

Annex 6

Easements from the BAU Agreement Applicable During the Schedule 19 Period

1. Interim commercial arrangements have been agreed to continue to support the impacts of COVID-19 on the Services throughout any Periods to which Schedule 19 applies.
2. For the purposes of this Annex 6:
 - a. **"Suspended"** shall mean that: (i) in relation to a definition, the relevant definition shall not apply during the Period or, (ii) in the case of a provision, clause or paragraph, the Parties shall not be required to comply with such provision, clause or paragraph during the Period; and
 - b. **"Historical"** shall mean those definitions, provisions, clauses and paragraphs of the Agreement relating to obligations that are not relevant to the current circumstances of the Parties as reflected in this Annex 6, which shall include any obligations under this Agreement already discharged in full by the Parties
 - c. Any references herein to "CV493" shall include CV493, CV493A and CV493B.
3. During the Period, the Supplier and the Authority have agreed the following amendments with the effect that various parts of the Agreement shall be re-introduced, temporarily Suspended, remain Suspended and/or varied during the Period. The Agreement will automatically revert to the position in the BAU Agreement upon completion of the BAU Transition Process and achievement of the BAU Service Readiness Criteria as set out in Schedule 19 and subject to any contrary provisions set out as part of this Annex 6 (or as otherwise agreed as part of the RTBP plan or BAU Transition Process), the Suspension of any provisions further to this Annex 6 will end with any Suspended and/or temporarily varied provisions resuming full force with effect from the end of the Period.
4. The Supplier and the Authority have (as set out in Schedule 19):
 - a. agreed to reintroduce WCA face to face assessments alongside delivery of WCA assessments through telephony paper and video for the Period
 - b. in respect of customer service, agreed to operate those Service Levels provided for (and in accordance with the notes) in the Performance Matrix where measurement or calculation is possible.
 - c. in respect of quality, have agreed that the relevant provisions of Schedule 19 and Performance Matrix shall apply.
 - d. In respect of volume, have agreed that the relevant provisions of Schedule 19 shall apply.
5. The Authority and the Supplier agree the following amendments to the BAU Agreement.
 - a. Subject to Clause 5.b. and 5.c. of this Annex 6, Schedule 7.1C set out in Schedule 2 to this Annex 6 replaces Schedule 7.1 to the Agreement during the Period.
 - b. For the avoidance of doubt, Paragraphs 7.1.3, 7.3, 12, 13, Part B, Paragraphs 1.2.8, 1.2.9, and 1.4 of Part C, Part 3, Annex 2, and Annex 4 of Schedule 7.1 remain applicable to the Agreement, but are Historical and do not apply to the new payment model set at Schedule 7.1B and have, therefore, not been used in Schedule 7.1C.
 - c. For the avoidance of doubt, the Historical parts of the Agreement have already taken place and therefore the Parties shall no longer be required to comply with such Historical parts during the Period, but, subject to this Clause 5.c., such Historical parts

shall remain in full force and effect during the Period in respect of such past performance (or non-performance) prior to the Period. For the further avoidance of doubt, Clause 31.1(a) and 31.1(c)(iii) of the Agreement are Historical. If there is any disagreement between the Parties as to whether or not a definition, provision, clause or paragraph of the Agreement is Historical or not, either Party may refer the matter to the Dispute Resolution Procedure.

d. In respect of the Agreement:

- i. The entire text of each of Clauses, 25.4(b) 27.1(b) and 27.1(c), shall remain Suspended for the Period.

For the avoidance of doubt, Clauses 31.1(b), 31.1(c)(iv) and 32.6 (b)(i) (B) suspended in accordance with CV493 shall no longer be Suspended.

- ii. Clause 1.2 (j) in the Agreement shall be deleted and replaced with the following wording:

“Where there is reference to Schedule 7.1 in this Agreement, during the Period this will be deemed a reference to Schedule 7.1C”.

- iii. the following wording inserted into the Agreement as a new Clause 3.2(o) under CV493 shall also apply to the Agreement during the Period:

“that no relief shall be sought by the Supplier from the UK Government in relation to this Agreement and the Authority Related Services under any COVID-19 relief measures (including but, not limited to, relief made available by the UK Government’s Job Retention Scheme or income from the NHS or any other source in respect of staff or other costs relating to this Agreement) during the Period.”

- iv. Clause 3.3 added to the Agreement under CV493 the following wording which shall also apply to the Agreement during the Period:

“Other than in respect of Clause 3.2(o), the representations and warranties set out in Clause 3.2 shall be deemed to be repeated by the Supplier on the Effective Date (if later than the date of signature of this Agreement) by reference to the facts then existing.”

- v. The entire text of Clause 7 (Performance Levels) amended in accordance with CV493 shall be deleted in full and replaced with the following wording:

“7.1 The Supplier shall:

- (a) *provide the Authority Related Services in such a manner so as to meet or exceed those levels in the Performance Matrix; and*
- (b) *comply with the provisions of Schedule 2.2 (Performance Levels) (as amended by Schedule 19) in relation to the monitoring and reporting on its performance against the Performance Levels.*

7.2 The Parties acknowledge and agree that the Service Credits set out in the Performance Matrix represent fair and reasonable reductions to the Service Charges to account for the Supplier’s underperformance against the Service Levels.

7.3 If, in any Service Period, a Service Level Failure occurs, Service Points shall accrue in accordance with Schedule 2.2 (as amended)

7.4 Service Points shall be converted into Service Credits, and deducted from Charges, in accordance with Schedule 7.1C (Charges and Invoicing).

7.5 Except as otherwise set out in clauses 7.1 and 7.4, all Performance Levels shall be Suspended during the Period and for an agreed period thereafter unless new performance indicators are agreed between the Parties in writing in advance of the resumption of BAU or until such time as operations are able to get back to operational running in accordance with the Performance Levels (as may be amended by way of agreement in the RBTP).”

- vi. the following wording inserted into the Agreement as a new Clause 30.6A under CV493 shall no longer apply to the Agreement during the Period:

“The Parties agree the Step-Out Plan should address the impact on the Charges resulting from the transition back in to pre-COVID-19 business-as-usual Services (to the extent applicable), and/or any new Services to be retained that have been delivered during this phase of COVID 19 including any associated changes to future performance levels, service credits and any changes to assumptions in the operational models that drive performance and the Parties will agree any reinstatement of some or all of any pre-COVID-19 Service Credits and Performance Levels beyond the Period having considered the Supplier’s need to recover and stabilise the service following the impacts of COVID-19 and any changes to working practices to be able to deliver the service in accordance with the pre-COVID-19 Performance Levels (as may be amended by way of agreement in the Step-Out Plan) and the timings for delivery in accordance with some or all of the Performance Levels shall be agreed as part of the Step-Out Plan.”;

- vii. the entire text of Clause 33.3 (a) in the Agreement shall be replaced with:

“(a) this Agreement if the Authority fails to pay an undisputed sum due to the Supplier under this Agreement which in aggregate exceeds an amount equivalent to one-sixth of the total Management Fee due to the Supplier in accordance with Paragraph 4.7 of Schedule 7.1B and such amount remains outstanding forty (40) Working Days after the receipt by the Authority of a notice of non-payment from the Supplier; or”

- e. Subject to Paragraph 5.f. of this Annex 6, Schedule 1C set out in Appendix 2 to this Annex 6 replaces Schedule 1BC to the Agreement (set out in CV539) for the Period
- f. For the avoidance of doubt, each of “Allowable Assumptions”, “Day Rate”, “Payment Model as at the Effective Date”, “Year 1 Supplier Premises Fee” and “Year 1 Supplier Premises Target Cost” definitions in Schedule 1 are Historical and do not apply to the new payment model set out within Schedule 7.1B (to be applied during the Period) and have, therefore, not been not been used in Schedule 7.1C.
- g. In respect of the Schedules to the Agreement, the entire text of each of Paragraph 4 and Annex 4 of Schedule 6.1 (Mobilisation and Resource Plans) which were suspended under CV493 shall remain Suspended for the Period.
- h. Schedule 2.1 (Services Requirement)
- i. Paragraph 10.33 of Schedule 2.1 (Service Requirements) amended under CV493 shall be amended to read as follows with the original wording in the BAU Agreement Suspended during the Period:
- “The Supplier has implemented a solution to pay Claimant expense payments direct to a bank account or by cheque (excluding Girocheques). The Authority will pay for any outstanding costs of such solution provided such costs are reasonable, to be determined by the Authority acting reasonably and the Supplier and the Authority shall comply with the provisions of 17.6A of Schedule 7.1C.*

If a Claimant does not have a bank/building society account or a Post Office account, then they may request that their expenses are paid into a Post Office Card Account (POCA). This option will only be accepted where the Claimant already has their benefits paid into a POCA. When a Claimant selects the POCA option, the Supplier should contact the Authority in accordance with the process contained in the Claimant Expenses Procedures guide. The Authority will confirm whether the Claimant has a POCA, if the Claimant does not have a POCA payment of expenses should be made by the Supplier by cheque. Where the Authority confirms the Claimant does have a POCA, the Authority will make the payment and the Supplier should issue the appropriate confirmation letter to the Claimant."

- ii. the entire text of Paragraph 62.5 replaced under CV493 shall be reinstated to the wording set out in Paragraph 62.5 in the BAU Agreement.
- i. Schedule 2.2 (Performance Levels):
 - i. all references to "Subsidiary Service Levels" in this Schedule shall be Suspended during the Period, it being acknowledged that the Subsidiary Service Levels listed in the Performance Matrix shall be monitored for performance management purposes only.
 - ii. Paragraph 3.1 shall be deleted and replaced with the wording:
"All Service Levels shall apply for the duration of the Period."
 - iii. Paragraph 4 shall be Suspended in full for the Period.
 - iv. Paragraphs 6 shall be Suspended in full for the Period;
 - v. Paragraph 8 shall be Suspended in full for the period.
 - vi. Paragraph 9 shall be suspended in full for the Period.

10. SC2 and WCA Assessments during the Period

11.1 *The Authority and the Supplier have agreed in respect of volume:*

- 11.1.1 *agreed to targets for WCA assessments for the Period as set out in the relevant provisions of Schedule 19.*
- 11.1.2 *Over the Period, the PVT.*
- 11.1.3 *Both the monthly volume targets and the PVT will be subject to adjustments as detailed in Schedule 19 a result of (i) changes to the assumptions set out in Schedule 19 (ii) any agreed mitigations (iii) any IT unavailability as defined in Schedule 19.*

- vii. Paragraph 1.2 of Part B shall be deleted and replaced with the following:

Performance Monitoring Report

'1.2 The Performance Monitoring Report shall be electronically encrypted and the Supplier shall ensure that it has been validated, is accurate, fully auditable and in such format as prescribed by the Authority from time to time and contain, as a minimum, the following information broken down by geographical region (as may be further set out in Schedule 2.1 (Service Requirements):

Information in respect of the Service Period just ended

- (a) *for each Service Level, the actual performance achieved over the Period;*
 - (b) *a summary of all Service Level Failures that occurred during the Period;*
 - (c) *which Service Level Failures remain outstanding and progress in resolving them;*
 - (d) *not used ;*
 - (e) *the number of Service Points awarded in respect of each Service Level Failure;*
 - (f) *the Service Credits to be applied, indicating the Service Level Failure(s) to which the Service Credits relate;*
 - (g) *the conduct and performance of any agreed periodic tests that have occurred, such as the annual failover test of the BCDRP;*
 - (h) *relevant particulars of any aspects of the Supplier's performance which fail to meet the requirements of this Agreement; and*
 - (i) *such other details as the Authority may reasonably require from time to time.*
- viii. Annex 1: Service Levels and Service Credits (including the tables contained within) shall be suspended in full for the Period.
 - ix. Annex 2 National Low Volume Methodology shall be Suspended in full for the Period.
- j. Schedule 3 (Authority Responsibilities)
 - i. The following new Paragraph 3.7 shall apply to the Agreement during the Period:

3.7 Authority Responsibilities during the Period

3.7.1 In addition to the Authority Responsibilities detailed in Schedule 3, the Authority will comply with its obligations as agreed between the Parties, and confirmed in writing, whilst Schedule 19 is in operation.
- k. Schedule 7.2 (Payments on Termination):
 - i. Paragraph 6.1 replaced with the following wording in CV493 shall also apply to the Agreement during the Period:

"For the purpose of Paragraph 2 the Compensation Payment shall be an amount equal to the total forecast Charges over the Shortfall Period (as stated in the Financial Model multiplied by £[REDACTED]."
 - ii. Paragraph 8 replaced under CV493 shall be deleted and replaced with the wording:

"All sums due under this Schedule shall be payable by the Authority to the Supplier in accordance with the payment terms set out in Schedule 7.1C (Charges and Invoicing)."
- l. Schedule 7.5 (Transparency, Financial Reports and Audit Rights)

- i. Paragraph 1.1.1 of Part A (Financial Transparency Objectives) replaced with the following wording in CV493 shall also apply to the Agreement during the Period:

“for the Authority to understand any payment sought from it by the Supplier including an analysis of the costs, and fees, and time spent by Supplier Personnel in providing the Authority Related Services;”
- ii. Paragraph 1.1.2 of Part A (Financial Transparency Objectives) replaced with the following wording in CV493 shall also apply to the Agreement during the Period:

“for both Parties to be able to understand the ACRF Payment Model, the Payment Model Template, the Outturn Report, the Supplier Premises Monthly Forecast and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;”
- iii. Paragraph 3.4.7 of Part B (Financial Reports) replaced with the following wording in CV493 shall also apply to the Agreement during the Period:

“state in accordance with Schedule 7.1C (Charges and Invoicing) the Supplier’s actual volumes, Actual Costs, service costs incurred, service costs payable, Pass-through Costs, fees and CBS; such information to be consistent with and aligned to the ACRF Payment Model. For the purposes of this paragraph (g), Actual Costs are all amounts supported by invoices paid or payable or amounts accrued using reasonable estimation techniques in accordance with UK GAAP;”
- iv. Paragraph 1.1 (b) of Part C (Audit Rights) replaced with the following wording in CV493 shall also apply to the Agreement during the Period:

“to verify the accuracy of the costs, Charges, Pass-through Costs, staff timesheets, investment, Cost MI, and set-up costs, and any other amounts payable by the Authority under this Agreement (and proposed or actual variations to such Charges and payments);”
- m. Schedule 8.2 (Change Control Procedure)
 - i. Paragraph 4.4.4 (c) replaced with the wording *“delivery of the Authority Related Services”* in CV493 shall also apply to the Agreement during the Period;
- n. Schedule 8.6 (Business Continuity and Disaster Recovery)
 - i. Paragraph 3.1 (g) replaced with the following wording in CV493 shall also apply to the Agreement during the Period:

“contain strategy options for the continued delivery of Authority Related Services and activities under this Agreement in the event of incidents and business disruption including options in relation to:”
- o. Schedule 8.2 (Change Control Procedure)
 - ii. Paragraph 4.4.4 (c) replaced with the wording *“delivery of the Authority Related Services”* in CV493 shall also apply to the Agreement during the Period;
- p. Schedule 8.6 (Business Continuity and Disaster Recovery)
 - ii. Paragraph 3.1 (g) replaced with the following wording :

“contain strategy options for the continued delivery of Authority Related Services and activities under this Agreement in the event of incidents and business disruption including options in relation to.”

q. Schedule 8.2 (Change Control Procedure)

- iii. Paragraph 4.4.4 (c) replaced with the wording “*delivery of the Authority Related Services*” in CV493 shall also apply to the Agreement during the Period;

r. Schedule 8.6 (Business Continuity and Disaster Recovery)

- iii. Paragraph 3.1 (g) replaced with the following wording in CV493 shall also apply to the Agreement during the Period:

“contain strategy options for the continued delivery of Authority Related Services and activities under this Agreement in the event of incidents and business disruption including options in relation to.”

Appendix 1

SCHEDULE 7.1C

[See separate document]

Appendix 2

SCHEDULE 1C

[See Separate document]