiate the Sub-Contract if the Buyer:

- 4.3.1 commits a material breach under the Sub-Contract and fails to remedy such breach within 1 months of notification in writing by the Sub-Contractor of such non-payment; or

- 4.3.2 fails to perform or discharge when falling due the performance or discharge of any obligation under the Sub-Contract the non-performance or discharge of which would give or would have given rise to a right of termination under the Sub -Contract.

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provided that, in any event, all of the acts or omissions constituting the relevant default first arose after the Operative Date and in relation to clause 4.3.2 above:

- 4.3.3 if the breach is remediable, it has not been remedied within the period set out in clause 4.3.4; and
- 4.3.4 the Sub-Contractor has properly served notice of the same (setting out reasonable details thereof) on the Buyer and 30 days have elapsed since the service of that notice.
- 4.4 The Buyer shall, if it exercises its rights under clause 3 be responsible for all duties, obligations and liabilities of the Supplier to the Sub-Contractor under the Sub-Contract relating to the Continuing Services from the Operative Date.
- 4.5 The Sub-Contractor shall, if the Buyer exercises its rights under clause 3, owe all of its duties, obligations and liabilities under the Sub-Contract to the Buyer from the Operative Date.
- 4.6 The Supplier shall continue to be liable for all its obligations and liabilities, whenever occurring, under or arising from the Sub-Contract notwithstanding:-
 - 4.6.1 the service of any notice under clause 3 or the expiry of the Step In Period; or
 - 4.6.2 any other provision of this Agreement.
- 4.7 The Buyer may, at any time during the Extended Period, give the Sub-Contractor 60 Working Days prior written notice of the termination of the same.
- 4.8 The Buyer shall be released from all continuing obligations and liabilities with respect to the provision of the Continuing Services on the Step Out Date.

5. EXPIRY OF THE EXTENDED PERIOD

- 5.1 At the expiry of the Extended Period, the provisions of this clause 5 shall apply save where the Sub-Contractor and the Buyer agree to continue the provision of the Continuing Services beyond the Extended Period.
- 5.2 If the Sub-Contractor and the Buyer agree to continue the provision of the Continuing Services beyond the Extended Period, such extension shall be upon terms and conditions that shall have applied during the Extended Period, as may be amended by agreement between the Parties (such terms to be no more onerous than the terms and conditions that have applied during the Extended Period).
- 5.3 The Sub-Contractor shall, subject to reimbursement of its reasonable costs and expenses in relation to the same (save where any termination by the Buyer of the Project Agreement is occasioned by a default by the Sub-Contractor under the Sub-Contract whereupon such costs and expenses

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shall be for the account of the Sub-Contractor) pursuant to clause 3.1.4 or during and following the end of the Extended Period, as the case may be, provide assistance to the Buyer with any transitional arrangements that may be required by the Buyer to the extent reasonable and necessary to achieve the minimum disruption to the provision of the Services and an orderly handover and the implementation of an alternative to the Continuing Services, whether provided by the Buyer or a third party only where that third party has a legal right to provide the Continuing Services as delivered by the Sub-Contractor without the additional grant of rights by Sub-Contractor (or as the Buyer shall direct).

6. NOVATION AND ASSIGNMENT

- 6.1 At any time after the Buyer Step In Period has arisen or the Supplier has served a Project Agreement Termination Notice and prior to the expiry or termination of the Extended Period the Buyer may serve one or more written notices on the Sub-Contractor and the Supplier (a "**Proposed Assignment Notice(s)**") requiring the Supplier's rights and obligations under the Sub-Contract to be assigned either to itself or to a company or other legal entity identified in the Proposed Assignment Notice(s) and approved by the Sub-Contractor in accordance with the provisions of this clause 6. No approval shall be required where the Proposed Substitute is the Buyer.
- 6.2 The Buyer shall (as soon as practicable after the service of a Proposed Assignment Notice) supply the Sub-Contractor with such information as the Sub-Contractor reasonably requires to enable it to decide whether to grant such approval, including:
- 6.2.1 the name and registered address of the Proposed Substitute;
 - 6.2.2 the names of the shareholders of the Proposed Substitute and the share capital held by each of them;
 - 6.2.3 the names of the directors and secretary of the Proposed Substitute; and
 - 6.2.4 the resources which are available or to be made available to the Proposed Substitute to enable it to fulfil the obligations of the Supplier under the Sub -Contract.
- 6.3 The approval of the Sub-Contractor must not be unreasonably withheld or delayed where the Proposed Substitute has:
- 6.3.1 the legal capacity, power and authority to become a party to and perform the obligations of the Supplier under the Sub -Contract, including if necessary its ability to maintain in force all necessary authorisations and consents;
 - 6.3.2 sufficient technical resource available to it to enable it to perform the obligations of the Supplier under the Sub -Contract;

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- 6.3.3 sufficient finance available whether from a guarantor or otherwise to enable it to perform the obligations of the Supplier under the Sub - Contract.
- 6.4 The Sub-Contractor must notify the Buyer in writing within 14 days of the later of receipt of a Proposed Assignment Notice and receipt of the information reasonably required under clause 6.2 whether or not it has decided to grant such approval and, if not, the reasons therefore.
- 6.5 If the Sub-Contractor exercises its right to withhold approval to an assignment, the same shall not prejudice the ability of the Buyer to give one or more subsequent Proposed Assignment Notices containing changed particulars relating to the same Proposed Substitute or particulars relating to another Proposed Substitute which the Buyer has good cause to believe would satisfy the Sub-Contractor's requirements in relation to the matters in clause 6.3.
- 6.6 Following the approval of the Proposed Substitute by the Sub-Contractor the Supplier and the Sub-Contractor shall enter into a deed of assignment in the same or substantially the same form as set out in the Schedule (and any other requisite agreements required to effect or make good the arrangements contemplated by the same);
7. **ACKNOWLEDGEMENT, RELEASE, ETC**
- 7.1 The Supplier agrees to and acknowledges the provisions of this Agreement and shall not terminate, rescind or repudiate the Sub-Contract without giving 30 days' notice to the Buyer, and shall not undertake any such termination in cases whereby the rights of the Buyer under this Agreement would be prejudiced. The Supplier shall procure that any replacement or substitute for the Sub-Contractor enters into an agreement in the same form as this Agreement prior to its appointment.
- 7.2 A Sub-Contract Termination Notice and a notice given under clause 3 may each be revoked (in writing to the recipient) by the Party giving them before the expiry of their respective notice periods. Upon any such revocation, the rights and obligations of the Parties shall be construed as if the relevant notice had not been given.
8. **GENERAL**
- 8.1 **Notice**
- All notices or communications to be given hereunder shall be deemed to have been duly given or made when delivered by hand; by registered first class post or recorded delivery; by facsimile transmission confirmed by registered first class post or recorded delivery to the party to which such notice or communication is required to be given or made under this Agreement addressed as follows:

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8.1.1 if to the Buyer at [ADDRESS] and/or to such facsimile transmission number as may be notified to the Supplier and the Sub-Contractor from time to time (for the attention of: *[insert]*);

8.1.2 if to the Supplier at [ADDRESS] and/or to such facsimile transmission number as may be notified to the Buyer and the Sub-Contractor from time to time (for the attention of: *[insert]*);

8.1.3 if to the Sub-Contractor at *[insert]* (for the attention of: *[insert]*);

or any such other address and/or facsimile transmission number (and for the attention of such other person) as the respective parties hereto may hereafter specify to the others in writing.

8.2 Subject to Clause 8.1

Notices sent in accordance with Clause 8.1 shall be deemed to be served three (3) Working Days following the day of despatch of the notice PROVIDED ALWAYS that if actual acknowledgement (as opposed to an automatic acknowledgement) of receipt is received in relation to a notice sent by facsimile transmission or electronic mail, such notice will be deemed to be served on the date of such acknowledgement of receipt. Notices served by hand will be deemed to be served on the date of actual receipt

8.3 Confidentiality

Each Party shall ensure that all Confidential Information which is supplied to it by any other Party or otherwise becomes available to it shall be treated as confidential and that the provisions of clause 15 of the Project Agreement for the Buyer and the Supplier and *[insert]* for the Sub-Contractor and Supplier shall be strictly observed.

8.4 No Announcements

Except with the written consent of the other Parties, no Party shall make any press announcement relevant to or derived from the subject matter of this Agreement.

8.5 Costs and Expenses

Each Party shall be responsible for paying its own costs and expenses in relation to the preparation and execution of this Agreement.

8.6 Severability

If any provision of this Agreement shall be or become illegal, invalid or unenforceable in whole or in part, the effectiveness of the remaining provisions of this Agreement shall not be prejudiced or impaired.

8.7 Amendments

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No amendments to any part of this Agreement shall be binding on either Party unless in writing and insofar as the provisions of the Law of Property (Miscellaneous Provisions) Act 1989 are relevant, in accordance with those provisions.

8.8 No Waiver

Any failure of or delay by a Party in relation to the exercise of its rights under this Agreement shall not constitute a waiver of any such rights nor shall any waiver in respect of one act or omission operate as a waiver in respect of any other or future acts or omissions.

8.9 No Partnership or Agency

Nothing in this Agreement shall be construed as establishing or implying a partnership or joint venture between Parties nor (except where specifically provided) shall be deemed to constitute any of the Parties as the agent of any of the others or to allow any Party to hold itself out as acting on behalf of the others.

8.10 Privity

For the purposes of the Contracts (Rights of Third Parties) Act 1999 the Parties acknowledge that:

8.10.1 this Agreement is intended and agreed to be for the benefit solely of the Parties and their lawful successors and permitted assigns and is not intended to and does not create or confer any right or benefit enforceable by any other person or third party; and

8.10.2 all or any of the provisions of this Agreement may be rescinded or varied by the Parties as provided in this Agreement in their entirety or in part without the consent of or the need to give any notice to any person or third party not a Party.

8.11 Entire Agreement

This Agreement (when taken together with the Sub-Contract and the Project Agreement) constitutes the whole agreement and understanding of the Buyer, the Supplier and the Sub-Contractor as to the subject matter of this Agreement.

8.12 Fraud and Fraudulent Misrepresentation

Nothing in this Agreement is intended to, or shall operate so as to, exclude or limit any liability for fraud or fraudulent misrepresentation.

8.13 Conflict and Priority

In the event of any inconsistency between this Agreement and the Sub-Contract, this Agreement shall take precedence to the extent of such inconsistency.

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8.14 **Further Assurance**

Each Party shall from time to time at the request of the other Party execute any additional documents and do any other acts or things which may reasonably be required to implement the provisions or the purposes of this Agreement.

8.15 **Governing Law and Jurisdiction**

This Agreement shall be governed by and interpreted in accordance with law and the Parties submit to the exclusive jurisdiction of the English Courts.

8.16 **Counterparts**

This Agreement may be executed in one or more counterparts and by each Party on a separate counterpart, each of which when executed and delivered shall constitute an original, but all counterparts shall together constitute one and the same instrument.

IN WITNESS whereof the Parties have executed and delivered this document as a Deed the day and year first before written.

Executed as a Deed by)
The Buyer)
acting by:)
)
)

Executed as a Deed by)
[SUPPLIER])
The Supplier)
acting by:)

)
Director)
Director/Secretary)

Executed as a Deed by)
[SUB CONTRACTOR] LIMITED)
The Sub-Contractor)
acting by:)
)

Director)
Director/Secretary)

SCHEDULE

Deed of Assignment

THIS AGREEMENT is made the day of
[YEAR]

BETWEEN:

- (1) **[CONTRACTOR] LIMITED** (Company Registration Number: [NUMBER]),
Registered Office: [ADDRESS] (the "**Contractor**");
- (2) **[SUB-CONTRACTOR] LIMITED** (Company Registration Number:
[NUMBER]), Registered Office: [ADDRESS] (the "**Sub-Contractor**").
- (3) **[ASSIGNEE] LIMITED** (Company Registration Number: [NUMBER]),
Registered Office: [ADDRESS] (the "**Assignee**")

(individually, a "**Party**", collectively, the "**Parties**").

WHEREAS:

- (A) The Supplier and the Sub-Contractor entered into the Sub-Contract ("**Sub-Contract**").
- (B) The Parties wish to assign all of the Supplier's rights and obligations under the Sub-Contract to the Assignee and for that purpose have determined to enter into this novation agreement.

NOW IT IS HEREBY AGREED as follows:

In consideration of the payment of £1 (one pound) by the Sub-Contractor to each of Supplier and the Assignee (receipt of which is hereby acknowledged), the Parties agree as follows:

1. From the date of this agreement the Sub-Contract shall be assigned to the Assignee (the "**Assignment**") and all of the rights and obligations of the Supplier under that agreement shall from that date be rights and obligations of the Assignee subject as follows:
 - 1.1 with effect from the date hereof all of the rights and obligations of the Supplier hereafter arising under the Sub-Contract shall be rights and obligations of the Assignee;
 - 1.2 the Assignment shall be without prejudice to any rights and obligations of the Sub-Contractor arising before the Assignment;
 - 1.3 the Sub-Contract shall continue in full force and effect.

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2. This agreement shall be governed by and subject to the laws of England and Wales. The parties submit to the exclusive jurisdiction of courts of England and Wales.

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AS WITNESS the hands of the Parties or their duly authorised representatives the day and year first above written.

SIGNED by)
duly authorised for and on behalf of **the**)
Supplier)

SIGNED by)
duly authorised for and on behalf of **the**)
Sub-Contractor.)
)

SIGNED by)
duly authorised for and on behalf of **the**)
Assignee)

Schedule 32 (Background Checks)

1. When you should use this Schedule

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

2. Definitions

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

3. Relevant Convictions

3.1 The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.

3.2 Notwithstanding Paragraph 3.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must):

3.2.1 carry out a check with the records held by the Department for Education (DfE);

3.2.2 conduct thorough questioning regarding any Relevant Convictions; and

3.2.3 ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.

[REDACTED]

Schedule 36 (Intellectual Property Rights)

1. Intellectual Property Rights

- 1.1. Each Party keeps ownership of its own Existing IPR. Neither Party has the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as expressly granted elsewhere under the Contract or otherwise agreed in writing.
- 1.2. Except as expressly granted elsewhere under the Contract, neither Party acquires any right, title or interest in or to the IPR owned by the other Party or any third party.

1.3. Licences granted by the Supplier: Supplier Existing IPR

- 1.3.1. Where the Buyer orders Deliverables which contain or rely upon Supplier Existing IPR, the Supplier hereby grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph 1.3.2.
- 1.3.2. The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, worldwide licence to use, change and sub-license any Supplier Existing IPR which is reasonably required by the Buyer to enable it:
 - 1.3.2.1. or any End User to use and receive the Deliverables; or
 - 1.3.2.2. to use, sub-licence or commercially exploit (including by publication under Open Licence) the New IPR and New IPR Items,

for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.

1.4. Licences granted by the Buyer and New IPR

- 1.4.1. Any New IPR created under the Contract is owned by the Supplier. The Buyer gives the Supplier a licence to use any Buyer Existing IPR for the purpose of fulfilling its obligations during the Contract Period.
- 1.4.2. Where a Party acquires ownership of IPR incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 1.4.3. Unless otherwise agreed in writing, the Supplier and the Buyer will record any New IPR in the table at Annex 1 to this Schedule 36 and keep this updated throughout the Contract Period.

1.4.4. The Supplier hereby grants the Buyer a licence to the New IPR on the terms set out in Paragraph 1.4.5.

1.4.5. The licence granted by the Supplier to the Buyer pursuant to Paragraph 1.4.4 is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, worldwide licence to use, change and sub-license any New IPR which is reasonably required by the Buyer to enable it or any End User to use and receive the Deliverables or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.

1.5. Third Party IPR

1.5.1. The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless Approval is granted by the Buyer and it has procured that the owner or an authorised licensor of the relevant Third Party IPR has granted a Third Party IPR Licence on the terms set out in Paragraph 1.5.2. If the Supplier cannot obtain for the Buyer a licence on the terms set out in Paragraph 1.5.2 in respect of any Third Party IPR the Supplier shall:

1.5.1.1. notify the Buyer in writing; and

1.5.1.2. use the relevant Third Party IPR only if the Buyer has provided authorisation in writing, with reference to the acts authorised and the specific IPR involved.

1.5.2. In spite of any other provisions of the Contract and for the avoidance of doubt, award of this Contract by the Buyer and the ordering of any Deliverable under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 Section 12 of the Registered Designs Act 1949 or Sections 240 – 243 of the Copyright, Designs and Patents Act 1988.

1.5.3. The Third Party IPR Licence granted to the Buyer shall be a non-exclusive, perpetual, royalty-free, irrevocable, transferable, worldwide licence to use, change and sub-license any Third Party IPR which is reasonably required by the Buyer to enable it or any End User to receive and use the Deliverables and make use of the deliverables provided by a Replacement Supplier.

1.6. Termination of licences

1.6.1. The Supplier Existing IPR Licence granted pursuant to Paragraph 1.3 and the Third Party IPR Licence granted pursuant to Paragraph 1.5 shall survive the Expiry Date and termination of this Contract.

- 1.6.2. The Supplier shall, if requested by the Buyer in accordance with Schedule 30 (Exit Management) and to the extent reasonably necessary to ensure continuity of service during exit and transition to any Replacement Supplier, grant (or procure the grant) to the Replacement Supplier a licence to use any Supplier Existing IPR or Third Party IPR on terms equivalent to the Supplier Existing IPR Licence or Third Party IPR Licence (as applicable) subject to the Replacement Supplier entering into reasonable confidentiality undertakings with the Supplier.
- 1.6.3. Any licence granted to the Supplier pursuant to Paragraph 1.4 (Licence granted by the Buyer) shall terminate automatically on the Expiry Date and the Supplier shall:
 - 1.6.3.1. immediately cease all use of the Buyer Existing IPR (including the Buyer Data within which the Buyer Existing IPR may subsist);
 - 1.6.3.2. at the discretion of the Buyer, return or destroy documents and other tangible materials that contain any of the Buyer Existing IPR and the Buyer Data, provided that if the Buyer has not made an election within six months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Buyer Existing IPR and the Buyer Data (as the case may be); and
 - 1.6.3.3. ensure, so far as reasonably practicable, that any Buyer Existing IPR and Buyer Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier containing such Buyer Existing IPR or Buyer Data.

1.7. Supplier's Exploitation of New IPR

- 1.7.1. Notwithstanding the Supplier's ownership of the New IPR or licence which allows it to exploit and commercialise the New IPR:
 - 1.7.1.1. the Supplier must always offer a price and solution to the Buyer which is in accordance with the Charges and must licence the New IPR and Supplier Existing IPR to the Buyer on equivalent terms as apply under this Contract;

- 1.7.1.2. where the Supplier proposes to exploit the New IPR, that it provides a detailed proposal of its plans for exploitation of the New IPR and the forecast returns, including (but not limited to) details of the goods and services to be offered by the Supplier which use the New IPR, the target markets and territory, the estimated level of orders, the marketing strategy; full details of the estimated costs, prices, revenues and profits; impact assessment on services delivered under the Contract; and any other information that would reasonably be required by the Buyer to enable it to consider the commercial, legal and financial implications to the Parties of the proposal and any further information which the Buyer may reasonably request; and
- 1.7.1.3. where the Supplier proposes to discount the prices offered to the Buyer in return for the right to exploit the New IPR, that it provides clear evidence to demonstrate how the exploitation plans and financial information provided under Paragraph 1.7.1.2 above have been applied to the price for the Deliverables offered to the Buyer and other potential End Users;
- 1.7.1.4. The Buyer shall be under no obligation to:
 - (a) offer the New IPR (where this is owned by the Buyer) or the Buyer Existing IPR on an exclusive licence basis or on any other alternative terms of licensing and ownership; or
 - (b) accept any alternative arrangement proposed by the Supplier under this Clause and the Buyer shall be entitled to require the Supplier to deliver the solution on the basis of the same position on ownership and licensing of the New IPR (where this is owned by the Buyer) or Buyer Existing IPR applies as applies under this Contract.

- 1.7.1.5. Such agreement does not confer any exclusive right on the Supplier to negotiate with the Buyer in relation to the New IPR (where this is owned by the Buyer), Buyer Existing IPR or any Crown IPR and the Buyer shall be entitled to licence, assign and otherwise deal with such IPR (where it owns such IPR) with any other person (except to the extent that the Buyer has entered into an exclusive licence with the Supplier in respect of such IPR pursuant to this Contract).
- 1.7.1.6. The Supplier acknowledges and agrees that the Buyer is under an obligation to comply with procurement Laws and state aid rules when considering proposals for alternative IPR arrangements and the Buyer will need to consider its position and approach on a case by case basis.
- 1.7.2. If within three years of its creation, any Intellectual Property in the New IPR has not been commercially exploited by the Supplier, and the Supplier is not using its best endeavours to do so, the Supplier shall on written request by the Buyer promptly assign the Intellectual Property Rights in the New IPR to the Buyer. Each party shall bear its own costs in such assignment.

ANNEX 1: NEW IPR

Name of New IPR	Details

Only New IPR which is part of the Deliverables, or is necessary for the use of the Deliverables by the Buyer, or as part of the Buyer's ownership of will need to be recorded here. IPR such as email communications or documents which do not form part of the Deliverables need not be recorded in this Annex.

Schedule 38: Social Value

1. Definitions

In this Schedule, the following definitions shall apply:

“Buyer’s Sustainability Requirements” means the ‘Buyer’s Sustainable Development Policy Requirements and Standards’ set out in this Schedule and Annexes 1 to 3 to this Schedule 2.6 (Social value).

“Contract Revenue” means the monetary value (Excluding VAT) received through a contract between the Supplier and a Central Government Department or its Arms Length Bodies (ALBs).

“Plan for Growth” means the Plan for Growth policy paper published by HM Treasury on 20 March 2013 that can be accessed at: [Plan for growth \(GOV.UK\)](#).

“Policy Outcome” means the policy areas identified in the Social Value Model, [Social Value Model Policy Outcomes \(Government Commercial Function\)](#).

“Social Value” means to improve the environmental, social and economic outcomes to maximise benefits to the communities we serve.

“Social Value Model” means the policies set out in the [Social Value Model \(GOV.UK\)](#).

“Tier 2” means the tier in the supply chain between the Supplier delivering this contract to the Buyer, and the further tiers of its supply chain. These require more than a light touch management regime.

“Wider Sustainability Aims” means the wider sustainability aims that the Supplier is encouraged to support where possible as set out in Annex 1 to Schedule 36 (Social Value).

2. Introduction

2.1 This Schedule sets out the Social Value standards and principles that will apply to the Contract.

2.2 In this Schedule, unless the contrary intention appears, each capitalised term shall have the meaning set out in Schedule 1 (Definitions) or paragraph 1 of this Schedule 36 (Social Value).

2.3 The Public Services (Social Value) Act 2012 (“[the Social Value Act \(legislation.gov.uk\)](#)”) requires the Buyer to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes. Where services are contracted out the Buyer will place similar obligations on its Suppliers.

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- 2.4 The Buyer is required to explicitly evaluate and embed Social Value throughout the commissioning lifecycle by adhering to the [Social Value Model \(GOV.UK\)](#). The Buyer must also ensure that value for money is delivered for the taxpayer whilst contributing to the Government's [Plan for Growth \(GOV.UK\)](#).

3. Supplier Obligations for Delivering Social Value

- 3.1 The Supplier shall provide the Deliverables to the Buyer in accordance with the [Social Value Act 2012 \(legislation.gov.uk\)](#) and in accordance with its Social Value commitments set out within Schedule 4 (Tender). The Suppliers specific obligations under this Contract are set out at:

- a) [Annexes 1,2 and 3 of this Schedule](#) (the Buyer's Social Value requirements, including the framework for the [Greening Government Commitments 2021 to 2025 - GOV.UK \(www.gov.uk\)](#)); and
- b) and in accordance with its Social Value commitments as set out in Schedule 4 (Tender).

- 3.2 The Supplier shall take account of and comply with any future social value legislation, policies, strategies and codes of practice put in place by the Buyer and any relevant Government body (in particular Cabinet Office, Department for Environment, Food and Rural Affairs, Department of Business, Energy and Industrial Strategy, Government Property Unit and the Environment Agency).

- 3.3 The Supplier shall advise the Buyer on new technologies and approaches which may be beneficial to the Buyer in the delivery of Social Value.

- 3.4 Changes to the Deliverables which are necessary to meet changes occurring after the Effective Date to the Buyer's Sustainability Requirements and Social Value Aims, Strategy and Model shall be agreed in accordance with Schedule 21 (Variation Form).

4. Principles of Environmental Social Value to Fight Climate Change

- 4.1 In providing the Deliverables, the Supplier shall support the Buyer to deliver the Social Value Model Policy Outcome of Effective Stewardship of the Environment, where relevant and applicable to the provision of the Deliverables.
- 4.2 The Supplier shall seek to avoid any adverse impact upon the environment by setting targets to support the Buyer to fulfil its [Greening Government Commitments 2021 to 2025 - GOV.UK \(www.gov.uk\)](#) and demonstrate contribution towards the [25 Year Environment Plan](#), [Sustainable Development Goals \(UN\)](#), [Government Buying Standards \(GOV.UK\)](#), [Greening government: ICT and digital services strategy 2020-2025](#) and [10 Point Plan for a Green Industrial Revolution](#) by:

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- a) recycling waste and reducing the amount of waste generated and going to landfill;
- b) reducing the consumption of water and energy and enhancing energy and water efficiency;
- c) reducing the use of single use plastics and increasing the use of durable and recyclable materials;
- d) taking measures to restore, maintain or enhance biodiversity through increasing the number of green spaces and increasing the number of people-hours spent protecting and improving the environment;
- e) reducing carbon and other emissions including to achieve zero greenhouse gas emissions by 2050; and
- f) reducing or removing the use of hazardous materials.

5. Principles of Economic Social Value to Tackle Economic Inequality

- 5.1 In support of the Policy Outcome “Tackling Economic Inequality” the Buyer aims to create new businesses, new jobs and new skills and increase supply chain resilience and capacity. To support this Policy Outcome and where relevant and applicable to the provision of the Deliverables, the Supplier shall:
- 5.1.1 ensure their supply chain is accessible for all including, where appropriate, SMEs and VCSEs and those owned or led by protected characteristics (as described in the [Equality Act \(legislation.gov.uk\)](https://legislation.gov.uk));
 - 5.1.2 increase the number of sub-contract opportunities for start-ups, SMEs, VCSEs and mutuals;
 - 5.1.3 have initiatives in place to improve the gender pay balance;
 - 5.1.4 embed prompt payment reporting and practices by complying with all applicable legislation, regulations and other government requirements including the [Prompt Payment Code \(GOV.UK\)](https://gov.uk/prompt-payment-code);
 - 5.1.5 have initiatives in place to improve skills development by increasing the quantity and quality of apprenticeship and full-time equivalent opportunities.

6. Social Supply Chain Principles to Support Equal Opportunity and Wellbeing

- 6.1 In support of the following Policy Outcomes, which are:
- a) Reduce the Disability Employment Gap;
 - b) Tackle Workforce Inequality;
 - c) Improve Health and Wellbeing; and

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- d) Improve Community Integration and to deliver the Buyer's aim to improve employability and skills including staff mental health and wellbeing through the delivery of its contracts.

6.2 The Supplier shall, where relevant and applicable to the provision of the Deliverables:

6.2.1 ensure equality and accessibility, without discrimination, to employment and other opportunities and promote them to be fully accessible;

6.2.2 have initiatives in place which aim to increase full-time employment for people with disabilities, Black, Asian and Minority Ethnic (BAME) and Lesbian, Gay, Bisexual & Transgender (LGBTQI+) people;

6.2.3 increase the percentage of disabled, Black, Asian and Minority Ethnic (BAME) and Lesbian, Gay, Bisexual & Transgender (LGBTQI+) people on apprenticeship schemes and other training opportunities;

6.2.4 have initiatives in place which aim to support local community integration including volunteering opportunities and other community led schemes; and

6.2.5 Commit to the Good Work Plan - GOV.UK, 6 Standards of Mental Health and Thriving at Work including the supply chain where applicable.

7. COVID-19 Recovery

7.1 In support of the policy outcome COVID-19 Recovery the Buyer aims to help local communities to manage and recover from the impact of COVID-19. To support this Policy Outcome the Supplier shall where relevant and applicable to the provision of the Deliverables:

7.1.1 Increase the number of full-time equivalent opportunities for those who were made redundant due to COVID-19.

7.1.2 Increase the number of people-hours spent supporting local community integration, such as volunteering and other community-led initiatives related to COVID-19.

7.1.3 Implement the 6 Standards of Mental Health at Work Commitment.

8. Safe & Secure Supply Chain Principles

8.1 In providing the Deliverables the Supplier shall ensure it is compliant with the [Modern Slavery Act 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2015/31/section/54).

8.2 Where the Suppliers turnover is £36m per annum or more, the Supplier shall publish an annual slavery and human trafficking statement setting out what actions have been taken to tackle modern slavery in their business and/or supply chains.

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8.3 To mitigate the risk of Modern Slavery the Supplier shall, where the Buyer identifies is relevant and applicable to the service:

8.3.1 if requested by the Buyer, provide information to demonstrate its approach to modern slavery and human trafficking. This could include completion of the Modern Slavery Assessment Tool (MSAT); if requested by the Buyer;

8.3.2 allow unannounced inspections of their premises by the Buyer or a 3rd party auditor with the right to speak directly to the Supplier's employees.

8.3.3 allow themselves to be called upon by the Buyer to collaborate on assessing risks and designing due diligence processes including regular reporting;

8.3.4 conduct supply chain mapping to the appropriate tier in order to reduce the risks of modern slavery and

8.3.5 increase the number of people-hours devoted to supporting victims of modern slavery.

9. Supplier's Social Value Plan

9.1 The Supplier shall develop, maintain and implement a Social Value Plan in line with the Buyer's Social Value model at Annex 2 and the Buyer's Wider Social Value Policy Aims in Annex 1. The Supplier shall ensure that any Key Subcontractors comply with the Social Value Plan.

9.2 The Supplier shall submit its Social Value Plan for the Buyer's approval within 90 calendar Days of the Effective Date. The Social Value Plan shall ensure that all objectives, targets and aims contained therein are ambitious but achievable.

9.3 The Supplier shall ensure that the Social Value Plan complies with the [Government Buying Standards \(GOV.UK\)](https://www.gov.uk/government/buying-standards).

9.4 The Supplier's Social Value Plan shall include the Supplier's approach to providing the Deliverables which shall incorporate Social Value and the government's Plan for Growth as set out in paragraph 2.4 and shall set out how it will meet, monitor and measure its Social Value targets set out in Annex 3.

9.5 The Social Value Plan should also include the following principles:

- a) value for money;
- b) environmental and social benefits;
- c) more efficient use of resources;
- d) greater social inclusion;
- e) support for innovation;
- f) better risk management; and

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- g) improved supplier relationships.

And detail:

- a) whether the Supplier intends to contract with any Start-ups, Small to Medium-sized Enterprises (SMEs) and/or Voluntary, Community and Social Enterprises (VCSEs) to provide any supplies or services required to provide the Deliverables;
- b) the Supplier's projected level of spend in detail relating to the delivery of the Deliverables with Start-ups, SMEs and/or VCSEs;
- c) any plans the Supplier may have to increase the level of spend relating to the delivery of the Deliverables with Start-ups, SMEs and/or VCSEs;
- d) confirmation that the Supplier has systems in place to include (as a minimum) 30-day payment terms in all of its supply chain contracts and require that such terms are passed down through its supply chain.
- e) confirmation that the Supplier has procedures for resolving disputed invoices with those in its supply chain promptly and effectively.

10 Management Information

10.1 In addition to any other management information requirements set out in this Contract, the Supplier agrees and acknowledges that it shall, provide a quarterly report (the **"Social Value Report"**). The Social Value Report shall include:

- a) a record of the Supplier's progress against its Social Value Plan including any targets set.
- b) details of the actions taken in the previous reporting period and actions planned for the next reporting period.
- c) the total contract revenue received directly from this Contract;
- d) the total value of sub-contracted revenues from this Contract (including revenues for non-SMEs and/or non-VCSEs); and
- e) the number, type and value of sub-contracted revenues to start-ups, SMEs and VCSEs.

10.2 The SME Management Information Reports shall be provided in the format required as set out in guidance issued by the Buyer from time to time and in accordance with Clause 6 (Record Keeping and Reporting) of the Core Terms.

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11 Monitoring and Review

- 11.1 The Supplier and Buyer will discuss the Supplier's Social Value Plan and progress against it during Quarterly Review Meetings.
- 11.2 The Buyer may request the Supplier to complete a Social Value assessment (a "**SV Assessment**"). The parties shall review the Social Value reporting metrics at Contract Review Meetings.
- 11.3 Where the risk of modern slavery is high (as reflected within the [Modern Slavery Guidance \(GOV.UK\)](#)), the Supplier will provide to the Buyer assurance on the processes in place to identify and address modern slavery risks in their supply chains including, where relevant, assurance of legal compliance with the Modern Slavery Act. An action plan would need to be put in place where there were suspected and confirmed instances of modern slavery to detail how these are to be addressed. Additionally, any recommendations generated by MSAT would need to be included within the Action Plan.

Annex 1 – Home Office Social Value Strategy

1. The following sets out the Buyer (the Home Office) strategy in relation to Social Value which the Supplier must comply with.

2. Home Office Social Value Strategy - June 2021

2.1 Our Goal

2.1.1 The HO strategy is supported by a number of government policies outlined below. This enables us to understand our legal obligations and policy requirements in order to achieve positive, sustainable outcomes, in line with best practice and with the highest overall value from our contracts.

2.1.2 This includes:

- a) Adhering to the [Social Value Act 2012 \(GOV.UK\)](#);
- b) Adhering to the [Modern Slavery Act 2015 \(GOV.UK\)](#);
- c) Compliance with the [Civil Society Strategy \(GOV.UK\)](#);
- d) Compliance with the [Public Sector Equality Duty \(GOV.UK\)](#);
- e) Reducing the environmental impact of our contracts through compliance with [Greening Government Commitments 2021 to 2025 - GOV.UK \(www.gov.uk\)](#), [25 Year Environment Plan \(GOV.UK\)](#), [Sustainable Development Goals \(UN\)](#) and [Government Buying Standards \(GOV.UK\)](#);
- f) Compliance with the [Greening government: ICT and digital services strategy 2020-2025 \(GOV.UK\)](#);
- g) Supporting the [Plan for Growth \(GOV.UK\)](#);
- h) Supporting the UK ambition to be net zero by 2050.
- i) Compliance with the Home Office Health and Wellbeing Strategy 2021 - 2024;
- j) Supporting the [10 Point Plan for a Green Industrial Revolution \(GOV.UK\)](#);

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k) Adherence to the law generally, all relevant Government Guidance and Procurement Policy Notes.

2.1.3 We provide reports to Ministry of Justice (MOJ) (Sustainable Cluster Lead for the Home Office), Cabinet Office and Stonewall.

2.2 The Social Value Act

2.2.1 The Public Services (Social Value) Act 2012 came into force on 31st January 2013. It requires the Home Office “to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes”, see [Procurement policy note 10/12: The Public Services \(Social Value\) Act 2012 \(GOV.UK\)](#). This means that we must consider where added benefit, in relation to social value aspects, can be delivered to the department, where relevant and proportionate, above those already delivered as part of the requirements of the specification. To learn how to apply the principles of this Act through a new delivery model please read: [PPN 0620 Taking Account of Social Value in the Award of Central Government Contracts \(GOV.UK\)](#).

2.3 The Modern Slavery Act

2.3.1 The Modern Slavery Act 2015 (“The Act”) categorises offences of Slavery, Servitude and Forced or Compulsory Labour and Human Trafficking. These are all included in the term ‘modern slavery’. The Act requires businesses with a total turnover of £36m or above who carry out all or some of their business in the UK to publish an annual slavery and human trafficking statement. Businesses should set out what action they have taken to tackle modern slavery in their business or supply chains. This will allow consumers, investors and campaigners to hold them to account and call for them to do more.

2.4 Civil Society Strategy

2.4.1 This strategy has committed the Government to use its buying power to drive social change. Central Government will take account of social benefits in the award of its contracts. This will have the effect of levelling the playing field for all types of businesses including small businesses, voluntary and community sector organisations and social enterprises, encouraging employment opportunities, developing skills and improving environmental sustainability.

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2.5 Public Sector Equality Duty

2.5.1 This duty came in to force in April 2011. It requires the HO to have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010 to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

2.5.2 The PSED should help to ensure that public goods and services are accessible to and meet the diverse needs of all users to ensure that no one group is disadvantaged in accessing public goods and services. Further information can be found within [PPN 01/13 \(GOV.UK\)](#) and on the [PSED page on Horizon](#).

2.6 Greening Government Commitments (GGC)

2.6.1 The [GGC \(GOV.UK\)](#) set out the actions UK government departments and their agencies will take to reduce their impacts on the environment in the period 2016 to 2020. They set out targets to reduce their greenhouse gas emissions, send less waste to landfill and reduce the overall amount of waste they produce and reduce water consumption. They also set out commitments for departments to improve sustainable procurement and report transparently on key sustainability issues. The Home Office is reporting a 42% reduction in carbon emissions, based on 2009-10 levels. Full details of our plans to further reduce emissions will follow.

2.7 25 Year Environment Plan

2.7.1 The [25-year environment plan \(GOV.UK\)](#) sets out our goals for improving the environment, within a generation, and leaving it in a better state than we found it. It details how we in government will work with communities and businesses to do this and sets out what we will be doing over the next 25 years. Single-Use Plastics: Chapter 4 of the 25 Year Environment Plan discusses “Increasing resource efficiency and reducing pollution and waste”. Reduction in the use of Single-Use Plastics in the

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department's activities and services it provides is an important part of this. There are an increasing number of multi-use plastics or plastic-free alternatives that we can use and encourage our suppliers to use in their supply chains. By reducing our use of Single-Use Plastics and asking our suppliers to reduce or eliminate their use of these in our supply chains, we can help to achieve the goals of the 25 Year Plan.

2.8 Sustainable Development Goals (SDGs)

2.8.1 SDGs were adopted by all United Nations Member States in 2015 providing a shared blueprint for peace and prosperity for people and the planet, now and into the future. At its heart are 17 SDGs, which are an urgent call for action by all countries - developed and developing - in a global partnership. They recognise that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests.

2.9 Government Buying Standards (GBS)

2.9.1 All government departments and their related organisations must make sure that they meet the minimum mandatory GBS standards when buying goods and services and to specify the minimum mandatory standards within tenders. This forms part of sustainable procurement - the process whereby organisations meet their needs for goods, services, works and utilities in a way that benefits not only the organisation, but also society and the economy, while minimising damage to the environment.

2.10 Greening government: ICT and digital services strategy 2020-2025

2.10.1 This strategy sets out how the government will work in partnership with industry and other sectors to provide ICT and digital services to help achieve the United Nation's Sustainable Development Goals, implement Defra's 25 Year Environment Plan and meet the government's net zero commitments. The objectives of this strategy is to deliver the following outcomes:

- a) Reduced carbon and cost.
- b) Increased resilience.
- c) Increased responsibility (doing the right thing).
- d) Increased transparency and collaboration.

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- e) Increased accountability.

2.11 Plan for Growth

2.11.1 Government announced a programme of structural reforms to remove barriers to growth for businesses and equip the UK to compete in the global race. These reforms span a range of policies including improving UK infrastructure, cutting red tape, root and branch reform of the planning system and boosting trade and inward investment, to achieve the government's 4 ambitions for growth:

- a) creating the most competitive tax system in the G20.
- b) encouraging investment and exports as a route to a more balanced economy.
- c) making the UK the best place in Europe to start, finance and grow a business.
- d) creating a more educated workforce that is the most flexible in Europe.

2.12 Net Zero by 2050

2.12.1 As part of assessing a supplier's technical and professional ability, from 30th September 2021, there will be a requirement for bidding suppliers to provide a Carbon Reduction Plan confirming their commitment to achieving Net Zero by 2050 in the UK, and setting out the environmental management measures that they have in place and which will be in effect and utilised during the performance of the contract. This will apply to contracts valued above £5m per annum. Please refer to [PPN 06/21 \(GOV.UK\)](#) for further information.

2.13 Home Office Wellbeing Strategy 2021-24

2.13.1 The strategy will encourage a holistic, risk-based approach to designing-in wellbeing through good work, building organisational confidence and capability, sustaining, building, embedding and fixing One Home Office values of compassion and respect, enhancing personal wellbeing and support and systematically mitigating stress risk and excessive workload within a culture of psychological safety. It aims to enable our people to achieve their full potential

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through:

- a) people-centred leadership;
- b) a compassionate and respectful culture;
- c) management confidence & capability;
- d) good work design; and
- e) health & wellbeing support.

2.14 10 Point Plan for a Green Industrial Revolution

2.14.1 The Ten Point Plan sets firm foundations to potentially deliver up to an estimated £42 billion of private investment by 2030 across energy, buildings, transport, innovation and the natural environment. The Plan will start by supporting 90,000 jobs across the UK within this Parliament, and up to 250,000 by 2030 and will seek to put the UK at the forefront of global markets for clean technology. It will generate new clean power with offshore wind farms, nuclear plants and will invest up to half a billion pounds in new hydrogen technologies. Finally, it will harness nature's ability to absorb carbon by establishing new National Parks and Areas of Outstanding Natural Beauty, making them havens of biodiversity, with the aim of protecting 30% of England's countryside by 2030. The cumulative effect of this plan will be to reduce UK emissions by 180 million tonnes of carbon dioxide equivalent (Mt CO₂ e) between 2023 and 2032, equal to taking all of today's cars off the road for around two years, all will help to meet our net zero by 2050 target.

2.15 The SME Agenda

2.15.1 In 2015 Government achieved the 25% aspiration for spend with Small and Medium-sized Enterprises (SMEs). The Government's previous ambition was to spend 33% by March 2022 with SMEs. However, since the last manifesto this target

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has been relaxed and the HO approach now is to proactively engage with our SMEs to support the Industrial Strategy aim ‘to improve living standards and economic growth by increasing productivity and driving growth across the UK’.

2.16 Diversity and Inclusion including LGBTQi+ Equality

2.16.1 [Civil Service Diversity and Inclusion Strategy: 2022 to 2025 \(GOV.UK\)](#) The Civil Service Diversity and Inclusion Strategy 2022 maintains our focus on mainstreaming the delivery of inclusion, and achieving our key priorities as outlined in the [Declaration on Government Reform](#). This strategy is essential to deliver on our shared ambition of A Modern Civil Service where our values are to serve with integrity, honesty, objectivity and impartiality; driving our vision to be a skilled, innovative and ambitious Civil Service equipped for the future.

2.17 Domestic Abuse Act 2021

2.17.1 Domestic abuse is a complex and multi-faceted form of crime. It can be physical, verbal, sexual, emotional, psychological, economic, a combination of these, and include many other forms of harmful behaviour. There is no one type of domestic abuse, nor is there one solution to remedy it. This is reflected in the statutory definition of domestic abuse passed in the [Domestic Abuse Act 2021 \(www.legislation.gov.uk\)](#). This Government has published a [Tackling Domestic Abuse Plan \(www.gov.uk\)](#) that will place greater focus on preventing abuse. The Government has pledged to increase funding for support services and calls upon the whole of society to tackle the problem.

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Annex 2 – Home Office Social Value Objectives

1. The [Social Value Model \(GOV.UK\)](https://www.gov.uk/social-value-model) details the Buyer's objectives for Social Value, articulating it in terms of high-level themes and strategic policy priorities.
2. The Supplier shall incorporate the Social Value Model as described within this Schedule 36, where relevant and proportionate to the provision of the Deliverables and its Social Value solution as described within Schedule 4(Tender), within the Suppliers Social Value Plan and Social Value Report.
3. The Supplier shall set their own benchmarks and targets within their Social Value Plan, for improvements or activities that support the delivery of the Buyer's aims as set out within this Schedule.

Annex 3: Social Value Plan Template

1. The Supplier can link their plan to the themes and outcomes model from the [Procurement Policy Note 0620 Taking Account of Social Value in the Award of Central Government Contracts](#).

Contract Title		
Date:	Plan Owner:	Version:
	Accountable to:	Key Contributors:
	Governance:	

2. Detail here how the plan meets the requirements and your bid commitments.
3. Detail here what the plan sets out.

Actions	Date/Timescale for Completion	Measurement and Monitoring	Reporting Requirements	Cost Attributed	Cost Explanation	Anticipated Savings Over Life of Contract
Theme 1 COVID-19 Recovery						
Policy Outcome: Help local communities to manage and recover from the impact of COVID-19						
Theme 2: Tackling economic inequality						
Policy Outcome: Create new businesses, new jobs and new skills						
Theme 2: Tackling economic inequality						
Policy Outcome: Increase supply chain resilience and capacity						
Theme 3: Fighting climate change						
Policy Outcome: Effective stewardship of the environment						

— Provision of Supply and Maintenance of Mobile Freight X-Ray Scanners

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Theme 4: Equal opportunity						
Policy Outcome: Reduce the disability employment gap						
Theme 4: Equal opportunity						
Policy Outcome: Tackle workforce inequality						
Theme 5: Wellbeing						
Policy Outcome: Improve health and wellbeing						
Theme 5: Wellbeing						
Policy Outcome: Improve community integration						