

Award Form

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

1.	Buyer	Department for Energy Security and Net Zero, (formerly department of Business, Energy and Industrial Strategy (BEIS) (the Buyer). Its offices are on: 1 Victoria Street, London, SW1H 0ET
2.	Supplier	Name: CMS Cameron McKenna Nabarro Olswang LLP Address: Cannon Place, 78 Cannon Street, London EC4N 6AF Registration Number: OC310335
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 2022/S 000-034133 (FTS Contract Notice) https://www.find-tender.service.gov.uk/Notice/034133-2022 .
4.	Contract reference	PRJ_368
5.	Deliverables	See Schedule 2 (Specification) for further details.
6.	Collaborative working principles	The Collaborative Working Principles apply to this Contract. See Clause 3.1.3 for further details.


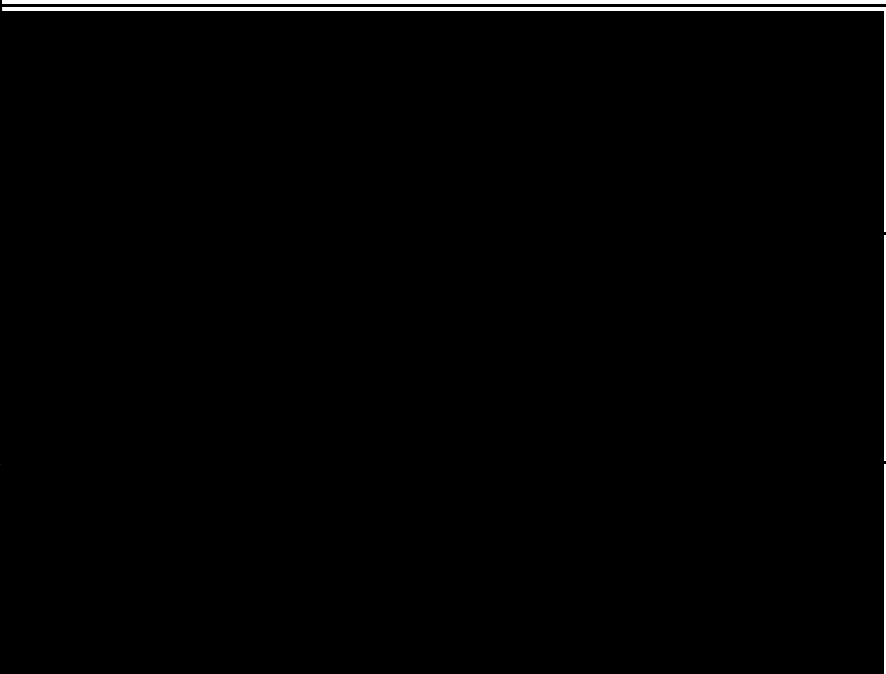

8.	Start Date	01/08/23
0.	Expiry Date	31/07/26
1.	Extension Period	Further extension period of 36 months until 31/07/29 Extension exercised where the Buyer gives the Supplier no less than 3 Months written notice before the Contract expires]
2.	Ending the Contract without a reason	The Buyer shall be able to terminate the Contract in accordance with Clause 14.3.
3.	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) Core Terms c) Schedule 1 (Definitions) d) Schedule 6 (Transparency Reports) e) Schedule 20 (Processing Data) f) The following Schedules (in equal order of precedence): <ul style="list-style-type: none"> a. Schedule 2 (Specification)

		<ul style="list-style-type: none"> b. Schedule 3 (Charges) c. Schedule 5 (Commercially Sensitive Information) d. Schedule 7 (Staff Transfer) e. Schedule 13 (Contract Management) f. Schedule 14 (Business Continuity and Disaster Recovery) g. Schedule 16 (Security) h. Schedule 20 (Processing Data) i. Schedule 21 (Variation Form) j. Schedule 22 (Insurance Requirements) k. Schedule 25 (Rectification Plan) l. Schedule 26 (Sustainability) m. Schedule 27 (Key Subcontractors) n. Schedule 29 (Key Supplier Staff) o. Schedule 30 (Exit Management) <p>j) 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.	Sustainability	The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, that it will comply with Schedule 26 (Sustainability).

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16.	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 provide the Social Value Reports as set out in Schedule 26 (Sustainability)
17.	Buyer's Security Policy	Schedule 16 (Security)
18.	Commercially Sensitive Information	Commercially Sensitive Information: Schedule 5 (Commercially Sensitive Information)]
19.	Charges	Details in Schedule 3 (Charges)
20.	Reimbursable expenses	Recoverable as set out in Schedule 3 (Charges)]
21.	Payment method	<i>BACS – subject to invoicing</i>
22.	Service Levels	Not applicable
23.	Insurance	Details in Annex of Schedule 22 (Insurance Requirements).
24.	Liability	<p>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 150% of the Estimated Yearly Charges</p> <p>In accordance with Clause 15.5, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability, of £10 million</p>
25.	Cyber Essentials Certification	Not required
26.	Progress Meetings and Progress Reports	<ul style="list-style-type: none"> ● The Supplier shall attend Progress Meetings with the Buyer every Quarter. ● The Supplier shall provide the Buyer with Progress Reports every Month.
28.	Guarantee	Not applicable
29.	Virtual Library	<p>In accordance with Paragraph 2.2. of Schedule 30 (Exit Management)</p> <p><input type="checkbox"/> the period in which the Supplier must create and maintain the Virtual Library, is as set out in that Paragraph</p>

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		<input type="checkbox"/> the Supplier shall update the Virtual Library every Quarter
30.	Supplier Contract Manager	
31.	Supplier Authorised Representative	
32.	Supplier Compliance Officer	
33.	Supplier Data Protection Officer	
34.	Supplier Marketing Contact	
35.	Key Subcontractor 1	
36.	Key Subcontractor 2	

37.	Buyer Authorised Representative		
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For and on behalf of the Supplier:		For and on behalf of the Buyer:	
Signature:			
Name:			
Role:	Partner	Role:	Head of Coal Liabilities and Sponsor
Date:	6/20/2023	Date:	6/21/2023

Core Terms – Mid-tier

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1. Definitions used in the contract

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 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.

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;
-) 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
- a) 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 nonpayment 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 nonpayment 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 14.5.1d) to 14.5.1h) 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 £5 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, 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

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 cooperation 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 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.

28. 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.

29. 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.

34. 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.

35. 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.

36. 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.

37. 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 39.3 to 39.5.

39.3 Unless the Buyer refers the Dispute to arbitration using Clause 39.4, 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 39.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 39.4.

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
 - 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;
"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; (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"	<p>means 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 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"	<p>(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);</p> <p>(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> <p>information derived from any of the above;</p>
"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> <p>(a) Government Department;</p> <p>(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</p> <p>(c) Non-Ministerial Department; or</p> <p>(d) Executive Agency;</p>
"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;
"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";

<p>"Costs"</p>	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <ul style="list-style-type: none"> (a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: <ul style="list-style-type: none"> (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 (ix) reasonable recruitment costs, as agreed with the Buyer; (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; (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 (d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables; <p>but excluding:</p> <ul style="list-style-type: none"> (e) Overhead; (f) financing or similar costs; (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; (h) taxation;
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	<ul style="list-style-type: none"> (i) fines and penalties; (j) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and (k) non-cash items (including depreciation, amortisation, impairments and movements in provisions);
"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;
"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;
"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"	<p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under the Contract as:</p> <ul style="list-style-type: none"> (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 (b) is required by the Supplier in order to provide the Deliverables; and/or (c) has been or shall be generated for the purpose of providing the Deliverables;
"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> <ul style="list-style-type: none"> (a) the Expiry Date as extended by the Buyer under Clause 14.2; or (b) if the Contract is terminated before the date specified in (a) above, the date of termination of the Contract;

"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;
"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"	<p>The occurrence of one or more the following events:</p> <ul style="list-style-type: none"> (a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency; (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;

	<ul style="list-style-type: none"> (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; (iv) any financial indebtedness of any 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 any FDE Group entity; or (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>(j) any [one] of the Financial Indicators set out in Part C of Annex 2 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> <ul style="list-style-type: none"> (a) to the extent permitted by Law, provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier; (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); (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 (d) is certified by the Supplier's Chief Financial Officer or Director of Finance;
"Financial Transparency Objectives"	<p>means:</p> <ul style="list-style-type: none"> (a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in

	<p>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> <p>(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;</p> <p>(d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;</p> <p>(e) the Parties challenging each other with ideas for efficiency and improvements; and</p> <p>(f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;</p>
"FOIA"	<p>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;</p>
"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> <p>(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;</p> <p>(b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;</p> <p>(c) acts of a Crown Body, local government or regulatory bodies;</p> <p>(d) fire, flood or any disaster; or</p> <p>(e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:</p> <p>(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;</p> <p>(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</p>

	(iii) any failure of delay caused by a lack of funds, 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 ;

"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;
"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 a 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, a 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; (e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; (f) where that person is a company, a LLP or a partnership: <ul style="list-style-type: none"> (i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a

	<p>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 a 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"	<p>(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>(c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
"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"	any Subcontractor: <ul style="list-style-type: none"> (a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or (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 (c) with a Sub-Contract with the Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Contract, and the Supplier shall list all such Key Subcontractors in section 29 of the Award Form;
"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;
"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;
"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;
"Notifiable Default"	<p>means:</p> <ul style="list-style-type: none"> (a) the Supplier commits a material Default; and/or (c) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;
"Occasion of Tax Non – Compliance"	<p>where:</p> <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or (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;
"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> <ul style="list-style-type: none"> (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; (b) operating expenditure relating to the provision of the Deliverables including an analysis showing: <ul style="list-style-type: none"> (i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables; (ii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any

	<p>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 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>
"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"	the Buyer or the Supplier and "Parties" shall mean both of them where the context permits;
"Personal Data"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Personal Data Breach"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"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

	<p>(ii) under legislation or common law concerning fraudulent acts; or</p> <p>(iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or</p> <p>(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;</p>
"Protective Measures"	<p>technical and organisational measures which must take account of:</p> <p>(a) the nature of the data to be protected</p> <p>(b) harm that might result from Data Loss Event;</p> <p>(c) state of technological development</p> <p>(d) the cost of implementing any measures</p> <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 the 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;
"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> <p>(a) full details of the Notifiable Default that has occurred, including a root cause analysis;</p> <p>(b) the actual or anticipated effect of the Notifiable Default; and</p> <p>(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 and for the rectification of the Notifiable Default (where applicable);</p>

"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;
"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;
"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 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;
"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"	<p>means:</p> <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; (f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement; (g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary; (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 (i) a need by the Buyer to take action to discharge a statutory duty;
"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> <ul style="list-style-type: none"> (a) provides the Deliverables (or any part of them); (b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or

	(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
"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;
"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 (b) 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"	<p>(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;</p> <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;
"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"	a plan: (a) for the Testing of the Deliverables; and (b) setting out other agreed criteria related to the achievement of Milestones;
"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;
"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.

[Subject to Contract]

Schedule 2 (Specification)

Crown Copyright 2022

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.

Our social value priorities



Department for
Business, Energy
& Industrial Strategy

**Coal Health Liabilities –
Invitation to Tender for Legal and Claims
Management Services**

Tender Reference Number: prj_368

Deadline for Tender Responses:

12:00 16th January 2023

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Department for Business, Energy & Industrial Strategy

Date: **01st December 2022**

An external supplier is required to provide legal services and claims management in relation to the coal health legal liabilities.

In order to be considered for this opportunity, tenderers must submit a written response via the DESNZ Procurement Portal ("Jager") by 12:00pm 16th January 2023.

This Invitation to Tender (ITT) comprises of the following sections:

- Section 1 Instructions and Information on Tendering Procedure
- Section 2 Specification of Requirements
- Section 3 Evaluation of Tenders
- Section 4 Further Information on Tender Procedure
- Section 5 Declarations to be Submitted by Tenderers
- Annex A Standard Selection Questionnaire
- Annex 1 Coal Health Claim Numbers FY21-22
- Annex 2 CIPCS and Disease Types
- Annex 3 Past Group Litigations
- Annex 4 Summary – British Coal Coke Oven Workers Group Litigation Order
- Annex 5 Summary – Coventry Homefire
- Annex 6 BCC subsidiaries note
- Annex 7 Prompt Payment Letter
- Annex 8 DESNZ CLU Data Handling Compliance Statement: December 2022
- Annex 9 Autumn FMR Documents
- Annex 10 Delegated Authority Letter
- Annex 11 TUPE Liabilities
- Annex 12 MI Template

Tender responses must include the following:

1. Responses to all evaluation criteria within page limits and formatting as specified in Section 2;
2. A fully answered Standard Selection Questionnaire as found in the Jaggaer event.;
3. A completed version of the Pricing Schedule as found in Cost section of the Jaggaer event;
4. A completed set of declarations set out in the Jaggaer event including;
 - a. Statement of Non-Collusion;
 - b. Form of Tender;
 - c. Conflict of Interest Declaration;

Any questions about this invitation to tender ("**ITT**") or the further competition process, should be submitted by 12:00 9th January 2023.

Please note this ITT and any communications around and in response to it (including tender responses) are confidential and must be treated as confidential information.

Please read the instructions on the tendering procedures carefully since failure to comply with them may invalidate your tender.

I look forward to receiving your response.

Yours sincerely,

DESNZ Commercial

Section 1

Instructions and Information on Tendering Procedure

A. Indicative Timetable

The anticipated timetable for this tender exercise is as follows. DESNZ reserves the right to vary this timetable. Any variations will be circulated to all organisations who have registered an interest in notifications.

Publish on Find a Tender / Contracts Finder	01 st December 2022
Tenderer Clarification Deadline	12:00pm 09 January 2023
Tender Submission Deadline	12:00pm 16th January 2023
Evaluation	Tuesday 17 th January 2023 – Tuesday 31 st January 2023
Interim award and standstill period	27 th March 2023
Final Award	Wednesday 12 th April 2023
Contract Signature	Friday 14 th April 2023

The contract is to run up to, and including, 13th July 2026 or (36 months from contract signature), unless terminated or extended by the Department in accordance with the terms of the contract. There will be a further option to extend the contract by 36 months

. Procedure for Submitting Tender

Tender responses must be submitted via the Jagger system by 12:00pm **16th January 2023**. Clarification questions must be submitted via the Jagger system by 12:00pm 9th January 2023.

Tenders will be received up to the time and date stated. Please ensure that tender responses are delivered no later than the appointed time on the appointed date. Any responses received after this time may be excluded from the competition at the discretion of DESNZ. DESNZ requires

tenders to remain valid for the period indicated in the Specification of Requirements (Section 2).

DESNZ shall have the right to disqualify a tender response if it does not contain all of the fully completed documentation and declarations requested in this ITT. DESNZ shall also have the right to disqualify a response if it later becomes aware of any omission or misrepresentation in the response in relation to any submission criteria within this ITT.

Tenderers will not be entitled to claim from DESNZ any costs or that they may incur in preparing their tender response whether or not it is successful.

C. Conflict of Interest

The Department's standard terms and conditions of contract include reference to conflict of interest and require contractors to declare any potential conflict of interest to the Secretary of State.

DESNZ requires tenderers to declare any potential conflict of interest when submitting their bid. DESNZ may at its sole discretion exclude tenders where there is a conflict of interest which cannot be resolved to the satisfaction of DESNZ.

A conflict of interest will not necessarily mean the individual or tenderer cannot work on this project; but it is vital that any interest or conflict is declared so it can be considered openly.

The process by which this is managed in the procurement process is as follows:

1. During the bidding process, tenderers may submit a clarification via the Jagger system to discuss whether their proposed arrangement is likely to yield a conflict of interest.
2. In their response, tenderers must confirm and return the declaration in the 3 within the Jagger system to indicate whether or not any conflict of interest may be, or be perceived to be, an issue. If this is the case, the tenderer should give a full account of the actions or processes that it will use to ensure that conflict of interest is managed. In any statement of mitigating actions, tenderers are expected to outline how they propose to achieve a robust, impartial, and credible approach to their services.
3. When tenders are scored, this declaration will be subject to a PASS/FAIL score, according to whether, on the basis of the information in the proposal and declaration, DESNZ considers that there remains a conflict of interest which may affect the impartiality of a tenderer's services. Tenderers who are excluded from this competition due to a conflict of interest will not receive any feedback on their bid.

Failure to declare or manage conflict of interest at this or a later stage may result in exclusion from the procurement competition, or in DESNZ exercising its right to terminate any contract awarded.

D. Evaluation of Responses

The tender process will be conducted to ensure that bids are evaluated fairly and transparently, in accordance with agreed assessment criteria.

E Terms and conditions applying to this Invitation to Tender

The Department's Standard Terms and Conditions of Contract, attached within the event will apply to this contract. These can be downloaded from Jagger. The winning contractor will

need to accept that DESNZ will use its own internal contract template together with the DESNZ standard terms and condition, when issuing the contract.

The successful Tenderer's submission will form part of the agreed contract.

F Further Instructions to Tenderers

DESNZ reserves the right to amend the ITT and enclosed tender documents at any time prior to the deadline for receipt of tenders. Where amendments are significant, DESNZ may at its discretion extend the deadline for receipt of tenders.

DESNZ reserves the right to withdraw this contract opportunity without prior notice and for any reason whatsoever. DESNZ will not be liable for any costs incurred by tenderers during any stage of the process. DESNZ also reserves the right to accept a portion of any tender unless the tenderer expressly stipulates otherwise in their tender.

G. Prompt Payment of Subcontractors

As of 01 April 2021, all Government contracts with a spend level of over £5m per annum have to evidence that 85% of their subcontractor invoices are paid within 60 days of receipt. We appreciate that any contract from this competition will not be captured under the new policy, however, we do expect the Supplier to note the new policy and ensure any subcontractor invoices, relating to the contract, are paid within the agreed terms. Therefore, for information purposes only, attached at Annex 7 is the prompt payment letter which DESNZ have committed to sending to all relevant suppliers.

Section 2 - Specification of Requirements

Introduction

The Department for Business Energy & Industrial Strategy (“DESNZ”) is the department for economic growth. It brings together responsibilities for business, industrial strategy, science, innovation, energy, and climate change. It holds the liabilities for health related disease and injury claims arising from the operation of the former nationalised coal industry (“the liabilities”).

The purpose of this document is to provide the Service Provider (SP) with background information and service requirements in respect of the legal support, advice, claims handling and litigation services that the Coal Liabilities Unit of DESNZ (“CLU”) requires in connection with those liabilities.

Background

The National Coal Board (NCB), later the British Coal Corporation, was a statutory corporation which came into existence on 15 July 1946 (under the Coal Industry Nationalisation Act 1946) and from 1 January 1947 (“vesting day”) the NCB became responsible for managing close to 1000 collieries, 850,000 employees, 85 coke ovens and other plants (including brickworks), 250,000 acres of farmland, 140,000 houses and other miscellaneous practices. The NCB was renamed British Coal Corporation in 1987. Its assets were privatised with the passing of the Coal Industry Act 1994 by which time the number of deep mine collieries had reduced to 16.

As well as deep mines, the NCB took on responsibility for open cast mining and also a series of non-mining ancillary activities, including coal products, smokeless fuels, engineering workshops, computer technology, scientific research and various retail interests. Over time these operations were gradually privatised prior to 1995.

In January 1998 the government assumed responsibilities for the residual personal injury liabilities of the British Coal Corporation (“BCC”) and its subsidiaries. This responsibility now rests with DESNZ. BCC liabilities are managed by the Coal Liabilities Unit (CLU) within DESNZ.

Overview of service requirements

CLU requires legal support and advice in order to manage current and future challenges in relation to the liabilities and other associated matters and in meeting its key objectives.

DESNZ and its predecessors have faced and continues to face a number of civil actions in which claimants have sought damages for personal injuries incurred during their

employment with the BCC. These have taken the form of Group Litigations and unitary actions (pre-litigation and in litigation).

DESNZ continues to face the possibility of new litigation for injuries alleged to have been caused as a result of working for BCC or its subsidiaries. The SP must work in partnership with the CLU to identify and manage any prospective and future group litigation actions and or new types of disease claims should they be intimated.

Details of the history of claims and of current claims volumes are annexed to this Invitation to Tender document (Annex 1).

Claims are intimated pre action and DESNZ requires assistance from the SP in meeting its obligations under any pre-action protocols that might apply from time to time to those claims. In particular the SP must have the ability to interface with the Ministry of Justice portals set up to deal with such claims.

DESNZ' responsibilities also include handling health related disease claims which are subject to specific scheme arrangements, which compensate former miners and their families for injuries as a result of working for BCC. There are in excess of 20 compensable diseases arising from the BCC liability. Details of those schemes and of current claims volumes are to be found annexed to this Invitation to Tender document (Annex 1 and Annex 2).

DESNZ maintains a significant amount of records and archives belonging to the former BCC. DESNZ is responsible for some 47,164,501 of electronic records and over 2,815,610 paper records. Records are largely stored with DESNZ' records manager, Iron Mountain. However, some records will also be stored by other third party contractors. DESNZ has a responsibility to manage these records in line with the GDPR, its own internal policies and other relevant legislation and policies. The SP will be required to provide support to DESNZ in relation to the continued management of those records.

From time to time DESNZ receives Freedom of Information requests and data subject access requests relating to prior claims and generally in relation to the liabilities. The SP will be required to deal with such requests, or to provide the Department with sufficient information with which to respond directly.

There remain a complex and extensive web of internal and external interested parties. These include former BCC employees, their families, their estates, Ministers, members of Parliament, other government departments, the courts, trade unions, community interest groups and co-defendants. CLU will require support and assistance from the SP in responding to those interested parties

The portfolio of work associated with the former BCC within DESNZ is not limited just to coal health compensation matters. Advice will be required on an ad-hoc basis across a broad range of areas relating to wider coal liability matters. DESNZ will not require the SP to provide this advice on a day-to-day basis but as and when required. The SP must have access to relevant technical skills and the ability to provide flexible resources across these areas in order to support DESNZ as and when required.

Key objectives

To provide flexible and robust legal advice and claims handling/litigation services which meet both the business as usual and any future litigation requirements of DESNZ and provide Value for Money ("VFM") over the entire contract. It is recognised that delivering the above successfully will require the SP to build up and maintain a strong corporate knowledge of the BCC and its many subsidiaries and the history of claims since DESNZ took over the liabilities in

1998.

The Service Provider:

- will be a single provider of legal services in relation to BCC health claims in England, Wales and Scotland.
- will act as solicitors and claims handlers for the Secretary of State for Business, Energy and Industrial Strategy to deal with all Coal industrial diseases claims in England, Wales and Scotland for which BCC was originally responsible.
- provide advice and general assistance on related legal matters.
- provide detailed forecasting of current and future claims against the overall liability every 6 months as part of the DESNZ' Spring and Autumn financial management and review exercises. NB the SP should note that DESNZ approach to provisioning is on a 'worst case, reasonable worst case, realistic, reasonable best case or best case' basis but the SP will be required to present reasonable alternative scenarios in addition to any central provision.
- avoid conflicts of interest wherever possible. This is a single service provider contract. Whilst conflicts cannot always be avoided these should be kept to a minimum. Any conflict of interest will need to be reported to DESNZ immediately it becomes apparent. A list of the most frequently encountered co-defendants and where known their insurers is annexed to this Invitation to Tender document.

The key objectives for the legal support, advice and claims handling contract are:

- Fairness — meeting our obligations as a defendant and ensuring the claimant and the public purse are treated fairly and in a way which is consistent with DESNZ' legal obligations.
- Timeliness — provide appropriate and robust legal support and advice in a timely manner and to process compensation claims swiftly and accurately when entitlement is established.
- Value for Money — ensure the process is managed efficiently, cost effectively and in a way which is defensible to the taxpayer.
- Quality - maintain high professional standards, quality and service levels, accurate data and information.
- Proactive — proactive management of all aspects of the business consistent with the Department's legal obligations.
- Flexibility — a flexible and scalable operation in order to handle different aspects of legal support and advice (see actuarial projections annexed to this Invitation to Tender document);
- Transparency — provide full transparency and visibility of the management and operations of the business.
- Pragmatism — providing strategic and pragmatic solutions consistent with the Department's legal obligations; and
- Continuous Improvement — ensuring improvement throughout the life of the contract.

Value for Money

VFM is at the centre of everything we do. It is essential that VFM is delivered by the SP across all of the service requirements over the life of the contract. The SP must ensure all services and processes are managed efficiently, cost effectively and are defensible to the taxpayer. DESNZ will look to justify expenditure on this contract by way of savings it is helping to achieve consistent with DESNZ' legal obligations. All savings claimed must be auditable. DESNZ considers VFM to include areas such as, but not limited to:

- Clear appreciation of VFM when shaping legal advice, for example, taking account of administrative effort and practical delivery as well as the legal obligations.
- Being mindful of expenditure and costs of pursuing claims against the settlement cost whilst also being alive to precedent issues with long term cost consequences.
- Efficient use of resources.
- Use of appropriate grade of staff throughout the life of the contract.
- Effective and efficient use of technology to enhance processes and reduce manual effort; and
- Effective scrutiny of third party charges and effective use of Counsel (where appropriate) to ensure the Department's interests are furthered and protected.

The SP will make an annual commitment to identify and implement efficiency savings. This will be reviewed at the end of each financial year.

Scope

Management of all personal injury claims by former employees of BCC. There are four key areas:

- Major litigation and associated services (Section 1)
- Strategic legal advice and associated services (Section 2)
- Claims handling and associated services (Section 3)
- Governance, Management and Control (Section 4)

SECTION 1: MAJOR LITIGATION AND STRATEGIC LEGAL ADVICE

Objectives for current and future major litigation

- to represent and defend DESNZ' interests in any current or new group litigation actions.
- to manage proactively any existing or new group litigation on behalf of DESNZ as the defendant.
- to ensure that all advice to DESNZ is clear, concise and represents VFM. where appropriate, all options must be explored and appraised, taking full account of counsel views. wherever possible, the SP should provide definitive responses to DESNZ on the options available and a favoured view and risks associated with that view.
- to ensure that all advice is written in plain English and understandable to a non-legal audience. it must also be capable of being used to inform Ministers and other relevant interested third parties including HM Treasury ("HMT").

- to ensure that lessons from previous litigation against DESNZ are applied robustly and wider consideration is given to similarities in other personal injury or industrial disease litigation, particularly those being handled by the public sector. The SP should also contribute to, and draw on information from, other sources and contractors that DESNZ may appoint from time-to-time including, for example, actuarial reviews of liabilities; and
- to ensure that the conduct of all litigation is considered against a costs-benefit and VFM perspective to help inform the options DESNZ should consider.
- To ensure all co-defendant interests and potentials for recoveries, indemnities and contributions are pursued and DESNZ' interests protected throughout.
- avoid conflicts of interest wherever possible. This is a single service provider contract. Whilst conflicts cannot always be avoided these should be kept to a minimum. Any conflict of interest will need to be reported to DESNZ immediately it becomes apparent.

Background and aims

Historically, DESNZ has faced a number of civil actions in which claimants have sought damages for personal injuries incurred during their employment with the BCC using group litigation vehicles. Information relation to prior group actions is annexed to this Invitation to Tender document..

DESNZ currently faces no issued GLOs. It is dealing with two remaining individual costs cases in the British Coal Coke Workers Litigation ("BCCWL") and a non-issued collective action arising from the operation of a fuel plant known as Coventry Homefire. . Information regarding these two cases along with summaries of past group actions is annexed to this Invitation to Tender document. See Annexes 3,4 and 5.

In relation to both of these claims a number of cases have settled by way of provisional damages. The SP will be required to monitor those claims and deal with any return conditions that may be claimed for and advise DESNZ as to its likely liabilities and response to such claims. Further information on the provisional damages aspects of the litigations is annexed to this Invitation to Tender document.

Major litigation can be distinguished from normal litigated claims on the basis that a group action has been registered. individual pre-litigated and litigated claims should be handled in line with the claims handling requirements in section 3.

In addition to the current group litigation actions identified above, it is possible that new strands of litigation could potentially arise in the future. current legal advice suggests that the scope for future action may be limited. However, this cannot be guaranteed as it is subject to a range of factors including the evolving legal position and the potential for latent issues to be identified. As DESNZ' external legal advisers, the SP must work in partnership with the Department to identify and manage any prospective and future group litigation actions should they be intimated.

Due to the scale of BCC operations, the complexities of the privatisation process, the transfer of liabilities on privatisations and into government, BCC's internal insurance arrangements and experience of subsequent litigation, current and potential future litigation risks are challenging and high profile for DESNZ. There are a significant number of challenges that DESNZ faces, and that the SP must work with the Department to manage actively. These include areas such as:

- awareness of the complex and complicated events leading up to, during and following the privatisation of BCC and its subsidiaries, the ability to consider these as part of any ongoing litigation or future group action and in particular BCC liabilities and potential for recovery, indemnity and or contribution as against any potential co-defendants and or their insurers.
- the extensive volumes of historic records and data resulting from the operation, subsequent privatisation of the BCC, and records created in the last 25 years from handling BCC claims. DESNZ has invested heavily in the proactive management of these records. however, because of the organisational structure of BCC (national, regional and colliery specific record keeping practices), some of which are historically comparatively poorly indexed; subject coverage is inconsistent between areas. this makes disclosure processes particularly challenging; and
- the reducing availability of lay and expert witnesses in a number of fields, such as engineering. The number of lay witnesses has always been challenging and the SP will be required to keep records of potential lay witnesses to facilitate the gathering of lay evidence. Expert evidence has always been limited. however, the body of expert historical mining knowledge DESNZ is able to draw upon has reduced further over the last decades as the coal industry has contracted and relevant experts have retired.

Services requirements for current and future major litigation general requirements

Meet DESNZ aims and objectives: As well as managing the overall process for current and future major litigation, the SP must ensure that it has strong project management and governance arrangements (see sections 4). The SP must ensure that it meets all of the aims and objectives set out above.

Horizon Scanning: The SP must complete at least annually robust horizon scanning exercises focussing on the personal injury and industrial disease field or other such areas as identified and agreed with DESNZ. This will be discussed as part of the annual contract management meeting (see section 4). It is important that DESNZ can anticipate and prepare for future challenges, trends, threats and opportunities as part of its business strategy, objectives and planning. These exercises must consider the scope of current and future issues, risks, challenges, opportunities and improvement ideas which may have a financial, policy, operational, regulatory, reputational or contractual impact (positive or negative) on the work within DESNZ and its litigation risk.

These results and the report must be shared and discussed with DESNZ so that early strategic options can be considered in terms of handling any potential future litigation and results can also feed into DESNZ' wider risk management. From previous experience, Group litigation can take many years to gain momentum and to manifest in a formal group

Litigation action: The SP must manage and seek to influence, where appropriate, any potential group litigations until they manifest as a formal process or are not progressed. The SP will be required to provide proactive support and advice in terms of identifying and managing potential future litigation. DESNZ will look to work in partnership with the SP to identify all the possible options for managing these matters in the most cost effective and beneficial way overall for the public purse, taking into account all relevant factors. Alongside this formal annual process, the SP has an ongoing obligation if it becomes aware of issues outside of the formal horizon scanning reporting period, to communicate them to DESNZ as they arise with suitable advice.

In this exercise the SP will be required to consider the potential for co-defendant involvement and the ability of DESNZ to seek contribution, indemnity or recovery against those Defendants and or their insurers and advice as to the best strategy to secure such contribution and or indemnity.

VFM: One of DESNZ' key objectives is to ensure that it can demonstrate VFM in handling any major group action. The SP must support DESNZ in meeting this objective through proactive management of all existing and potential litigation consistent with DESNZ' obligations as a potential defendant. All actions must be moved expediently and not permitted to stagnate and a practical approach to defending any action must be instigated. The SP must provide regular and coherent advice to DESNZ on the merits of the action drawing upon information from other interested third parties and wider CLU, personal injury and industrial disease lessons learned.

Proactive management of litigation/claims: The SP will also be required to manage the practicalities of the action such as, for example, case management meetings with DESNZ and engaging counsel as well as relations with the CRs and the court. proactive management of costs within any cost capping/budgeting regime is also important, including monitoring the cost exposure of the claimants. This proactive management will extend to, but is not necessarily limited to the proactive management of:

- any group registers.
- disclosure (including using the SP's own electronic document management systems and liaison and working in partnership with DESNZ' document management contractors, presently Iron Mountain).
- the appointment and briefing of counsel in accordance with the requirements of the Government Legal Service (AG panel appointments and nominations for leading counsel/off panel counsel) and managing the time spent by counsel and scrutiny of their charges.
- identifying, appointing and managing expert witnesses, including management and oversight of the quality of their work and their charges.
- addressing contribution and indemnity issues relevant to any potential co-defendants and their insurers, and liaison with those interested parties during the course of the litigation in order to protect DESNZ' interests.
- robust management of the CRs and the SPs own costs enabling DESNZ to demonstrate VFM, to include a fully auditable trail of savings achieved over the life of the claim/litigation.
- pre-trial case management and management of any trial, including advice on litigation risk and any settlement strategy, ensuring the provision of any documents etc securely and in accordance with DESNZ's data handling policies from time to time, utilising technology to drive effective case management and trial delivery.
- post-trial analysis of any judgments, to include options analysis and the future management and disposal of any non-lead cases demonstrating VFM in the disposal of those cases.
- the negotiation and settlement of any CR costs, both common costs and individual costs.
- advise on, pursuit of and negotiating any claims for contribution and or indemnity for damages, the CRs' costs and DESNZ' defence costs that may be relevant following the conclusion of the main litigation

Alternative Dispute Resolution

DESNZ is open to the use of alternative dispute resolutions (“ADRs”) as a method of settling claims by way of mediation, adjudication, arbitration, conciliation and ombudsman schemes, where appropriate. The SP will be required to provide proactive advice, guidance and support where it is deemed an ADR is an appropriate option for DESNZ to consider.

SECTION TWO: STRATEGIC ADVICE FOR COAL AND NON-COAL HEALTH RELATED MATTERS.

Background and aims

DESNZ requires the SP to provide intelligent proactive strategic advice across a wide range of areas in relation to both coal health and non-coal health matters. DESNZ requires legal advice in relation to an extensive range of strategic, operational, policy and transactional matters. Indicative examples for areas where DESNZ has required legal advice in previous years is annexed to this Invitation to Tender document.

The SP must be flexible and be able to provide advice across a wide range of areas not just limited to those in this section of the specification. Whilst the majority of the work falls within English & Welsh and Scottish law, the SP must be aware that the profile of work is sometimes international. In providing strategic advice, the SP must be mindful of the international implications of both legal advice and claims handling for HMG.

Coal health related matters: It is essential that those responsible within DESNZ, such as CLU, Legal, Finance and Ministers are provided with appropriate, relevant and useable advice in order to complete short, medium and long term planning. Effective ongoing horizon scanning exercises are required alongside the (at least) annual report to identify potential issues or challenges facing DESNZ as well as detailed forecasting and modelling of future likely liabilities. These exercises will be used to inform internal activities such as policy decisions, budgets, forecasting, resource profiles and other planning.

Non-coal health related matters: The portfolio of work within DESNZ is not limited just to coal health compensation matters. Advice may be required on an ad-hoc basis across a broad range of areas, not specifically relating to the coal health but to wider coal liability matters. DESNZ will not require the SP to provide this advice on a day-to-day basis but as and when required. The SP must have access to relevant technical skills and the ability to provide flexible resources across these areas in order to support DESNZ as and when required.

An exhaustive list of the type of advice and guidance is not possible as it is largely driven by events and future developments which cannot be predicted with certainty.

Below is an indication of the most likely areas that the SP may be required to provide advice and guidance on. However, this is not an exhaustive list and the SP must remain flexible in order to provide advice and guidance across other areas if required. Where the SP does not have the requisite skills in-house, it may be required to set up arrangements through sub-contracts in order to meet DESNZ’ requirements. Such arrangements would need to be agreed with DESNZ.

- procurement,
- commercial and contractual matters including insurance recoveries, contractual indemnities and warranties and debt recovery
- information technology and intellectual property issues arising out of operational processes

- regulatory advice
- Freedom of Information access requests and data subject access requests (being part of a government department, CLU has a duty to adhere to, amongst other things, regulatory access requests and subject access requests). A profile of receipts by the current service provider is annexed to this Invitation to Tender document. DESNZ will require assistance with requests made directly to it relating to its liabilities generally and in relation to individual claims handled by the SP records management to include document retention and destruction requirements in the context of current and prospective claims and prevailing legislative, regulatory or internal policy requirements on data retention, including but not limited to consideration of the Public Records Act.
- data privacy advice on policies and procedures relating to the handling of DESNZ's data to take account of the latest requirements across government but be practical and relevant to the work of DESNZ.
- Interaction with interested third parties: The SP will be required to interact with an extensive range of interested third parties. Details of potential interested third parties are annexed to this Invitation to Tender document. DESNZ, consistent with its obligations, expects all of its contractors to work in collaboration to achieve its main objectives. The SP may be required, for example, to interact with interested third parties on a number of levels from short phone calls and briefing sessions to provide detailed explanation of processes or litigation matters. The SP must fully cooperate with the interested third parties consistent with DESNZ' obligations. However, if the SP is unsure of the motive or extent of the request from an interested third party, they must confirm its appropriateness with DESNZ before providing potentially sensitive information. examples of where this may be required, includes, but is not limited to:
 - liaising and briefing interested third parties as required by DESNZ to support areas such as the regular actuarial review process.
 - supporting departmental initiatives such as the records review group considering the disposal of coal health related records; and
 - working with other interested third parties, experts or contractors to develop a framework for future work such as schemes of arrangements/medical assessment processes.

In addition, the SP may be required to make use of information from other interested third parties, independent parties, co-defendants, insurers, internal and external auditors etc, such as reports, findings, opinions, briefings and management information ("MI") and to deploy this information in advice to DESNZ and the CLU.

Parliamentary support: The SP must be able to provide ongoing and proactive parliamentary support activities to DESNZ. This includes, but is not limited to, providing written contributions for briefing for Ministers, occasional oral briefing to Ministers and support in managing external scrutiny by bodies such as the House of Commons Public Accounts Committee or the National Audit Office.

Service requirements for strategic advice for coal and non-coal health related matters

- to provide strategic advice to DESNZ, as a defendant, across a wide range of policy areas in relation to both coal health and non-coal health areas.

- to provide proactive strategic advisory services alerting DESNZ to new risks in a timely fashion.
- to conduct regular horizon scanning exercises of developments in the legal field to identify issues and challenges which may impact on the current or future coal health compensation profile of work outside of the group litigation areas or which DESNZ should factor into its strategic thinking. A formal report on conclusions of horizon scanning is required at least annually. NB this is in addition to the horizon scanning referenced in Section 1 above.
- to provide suitable resources with appropriate skills who are capable of looking beyond the day- to-day operational processes to assess also the current and future 'big picture' view and make the wider linkages across the entirety of the work profile and DESNZ' role as a defendant.
- to provide DESNZ with ad hoc updates addressing developments in personal injury law and practice.
- lead discussions, workshops, training sessions, briefing sessions, meetings and negotiations with either DESNZ and / or other interested third parties to review strategic matters on the conduct of litigation, to include potential co-defendants and their insurers.
- to deliver advice which represents VFM to DESNZ and does not look to seek unnecessary additional work for the SP where it is not justified.
- to provide both individual and all-encompassing advice taking account of legal parameters in England & Wales, Scotland and potentially internationally, and takes into account wider HM Government ("HMG") interests.
- to ensure that all advice is clear, concise and provides definitive views for review by DESNZ whilst demonstrating a full range of options have been considered.
- to ensure that all advice is written in plain English, understandable by a non-legal audience and can be used to inform Ministers and other interested third parties.
- to ensure appropriate use of counsel.
- to ensure that all advice is relevant to the work of DESNZ and takes into account wider HMG interests.
- to work collaboratively with other interested third parties where appropriate as directed by DESNZ.
- to ensure that lessons from the past are learned and clearly factored into future strategic advice.
- to provide a robust system for dealing with Freedom of Information and Data Subject Access requests within any statutory or other timeframes agreed with DESNZ. Any requests received directly by the SP must be forwarded to DESNZ within a day of the date of receipt for agreement on how they will be handled.
- to demonstrate robust arrangements are in place to ensure liaison and collaborative working with other colleagues at the SP to provide wider legal support to DESNZ where appropriate and to ensure a fully joined up and integrated service.
- to ensure lessons from transactional work are learned and provide appropriate and pro-active strategic advice on this cohort of work.
- avoid conflicts of interest wherever possible. This is a single service provider contract. Whilst conflicts cannot always be avoided these should be kept to a

minimum. Any conflict of interest will need to be reported to DESNZ immediately it becomes apparent.

SECTION 3: CLAIMS HANDLING AND ASSOCIATED SERVICES

Objectives

- To ensure all current and future claims and payments are fully, correctly and proactively processed
- Manage from claim intimation to closure according to relevant legal requirements, appropriate legal guidelines, legislation or any relevant schemes or agreements which govern them or where appropriate in accordance with the application of common law principles, court orders, protocols, processes and procedures. This applies to current and future requirements, legislation, agreements, court orders, protocols, processes and procedures.
- To ensure that the requirements of the legal jurisdictions of England & Wales and Scotland are considered and applied as appropriate.
- To ensure DESNZ and its contractor(s) are, and are seen to be, operating in a fair and transparent way consistent with its obligations as a defendant, but balancing the interests of the claimant, taxpayer and other interested third parties.
- To ensure all co-defendant interests and potentials for recoveries, indemnities and contributions are pursued and DESNZ' interests protected throughout.
- To ensure that all the services provided are fit for purpose, efficient and effective.
- To ensure that all the services are cost effective and that providing VFM for the Department is a key driver.
- To work proactively with, and support, relevant parties in managing claims and strengthening the wider team culture with DESNZ and its contractors.
- To ensure a robust and appropriate operational framework and quality management system is established for managing all current and future claims
- To ensure that the operational processes and systems minimise the timeframes to settle or close claims.
- To ensure that new processes and procedures are agreed with DESNZ and implemented in a timely manner.
- To initiate and maintain, with the agreement and approval of DESNZ, a programme of continuous process improvement throughout the duration of the contract.
- To ensure appropriate operational and policy support and resources across the entirety of the requirements.
- To deliver appropriate MI and forecasting reports in a timely manner to DESNZ.
- To ensure there is sufficient flexibility within the SP's business in order to be able to ramp up and ramp down as necessary, in response to the fluctuations in the volume and frequency of claims received.
- To develop and maintain a corporate knowledge of the operations of BCC and of the transfer of any liabilities on privatisation and into government within the SP's team.

It is essential that the SP has in place a solid framework in which to manage all elements of the claims handling process including adequate and suitably qualified and trained resources; robust case recording and tracking management systems, and transparent management reporting to DESNZ.

A summary of current claim types and number of cases is annexed to this Invitation to Tender document. Annexed are the latest actuarial reports commissioned by DESNZ in relation to its potential coal health liabilities (See Annex 2).

Service requirements for claims handling

The SP must ensure that it meets all of the aims and objectives set out above as part of managing all the liabilities which may arise. The SP must put in place a clear and effective framework for handling any current work in progress ("WIP") or future claims. The SP will work in accordance with current and future legislation, English & Welsh/Scottish legal requirements, agreements, court orders, protocols, processes and procedures. Where these do not adequately provide instructions for the handling of an existing or new area of operations, the SP will work with DESNZ, Counsel, contractors and other parties as necessary to develop, agree, document and implement such instructions. The SP must at all times ensure that all the services are fit for purpose, efficient and effective. In particular, the SP must ensure that all the services are cost effective and provide VFM for the Department.

Lifecycle of a Claim (Overview):

At a very high level, most claims follow a similar process, namely:

- Register the claim and provide a reserve estimate.
- Investigate the claim.
- Determine the liability.
- Make an offer or denial.
- Pay the damages.
- Pay the costs.
- Close the claim.
- Transfer details to Iron Mountain.

The specification contains lower levels of details, but all the processes are subject to change and should be used to support the SP's own detailed technical understanding of handling personal injury claims. Within each stage, some processes may be iterative and repeated until all evidence and information is available to make a decision or move the claim to the next stage. Where relevant, DESNZ expects the SP to provide advice on new approaches to claims handling which will enable it to manage its risks proactively and in a way which is consistent with our obligations as a defendant.

For claims that do not fit existing disease categories there may be a requirement to undertake some investigation, for example, to determine the potential liability against DESNZ for a particular disease or industrial injury. This may include the gathering of information about an alleged condition, as well as the potential number of former BCC workers who may be affected by this condition where it is a new disease being pursued.

- Registration of Claim and Reserve Estimate:
- register the claim on the SP's claims management system within 3 working days of receipt
- notify the Claimant's Representative ("CR") within 5 working days of receipt of the claim or such other period required by any prevailing pre-action protocol
- all claims must be accurately registered and quality checked to ensure all information is correct

- set an initial reserve amount, which is an estimate of the damages, CRU etc, and CR costs if liability for DESNZ is established
- record all reserves in the SP's case management system
- register the claim with CRU within 5 working days of receipt of the claim and maintain up to date CRU certificates throughout the lifecycle of the claim

Investigate a Claim:

- Following registration, the claim must be fully investigated in order to determine liability. This may include, but is not limited to:
- requesting further information from the CRs
- identifying and retrieving relevant records from DESNZ's records holders (Iron Mountain) and any other third party as may be relevant
- obtaining expert evidence (medial and or technical) as may be appropriate
- identify potential co-defendants and notify of them the claim and or the potential to seek a contribution/indemnity as appropriate NB any conflict of interests identified will need to be notified to DESNZ at this stage.
- identification, tracing, contracting of witnesses and other relevant third parties and obtaining witness statements as necessary.

Determine Liability (including third party liability):

In the light of evidence, it must be determined whether or not DESNZ is liable for the claim and what admissions may be appropriate, subject to any delegated authorities (current scheme of delegation is annexed to this Invitation to Tender document, see Annex 10)

Where no liability is established, the details must be documented and a suitable robust denial letter issued to the CR.

For cases where liability is established, the SP must make a decision on the extent of liability (to include any apportionment with any potential co-defendant) and make an offer, or a request for additional information, within a standard timeframe of receipt of a claim or supporting medical evidence and in accordance with any level of delegated authorities.

The SP should consider the appropriate application of the Limitation Acts as a defence.

The SP must prepare defence documents, pre-trial case evaluations and case budgets for signature by DESNZ or the SP as agreed.

In co-defended cases liaise with the representatives of any co-defendant to ensure that DESNZ' contribution to any claim is only at a level that is commensurate with its share of liabilities and take all steps to protect DESNZ' interests in that regard.

Advise as to the potential for recovery of some or all of DESNZ' outlay from a third party which was not a party to the original proceedings and or a co-defendant in the claim. The prospect of such recoveries should be considered by the SP and the decision as to whether or not to seek a contribution/indemnity documented and agreed with DESNZ.

BCC operated a number of subsidiary businesses over time. Many of those were privatised and liabilities as between BCC and the subsidiary were documented. In addition, BCC provided a form of self-insurance for some of those entities until either commercial insurance was put in place or the entity was privatised. The SP will make itself familiar with those

agreements and insurance arrangements and seek indemnities and or contribution as appropriate. A list of the relevant subsidiaries is in annexed to this Invitation to Tender document (See Annex 6) along with details of any agreements reached on liabilities and or insurance arrangements, where known. The SP will keep a record of all indemnities claimed and recovered against the relevant entities for reporting purposes.

Make Offer:

An offer must only be made where the SP has established liability and where that offer is within the level of any delegated authority or with the prior approval of DESNZ.

Where liability is established, all relevant evidence must be gained in order to make a full and fair offer consistent with DESNZ' obligations and objectives.

Relevant certificates must be requested, completed and returned to CRU.

Obtain all necessary further information regarding co-defendants and enter into negotiations with them (see above).

Pay Damages:

DESNZ and the SP will agree in the contract the time limits for payment of settled claims.

Meet requirements of any court orders/agreements for payment

Discharge CRU/NHS charges in accordance with statutory requirements

Avoid the payment of any unnecessary interest and or additional liabilities under court rules etc. The SP will be required to bear the costs of any such liabilities or interest that accrue as a consequence of delays or inaction on its part.

Pursue co-defendants and third parties for any indemnity/contribution to damages and or costs

Agree and Pay CR Costs:

Negotiate CR costs within delegated authorities, or within limits agreed by DESNZ.

Deal with assessment of costs (summary and detailed assessments) in accordance with the applicable court rules from time to time

Deal with costs budgeting rules and orders as applicable.

Pay the CRs costs in accordance with any agreement and or court order

Avoid the payment of any unnecessary interest and or additional liabilities under court rules etc. The SP will be required to bear the costs of any such liabilities or interest that accrue as a consequence of delays or inaction on its part.

Close Claim and Archive:

Claims can become closed for a number of reasons including: the claim is settled, the claim is withdrawn, the claim becomes litigated, or the claim has been denied and the claimant has either accepted the decision or there is no response to the denial letter. In all cases, the case should be closed, claims systems updated and all papers/records filed accordingly with the SP and transferred electronically with DESNZ' records manager as appropriate, within six months of the closure date. For these purposes, "the closure date" is the date by which the

case has concluded, the claims systems have been updated and all account balances have been cleared.

Payment administration:

The SP is required to manage all payments made to claimants or their representatives in respect of claims handled. All payments made on behalf of DESNZ in connection with the claims must be made within the relevant delegations and/or approved by the appropriate official

The SP will operate a system of funding requests, notifying DESNZ of funding required for claim payments to be issued. The SP is also required to perform a monthly bank statement and cashbook reconciliation exercise.

Satisfactory audit and management checks must be carried out by the SP to guarantee a secure and robust payments process.

Disputes:

Disputes may occur throughout the process. All disputes on individual claims must be managed in accordance with relevant dispute procedures or protocols. The SP must take a proactive and suitable approach, taking account of VFM and DESNZ' wider obligations as the defendant. The SP must provide advice, guidance and support on ADR as appropriate.

Stalled Claims:

The SP will have to deal with claims that are inactive ("stalled"). SP must have appropriate procedures for managing stalled claims consistent with DESNZ' obligations as a defendant.

Policy Issues:

The SP must proactively identify, manage and seek to resolve all policy matters arising in conjunction with DESNZ.

Litigated Claims:

A claim can become litigated at any point, although the overall objective is to avoid the costs of litigation where it is not in DESNZ' wider interests. The SP must consider the broader implications of any action, for example, acceptance of liability in respect of one claimant which may have an implication for a wider cohort of claimants. DESNZ is prepared to litigate where the case is clearly setting new benchmarks or wider precedents.

The SP must ensure that all claims are investigated and manage the claim in accordance with the Civil Procedures Rules and Practice Directions for civil litigation, and follow the Pre-Action Protocol for Personal Injury Claims and the Pre-Action Protocol for Disease and Illness Claims:

The SP must follow and comply with the Compensation Act 2006. The SP must ensure full awareness, understanding and appropriate application of all legislative changes and developments in the industrial personal injury sphere, and in respect of current and future key judicial decisions.

The proactive management of litigated claims will also include the following:

- Confirming that all details relating to proceedings are accurate such as date of issue and defendant.
- Completing an early case evaluation which may include reviewing the claim form; schedule of loss; consideration of liability; possible partial acceptance of causation /quantum.
- Set and keep under review reserve amount, which is an estimate of the damages, CRU etc, and CR costs.
- Managing the process of the appointment of Counsel.
- Drafting of the defence.
- Commissioning additional medical evidence;
- Appropriate liaison and advice to third parties such as engineers, expert witnesses and Counsel prior to case hearings or case specific trials.
- Discussing and agreeing the tactics and strategy for Court proceedings.
- Management of all the relevant interested third parties.
- Settling all relevant costs.
- To ensure all co-defendant interests and potentials for recoveries, indemnities and contributions are pursued and DESNZ' interests protected throughout
- Archiving the claim.

The SP must take account of any special arrangements for individual diseases or industrial injuries, for example special arrangements which apply for the handling of Mesothelioma claims. The SP is also required to ensure that differences in Scottish law from English and Welsh law are considered and acted upon accordingly. The SP must adhere to the timetables and procedures in each Court as appropriate.

Alternative Dispute Resolution:

DESNZ is open to the use of alternative dispute resolutions ("ADRs") as a method of settling claims by way of mediation, adjudication, arbitration, conciliation and ombudsman schemes, where appropriate. The SP will be required to provide proactive advice, guidance and support ADRs where this is deemed to be an appropriate option for DESNZ to consider.

SECTION FOUR: GOVERNANCE, MANAGEMENT AND

CONTROL Introduction

The purpose of this section is to specify what is required of the SP in relation to services which support the overall governance, management and control of the contract. The areas covered are:

- Staff and resource management
- General governance to cover quality management, audit, risk, business continuity and disaster recovery, financial management and fraud prevention and management
- Data handling and Information Technology
- Management Information and Reporting
- Transition and exit planning

Objectives

- To ensure there is a robust framework for governance, management and control which delivers efficient and effective services.
- To maintain sufficient numbers of appropriate and suitably qualified staff across the entirety of the contract.
- To ensure that quality is built into all aspects of the claims handling process and legal advice work.
- To have a strong and effective risk management and audit culture and framework in place.
- To have suitable business continuity processes and procedures in place.
- To have a business continuity and disaster recovery plan ("BCDRP") in place.
- To ensure robust financial management procedures and systems are in place which will withstand external scrutiny, including by the National Audit Office ("NAO") or His Majesties Treasury ("HMT").
- To have clear audit trails for all financial transactions, invoicing and supporting documentation.
- To understand and manage the risks of fraud, deter, detect and prevent fraud from occurring.
- To demonstrate continuous improvement throughout the contract.
- To demonstrate existing robust, tried and tested IT infrastructure.
- To ensure the integrity and security of all records and data held by the SP.
- The provision of accurate MI and forecasting within specific timescales.
- To deliver a seamless transition from the existing SP with minimum impact on claims, litigation, productivity and quality.
- To demonstrate a credible exit plan when the contract comes to an end; and
- Overall, be able to demonstrate VFM.

Service requirements

Staff and resource management: The SP will be required to maintain sufficient numbers of appropriate and suitably qualified staff across the entirety of the contract; These staff must have the experience of delivering similar personal injury and industrial disease contracts and suitable training and support for all staff will be maintained through the life of the contract. The SP must always maintain effective oversight and supervision of team members.

The SP will specify a contract lead and will identify a core team for the delivery of the contract. The contract lead and core team will provide strong leadership, demonstrate strategic thinking and an overall understanding of DESNZ and CLUs aims and goals. Any changes to the contract lead and or core team must be notified to CLU and agreed with them in advance. CVs for the contract lead and the core team must be provided along with an overall organigram identifying the key operational areas and the resources that will be deployed to those areas to deliver the contract when the contract commences. The SP will be expected to manage the stability, continuity and succession planning of the contract lead and the core team over the life of the contract.

In line with the Pricing Schedule, DESNZ would expect that the correct grade of resource is used appropriately for handling claims.

The profile of DESNZ' work will fluctuate over the life of the contract. The SP must demonstrate

its ability to manage those peaks and troughs in a proactive way. The ability to react quickly to changes in demand must be demonstrable.

It is believed that TUPE will apply to the contract. Annexed to this Invitation to Tender document is a list of individuals and relevant details in respect of those that the current SP believes will be in scope for transfer See Annex 11. However, DESNZ shall not be held liable for the accuracy of the information provided as part of this tender process – the tenderer is expected to fully inform himself of all liabilities relating to TUPE.

General governance including quality management, audit, risk, business continuity and disaster recovery, financial management and fraud prevention and management

The SP must provide all the proper management and controls as stated. It must ensure changes in operational policy are accurately communicated to all relevant staff within an appropriate timeframe as agreed with the Department or directed by the Court (if relevant), but no longer than within one week of notification/agreement (unless otherwise agreed or required).

The SP must ensure that a robust and appropriate quality management system is in place and is embedded throughout its organisation. Quality checks must be in place to ensure that all elements of the service are completed accurately All codes and standards of professional conduct must be adhered to.

DESNZ retains the right to audit the services provided by the SP. The SP must proactively support and co-operate with all audit activity. The SP must provide details of its own internal audit procedures and how they will be deployed to the contract.

The SP must have in place robust procedures to identify and analyse risks to the service delivery and the steps taken to mitigate those risks. The SP must maintain a risk log and make it available to DESNZ upon request. In connection with the claims and litigation faced by DESNZ there will be risks associated with the effective delivery of those claims and the associated services. The SP must maintain a separate risk log relevant to those risks and that must accompany the contract management report referenced below under “management information and reporting” and be agreed with DESNZ

The SP must have in place business continuity and disaster recovery plans. The SP must ensure that any downtime and disruption as a result of IT or other such failure is kept to a minimum, and if unplanned disruption does occur, it must be dealt with promptly and efficiently. For the avoidance of doubt, DESNZ will not pay for any time resources spent in completing a manual work around for a failure. The SP must also ensure DESNZ is kept updated regarding any event causing the Business Continuity and Disaster Recovery Plan to be implemented and advise on any impact on delivering the contract. DESNZ reserves the right to see both the SP's specific Business Continuity and Disaster Recovery Plan relating to this contract, if relevant, and the wider organisation's plan.

A key Government objective is to deliver VFM across all of its contracts. The SP must have robust financial management processes and systems in place which are fully transparent and auditable. The SP may also be required to provide information for other interested parties such as the National Audit Office.

The SP must ensure that all financial matters are managed and dealt with to a high degree of probity and in accordance with the levels of delegated authority and procedures agreed by DESNZ. The SP will pay damages and CR costs from DESNZ' Government bank account dedicated for this activity and will be required to operate that account in accordance with

HMG guidance. Details of the current procedures are annexed to this Invitation to Tender document and a high level summary is in section 3 above.

The SP must be able to produce regular and ad hoc reports to meet DESNZ' requirements. In particular the SP must be able to produce a reliable forecast of expected expenditure (by Government financial year) and total expenditure by disease type (including damages, CR costs and defence costs) to feed onto DESNZ' financial monitoring reports. The forecasting reports are required to be produced twice in each year within 10 days of the end of March and the end of November, but such reports also maybe requested on an ad hoc basis. The Autumn financial report is enclosed within the Jaggaer even and more information is at Annex 9.

DESNZ operates a process of delegated authorities. A delegated authority letter will be sent on a regular basis (usually annually) to the SP's account/contract manager. This will specify the limits for payments and expenditure that they can commit or certify on behalf of DESNZ. The SP's account/contract manager can further delegate the authority granted to appropriate staff within the SP as it is considered necessary for the efficient management of the expenditure or receipts for which they are responsible. The SP must ensure that it follows the delegated authority procedures as specified within DESNZ' letter. The latest copy of the Delegated Authority letter is annexed to this Invitation to Tender document (See Annex 10).

The SP is liable to indemnify DESNZ for any judgment debt interest that might fall due where the SP, its staff or agents have failed to make a compensation payment within either agreed timescales or in accordance with any court order. The SP must report any such instances to the CLU.

The SP must have a regular reporting system to identify any overpayments so that the DESNZ can apply an adequate policy for recovering and write off. The SP must ensure a suitable mechanism is in place to prevent such overpayments but, where they do occur, to report overpayments with clear information about amount, disease (e.g., mesothelioma, NIHL) type (damages/solicitors' costs) and reason for overpayment (error, policy decision, fraudulent activity). In conjunction with DESNZ, the SP must develop a clear policy and system to deal with and report on overpayments in terms of recovering, writing off, fraud investigations and prosecutions, etc.

The SP must have robust procedures in place to prevent, identify and address any instances of fraud, whether external or internal, associated with the contract. The SP will have a fraud protocol for the contract and will produce a copy of the same to CLU at the outset of the contract. That fraud protocol will be reviewed at least annually and any development of it or alterations to it will be agreed with CLU. All instances of fraud will be reported to CLU within 2 working days of being identified and a plan for addressing the fraud will be agreed with CLU.

Arrangements must be put in place to ensure that all contact with the media is referred to DESNZ' Press Office via the DESNZ Contract Manager and/or Head of CLU. The SP must provide any information requested by DESNZ in order to inform its response to media queries and ensure it does so accurately and within required timeframes which will be agreed with DESNZ but are typically driven by requirements beyond DESNZ' immediate control.

Data handling and Information Technology

The SP must adhere to the government's data policies, procedures and guidance of the day.

All personnel working on the contract must be security cleared to at least "baseline personnel security standard".

The SP must have a process in place to identify, log and report immediately to DESNZ all unauthorised and unlawful accessing and processing of personal data, and accidental loss or destruction of, or damage to, personal data.

All data transferred (including any email communications and their attachments) must be transferred securely and with appropriate encryption.

The SP is responsible for making all individuals who obtain access to third parties' data related to DESNZ business (e.g., Counsel, Court staff and expert witnesses) aware of, and insofar as it is possible ensure adherence to, their data handling responsibilities through the process of engagement of these resources and through regular reminder of their obligations.

The SP will be responsible for providing robust, secure and adequate information technology to support the contract. The SP will operate a case management system to handle claims and litigation. All post must be scanned within two days of receipt and uploaded to the SPs case management system. All email and other electronic communications will be uploaded into the SPs case management system. The SP will provide a full description of its case management system(s) to DESNZ.

The majority of communication is via written correspondence from CRs, regarding the handling and progression of claims. The SP must manage all communication and correspondence efficiently and effectively. The SP must ensure that it has a dedicated postal address for all external written communication from third parties. This address must be specific to this contract to enable correspondence to be clearly identified and handled in accordance with the SP's Service Requirements under the contract. There must be a robust process for handling all incoming and outgoing post.. The SP must clearly and openly communicate its postal address, telephone and fax numbers and email addresses for general enquiries. It must also manage its own internal communication effectively to ensure consistent and accurate information is received by DESNZ and third parties.

The SP will provide a dedicated enquiry telephone number for verbal communications and queries from claimants, their CRs and from third parties. The number must be manned between normal business hours.

DESNZ requires that all IT assets deployed to the contract be accredited to applicable government standards. Details of the current standards are annexed to this Invitation to Tender document. The SP will be required to provide an initial compliance certificate at the commencement of the contract and annually thereafter.

The SP must ensure that all of its data storage and handling policies comply fully with relevant UK and any other relevant security guidelines, which may change from time-to-time. In particular, the SP must adhere to the requirements of the GDPR and support the Department in its compliance when processing Personal Data. The SP must ensure that its own data handling policies and procedures are designed and operate effectively, ensuring that the security and integrity of this data is maintained at all times. At the beginning of the contract and subsequently on an annual basis, the Department will ask the SP to undertake a self-compliance check review against the 33 requirements for data handling and security. A copy of the 33 requirements and compliance matrix is attached at Annex 8. The Department reserves the right to deploy short notice Audit checks to confirm the information provided in the self-assessment compliance response.

Management Information and Reporting

There must be a robust framework for managing and reporting MI required by DESNZ. Specifically, in relation to claims handling progression and management, all non-litigated and

litigated claims should be tracked in detail so that accurate MI can be provided to all interested parties in a timely manner. Reasonable steps must be taken to ensure that all agreed deadlines are met. As part of managing and monitoring the claims, as well as the provision of accurate MI, the SP is required to ensure that all data on its claims management system is accurate and up-to-date.

The SP must provide an MI report covering all the activities, and in a form approved by DESNZ, quarterly. The current format for MI reporting is annexed to this Invitation to Tender document but the SP is able to propose its own format and content. The SP should produce a form of MI that it proposes when submitting its bid and for agreement with DESNZ. The information contained in the reports must be accurate and the SP must conduct periodic internal audits to ensure that this is the case. DESNZ reserves the right also to audit data accuracy and change the structure of the report and the type of MI required based on operational needs.

The SP must attend (and provide the secretariat for) an annual contract and operational review meeting with DESNZ representatives, and provide a contract management report, MI reports, Horizon Scanning and Efficiencies Reports and other information for the meetings as DESNZ shall reasonably require. An interim report will be required at six months (not including Horizon Scanning and Efficiencies).

Transition and exit planning

In order for the contract to be fully operational by 1st August 2023 it is essential that the SP plans a period of transition to be discussed and agreed in advance with the CLU once the SP has been selected. DESNZ envisage a handover period of six months between the SP and the current SP, with some cross over in service provision.

The SP will be required to present a mobilisation plan for the seamless transition from the existing SP. The SPs transition plan will cover:

- The transition of claims (WIP)
- The transition of any major litigations
- The transition of knowledge, history and corporate information
- Any TUPE steps
- The migration of data
- Steps required to meet any standards etc required by DESNZ in connection with the delivery of the service
- Communications with all stakeholders

The SP will be required to produce an indicative exit plan for the conclusion of the contract. This plan will set out the broad headlines for the transfer of any extant claims, the archiving of any concluded claims and the transfer back to DESNZ of all corporate documents obtained or created during the operation of the contract.

Social Value

As of 1st January 2021, the Social Value Model is applied to all procurements. The Social Value Model can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/921437/PPN-06_20-Taking-Account-of-Social-Value-in-the-Award-of-Central-Government-Contracts.pdf

The Social Value questions require the Supplier to demonstrate what they will do to meet the Social Value Criteria within this contract rather than their company policy.

The Social Value criteria that will be assessed during this procurement are:

- Tackling Economic Inequality – Creating new businesses, new jobs and new skills
- Fighting Climate Change – Effective stewardship of the environment including how you would assist DESNZ in reaching their Net Zero target
- Providing equal opportunities (e.g .tackling workforce inequality or reducing disability employment gap)

Key Performance Indicators (KPIs)

The Supplier will be expected to track and report on their performance in line with the following Key Performance Indicators for this Contract:

If any of the agreed KPIs are classified as being Requires Improvement, then the Supplier will be required to provide an improvement plan, mitigating against further failure of performance. If any of the agreed KPIs reach Inadequate stage, at DESNZ' discretion, the contract may be suspended or terminated.

Under the Cabinet Office's contract classification, the current incumbent contract is classified as 'Gold' level. This means, on a quarterly basis, three agreed KPI ratings are uploaded onto the Cabinet Office website, thus into the public domain. The three KPIs to be published under any resulting contract under this procurement shall be agreed and discussed with the service provider.

Please note – Social Value KPIs shall be agreed following contract award and shall be based on the winning bidder's tender submission.

Mobilisation Period Key Performance Indicators

KPI Ref. No.	KPI title	Frequency	What is being measured	Timescales to be met	Performance Target				Source of KPI measurement data
					Good	Approaching Target	Requires Improvement	Inadequate	
CLU/MOB/01	Fully ratified mobilisation plan	Following contract award	Full mobilisation plan, agreed with CLU, in place.	Within one month of contract commencement	100 %	0%	0%	0%	Agreed mobilisation plan.
CLU/MOB/02	Fully agreed Social Value KPIs	Following contract award	In line with the tender submission, fully agreed Social Value KPIs to be agreed and inserted into contract	Within one month of contract commencement	100 %	0%	0%	0%	Agreed set of Social Value KPIs
CLU/MOB/03	Financial Modelling Report (FMR) Model and Tool Development	Monthly during Mobilisation	Models and tools to be developed for FMR and agreed by CLU. All models and tools to be in line with the Government's Blue Book.	Three months following contract commencement	100 %	0%	0%	0%	Models and Tools developed by three months from contract mobilisation.

CLU/MOB/04	Delegated Authority	Monthly during Mobilisation	Provide CLU with a list of requirements and claim settle limits. Nominate approved people for payments.	Three months following contract commencement	100 %	0%	0%	0%	Full details of delegated authority provided by the supplier.
CLU/MOB/05	Handover Sessions with Incumbent	As agreed with the incumbent and CLU.	The agreed attendance to all incumbent handover sessions, as agreed with CLU and the incumbent	All meetings to occur within six months of contract commencement	100 %	0%	0%	0%	A list of all meetings attended provided by the supplier.
CLU/MOB/06	Staff Development Programme	As agreed with the incumbent and CLU.	A staff development programme, educating staff on the history of Coal Liability claims, to be developed and key training dates to have been confirmed for the initial	Three months following contract commencement	100 %	0%	0%	0%	Copy of all training material and list of key dates

			round of training					
CLU/MOB/07	Change of Supplier Notification	As agreed with the incumbent and CLU.	Notification to all claimants of a change in legal services supplier	To carried out 30 days of contract commencement	100 %	0%	0%	A copy of all claimants contacted, with dates
CLU/MOB/08	Change of Supplier Notification	As agreed with the incumbent and CLU.	Notification to all claimants of a change in legal services supplier	To carried out 30 days of contract commencement	100 %	0%	0%	A copy of all claimants contacted, with dates

Contract Term Key Performance Indicators

KPI Ref. No.	KPI title	Frequency	What is being measured	Timescales to be met	Performance Target			Source of KPI measurement data
					Good	Approaching Target	Requires Improvement	Inadequate

CLU/CON/01	Acknowledgement of Claims	Monthly	Timescales of claims acknowledgement	Claims to be Acknowledged within 21 days of receipt	90%	80%	70%	50%	Data provided by supplier demonstrating day of the submission of a claim and the day the acknowledgement was sent.
CLU/CON/02	NIHL Portal Claims	Monthly	Number of NIHL Portal Claims settled for damages or denied within 4 months of receipt of a medical report from an acceptable expert	Number of NIHL Portal Claims settled for damages or denied within 4 months period	90%	80%	70%	50%	Data provided by supplier demonstrating date of submitting the claim on the NIHL Portal and the date the claim was settled for damages or denied, following receipt of a medical report from an acceptable expert.
CLU/CON/03	Processing of Payments	Monthly	All Payments processed by the Service Provider following CLU's receipt of all information /documentation	All Payments processed by the Service Provider of damages and costs to be made within 28 days of CLU	90%	80%	70%	50%	Data provided by supplier demonstrating payments made within 28 days.

					being in receipt of all information /documentation required to make a payment					
CLU/CON/04	Financial Modelling Report (FMR)	Bi Annually	FMR to be held prior to each Spring and Autumn period, as agreed with CLU. Timescales of compiling FMR and submitting to CLU for review	FMR process to not exceed more than 8 weeks	100%	0%	0%	0%		Date of agreeing FMR with CLU and the date FMR concludes.
CLU/CON/05	Reporting Requirements	Bi Annually	Short report to be submitted each November and full contract report each May, as agreed by CLU	Agreed timescales are not exceeded and all documents sent to CLU in advance, as agreed	100%	0%	0%	0%		Agreed report submission date and the date reports are submitted to CLU.
CLU/CON/06	Horizon Scanning	Annually	A review of wider personal injury market - case law and any changes in legislation.	Agreed timescales are not exceeded and all documents sent to CLU in advance, as agreed	100%	0%	0%	0%		Agreed report submission date and the date reports are submitted to CLU.

CLU/CON/07	Monthly Management Information	Monthly	Monthly breakdown of all work completed during previous month	Full breakdown of work completed sent to CLU	100%	90%	80%	70%	Training material
CLU/CON/08	DESNZ Summer Training	Yearly	DESNZ to be provided with training on an agreed topic	Training to be agreed during Q1 of each calendar year.	100%	90%	80%	70%	TBC with the supplier following contract award. KPI to be based on tender submission.
CLU/CON/09	Social Value – Tackling Economic Inequality - Create new businesses, new jobs and new skills	Monthly	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.
CLU/CON/10	Social Value - Fighting Climate Change - Effective stewardship of the environment	Monthly	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.

CLU/CON/11	Social Value - Tackling Economic Inequality - Increase supply chain resilience and capacity	Monthly	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.	TBC with the supplier following contract award. KPI to be based on tender submission.
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Mobilisation and Transition

As per below, Tenderers are to provide a full mobilisation plan as part of their response. DESNZ envisage that the incumbent will continue with pre-existing casework for the initial six-month period, so as to ensure continuity of service. Following the initial six-month period, all pre-existing casework will be transferred to any new provider.

Following the initial three month period of the contract, it is envisaged that any new provider shall take on all new casework, allowing the initial three month period for mobilisation and familiarisation with the contract. It is expected that any new provider will work closely with the incumbent so as to ensure knowledge transfer and continuity of service is achieved. This should be considered within the tenderer's mobilisation plan.

Section 3

Evaluation of Tenders

1. Evaluation of Tenders

As indicated by the PASS/FAIL weighting in the table below, DESNZ reserves the right to exclude any tenderer which fails to provide responses to any compliance criterion, including where responses are incomplete or insufficient.

Evaluations will be carried out by at least three DESNZ staff who will select the bidder that scores highest against the criteria and weighting listed below:

Criterion	Description	Weighting
Compliance Criteria		
01	Submission of a tender response meeting the requirements of this ITT (including page limits of submissions) within the required timescales and including a completed Standard Selection Questionnaire as set out in Jaggaer event all of the required declarations as set out in Section 5 of this ITT (statement of non-collusion, form of tender and conflict of interest) and a Pricing Schedule as set out in Jaggaer event.	PASS/FAIL
02	DESNZ to determine in its sole discretion that there are no conflicts based on the information provided by the Supplier in Declaration 3 of Section 5	PASS/FAIL
03	Please confirm that you have experience in dealing with Occupational Disease casework.	PASS/FAIL Responses must not exceed 3 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.

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Please provide your responses to the technical questions in PDF format, attaching them to the relevant questions . Please ensure ALL questions are answered and that all responses reference the correct section and question number.

Information contained within embedded urls or web-links will NOT be marked.

Criteria	Weighting
Compliance Criteria	Pass / Fail
Technical Quality	50%
Social Value	10%
Price	40%

The below questions will be on the Jaggaer event and must be answered withing the Jaggaer event. Failure to do this will result in the tender response being marked as a Fail.

1. Experience, Capability and Expertise – 15% weighting

No.	Question	Question Requirement	Text Limits	Weighting (to be weighted against section weighting)
1.1	Please provide details of your firm's experience of handling Occupational Disease claims	The response should be in the form of a comprehensive statement setting the Tenderer's full experience and how this relates to the Specification	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	30%
1.2	Please provide details of the proposed team assigned to this contract including their experience of working in the field of Occupational	The response, as a minimum, should cover the following points:- <ul style="list-style-type: none"> A list of roles of those that will be working on the contract and their office location(s). 	Responses must not exceed 10 sides of A4 in 11pt Arial text. Any additional	30%

	<p>Disease.</p> <p>Please provide CVs for each team member.</p>	<ul style="list-style-type: none"> • How your organisation will ensure continuity of service for the Department in the event of staff absence • How you will ensure communication between the key staff and Department is managed • How you plan to manage the contractual relationship between both parties and the methods that would be used by key staff to ensure the success of the contract. • Details of any external support that you would require including details of potential subcontractors • How you will ensure that the staff appointed under this contract have a detailed understanding of the requirement to deliver the objectives set out in the specification • How you will ensure that you have the right resources, during the term of the contract to take into account the potential for new claims/GLOs to flex up and down. 	<p>not be evaluated. Please note, this allowance excludes CVs.</p> <p>CVs must not exceed 2 sides of A4 in 11pt Arial text for each proposed team member.</p>	
1.3	Please provide details of your experience in major litigation in relation to Occupational Disease claims.	The response should be in the form of a comprehensive statement setting the Tenderer's full experience and how this relates to the Specification.	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	20%
1.4	Please provide details of your experience in working with Government central Government	The response should be in the form of a comprehensive statement setting the Tenderer's full experience and how this relates to the	Responses must not exceed 6 sides of A4 in 11pt Arial text.	20%

	departments.	Specification	additional pages will not be evaluated.	
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2. Scope of Services – 10% Weighting

No.	Question	Tenderer Response	Text Limit	Weighting (to be weighted against section weighting)
2.1	Please provide a comprehensive method statement setting out how you would meet the relevant requirements of Major Litigation and Strategic Legal Advice, in line with the Specification.	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	20%
2.2	Please provide a comprehensive method statement setting out how you would meet the relevant requirements of Claims Handling and Associated Services, in line with the Specification.	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	20%
2.3	Please provide a comprehensive method statement setting out how you would meet the relevant requirements of Governance, Management and Control, in line with the Specification.	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	20%

2.4	Please provide an example of how individual claims (by disease type) would be considered, allocated and processed.	<p>Your response must include:-</p> <p>The methodology to be applied, and an explanation of how it will meet the requirements of the Specification, and ensure successful delivery of the contract</p> <p>The challenges of delivering the objectives within the Specification and how you will mitigate these challenges.</p>	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	20%
2.5	Please explain the methodology you would adopt to provide a specification and costings to deliver ad-hoc advice.	<p>As a minimum your response should include (but is not limited to):</p> <p>The methodology to be applied, and an explanation of how it will meet the requirements of this tender, and ensure successful delivery of the contract;</p> <p>The challenges of delivering the objectives within the specification and how you will mitigate these challenges.</p> <p>How you will ensure communication between the key staff and Department is managed.</p> <p>How you will ensure that the staff appointed to address this requirement have a detailed understanding of what is required to deliver the objectives set out in the specification.</p>	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	20%

3. Case Management – 10% Weighting

No.	Question	Tenderer Response	Text Limit	Weighting (to be weighted against section weighting)
3.1	Please describe your understanding of Claims Handling File Management Standards and how you apply this to your own claims handling processes	Your response must include the methodology to be applied, and an explanation of how it will meet the requirements of the Specification, and ensure successful delivery of the contract	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	35%
3.2	Please detail your understanding of claims process management and how you apply this in reaching decisions on liability or quantum, or on any issue that arises in relation to evidence.	Your response must include the methodology to be applied, and an explanation of how it will meet the requirements of the Specification, and ensure successful delivery of the contract	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	35%
3.3	Please detail your understanding of Group Litigation management and how you apply this in advising reaching decisions on liability and achieving cost constraint on the claimants' solicitors.	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	30%

4. Management Information – 5% Weighting

No.	Question	Tenderer Response	Text Limit	Weighting (to be weighted against section weighting)
4.1	Please provide details of how the Financial Modelling	The Tenderer should demonstrate that they fully understand and can meet all	Responses must not exceed 6 sides of A4 in	40%

	Report (FMR) process would be managed	aspects of the requirements set out in the relevant sections and sub-sections of the Specification	11pt Arial text. Any additional pages will not be evaluated.	
4.2	Please provide details of how each Actuarial would be managed.	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	40%
4.3	Please provide a list of all reports DESNZ would receive and their frequency. Please provide examples to support your response.	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	10%
4.4	How would you ensure that DESNZ were kept up-to date with latest developments, new approaches to claims handling and case law, legislation and costs updates.	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 4 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	10%

5. Transition & Mobilisation – 5% Weighting

No.	Question	Tenderer Response	Text Limit	Weighting (to be weighted against section weighting)
5.1	Please provide a comprehensive method statement setting how the	The Tenderer should demonstrate that they fully understand and can meet all aspects of the	Responses must not exceed 8 sides of A4 in 11pt Arial text.	30%

	transition and mobilisation period would be managed	requirements set out in the relevant sections and sub-sections of the Specification	Any additional pages will not be evaluated.	
5.2	Please provide a detail mobilisation plan, depicting how you would manage the transition and mobilisation period.	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	40%
5.3	Please provide details of your experience in managing TUPE transactions	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	30%

6. Innovation and Value for Money – 4% Weighting

No.	Question	Tenderer Response	Text Limit	Weighting (to be weighted against section weighting)
6.1	Please provide a detailed method statement of the innovative solutions that you would apply to this contract, ensuring all aspects of the Specification are met.	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 4 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	50%
6.2	Please provide details as to how you would ensure Value for Money is ensured throughout the lifetime of the	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of	Responses must not exceed 4 sides of A4 in 11pt Arial text. Any additional pages will not be	50%

	contract.	the Specification	evaluated.	
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7. Data Handling & Information Technology – 1% Weighting

No.	Question	Tenderer Response	Text Limit	Weighting (to be weighted against section weighting)
7.1	Please provide a comprehensive method statement setting what Information Technology would be put in place to manage this contract. In addition, please provide a detailed description of your data handling policies. Please include copies of any company policies to support your response.	The Tenderer should demonstrate that they fully understand and can meet all aspects of the requirements set out in the relevant sections and sub-sections of the Specification	Responses must not exceed 4 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.	100%

4. Social Value – 10% Weighting

No.	Question	Tenderer Response	Text Limit	Weighting (to be weighted against section weighting)
8.1	. MAC2.1	Theme: Tackling Economic Inequality Measure: MAC2.1: Create opportunities for entrepreneurship and help new organisations to grow, supporting economic growth and business creation. Award Criteria: Activities that demonstrate and	Responses must not exceed 4 sides of A4 in 11pt Arial text. Any additional	25%

		<p>describe the tenderer's existing or planned:</p> <p>Understanding of the level of Small, Medium and Large organisations and Voluntary, Community and Social Enterprises and Mutuals participation in the contract supply chain.</p> <p>Identification of opportunities to grow supplier diversity in the contract supply chain or in the location/community where the contract is performed, including SME and VCSE participation and new business creation.</p> <p>Engagement activities for potential new suppliers to the contract supply chain, prior to awarding subcontracts.</p> <p>Measures to make the supply chain working environment conducive to a diverse range of suppliers and growing businesses, including but not limited to:</p> <ul style="list-style-type: none"> - structuring the supply chain selection process in a way that ensures fairness (e.g. anti-corruption) and encourages participation by new and growing businesses. - advertising supply chain opportunities openly and to ensure they are accessible to new and growing businesses, including advertising subcontracting opportunities on Contracts Finder. - ensuring accessibility for disabled business owners and employees. - prompt payment. <p>Planned Metrics: For each of the following categories:</p> <ul style="list-style-type: none"> ○ start-ups ○ SMEs ○ VCSEs; and ○ mutuals: <ul style="list-style-type: none"> ◆ The number of contract opportunities awarded under the contract. ◆ The value of contract opportunities 	<p>pages will not be evaluated.</p>	
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		<p>awarded under the contract in £.</p> <ul style="list-style-type: none"> ◆ Total spend under the contract, as a percentage of the overall contract ◆ % of contract spend within locality and/or region of primary service delivery (in support of departmental commitments to the Levelling Up agenda) ◆ Supply Chain Engagement Index (e.g. Net Promoter Score from supplier feedback surveys). 		
8.2	MAC4.1	<p>Theme: Fighting Climate Change</p> <p>Measure: MAC 4.1 Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions.</p> <p>Award Criteria: Activities that demonstrate and describe the tenderer's existing or planned:</p> <p>Understanding of additional environmental benefits in the performance of the contract, including working towards net zero greenhouse gas emissions. Illustrative example: conducting pre-contract engagement activities with a diverse range of organisations in the market to support the delivery of additional environmental benefits in the performance of the contract.</p> <p>Collaborative way of working with the supply chain to deliver additional environmental benefits in the performance of the contract, including working towards net zero greenhouse gas emissions.</p> <p>Delivery of additional environmental benefits through the performance of the contract, including working towards net zero greenhouse gas emissions.</p> <p>Planned Metrics:</p> <ul style="list-style-type: none"> • Percentage of carbon reduction (measured in metric tonnes carbon dioxide equivalents (MTCDE) across Scope 1, Scope 2 and Scope 3 by the supplier committed within the contract at a corporate level • Supplier committed to carbon Net Zero at 	<p>Responses must not exceed 4 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.</p>	25%

		<p>a corporate level by which date.</p> <ul style="list-style-type: none"> • Percentage of decarbonisation roadmap reliant upon carbon offsetting to achieve Net Zero commitments • The establishment, implementation and tracking of an environmental scorecard which measures, inter alia: <ul style="list-style-type: none"> ○ Creation of new carbon sinks ○ Protection of carbon sinks ○ Biodiversity (in relation to flora & fauna) ○ Air quality ○ Water quality ○ Waste Management 		
8.3	MAC3.3	<p>Theme: Tackling Economic Inequality</p> <p>Measure: MAC 3.3: Support the development of scalable and future-proofed new methods to modernise delivery and increase productivity.</p> <p>Award Criteria: Modernising delivery and increasing productivity</p> <p>Understanding of scalable and future-proofed new methods to drive greater modernisation of delivery and increase productivity.</p> <p>Approach to organisational learning and continuous improvement.</p> <p>Creation of a design and tendering environment that is conducive to the development of scalable and future-proofed new methods to modernise delivery and increase productivity. Illustrative examples: outcomes-based specifications enabling alternative approaches to be offered; co-design with users and communities; approaches that invite innovative approaches to be proposed and developed; activities that promote collaboration to access new technologies/green technologies and/or approaches.</p> <p>Planned Metrics:</p> <ul style="list-style-type: none"> • Percentage annual cost reduction during 	<p>Responses must not exceed 6 sides of A4 in 11pt Arial text. Any additional pages will not be evaluated.</p>	25%

		<p>the term of the contract (i.e. commitment to achieve 2% savings per annum)</p> <ul style="list-style-type: none"> • The number of feasible ideas generated / proposed to improve productivity within the contract (supplier must provide sufficient detail in their proposals to demonstrate feasibility). • The number of generated product and/or service innovations relating to Climate Mitigation & Adaptation that have been made available to the wider market / industry • The percentage of accredited carbon literate individuals employed by the Supplier 		
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2. Scoring Method

Responses to quality criteria will be scored according to the methodology in the table below. The final score for each criteria will be calculated by applying the weighting for each criterion, outlined above. DESNZ reserves the right to exclude any tenderer that receives a score of less than 1 for any question.

Score	Description
1	Not Satisfactory: Proposal contains significant shortcomings and does not meet the required standard
2	Partially Satisfactory: Proposal partially meets the required standard, with one or more moderate weaknesses or gaps
3	Satisfactory: Proposal mostly meets the required standard, with one or more minor weaknesses or gaps.
4	Good: Proposal meets the required standard, with moderate levels of assurance
5	Excellent: Proposal fully meets the required standard with high levels of assurance

3. Scoring for Pricing Evaluation

A weighting of 40% has been allocated to Tenderer's pricing proposal.

The pricing requirements have been split as follows:-

Pricing Element	Weighting
Hourly Rates	10%
Discount Regime	10%
Reporting and Management Information Fees	10%
Noise Induced Hearing Loss (NIHL) Portal Claims Unit Costs	5%
Freedom of Information Requests	5%
Mobilisation Fees	For information only and shall not be scored.

Each weighted score shall be added up to create the total weighted score for the pricing section.

In order to ensure the most competitive option possible, DESNZ have decided to include guidelines as to the maximum hourly rates submitted as part this tender process. If tenderers do not wish to align with these guidelines, please provide a value for money statement, depicting how higher rates provide value for money to DESNZ. Failure to provide a value for money statement could, at DESNZ' discretion, be deemed as non-compliant and therefore the tender submission could potentially be deemed as invalid. ****Please note, the rate guidelines apply to England, Wales and Scottish rates but NOT to Ad-hoc advisory work outside of claims****

4. Hourly and Fixed Rate Scoring Methodology

Price will be marked using proportionate pricing. Please see the example below:

Marking proportionate to the lowest price.

Price will be scored as set out below.

A question has a maximum of 30% weighting available

The lowest priced bid will receive the full 30% all other bids will then be marked as set out below.

Proportionate Pricing scoring example

Supplier	Price	Percentage Awarded
1 (lowest bid)	£50,000	30.00%
2	£60,000	$50/60 * 30\% = 23.33\%$

3	£75,000	$50/75 * 30\% = 16.67\%$
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5. Volume Discount Proposal Scoring Methodology

Volume discounts will be scored as follows:

Discount Offered Score = 5% x (actual discount offered by tender/highest discount)

Discount Offered scoring example:

Bidder	Discount Offered	Marks
1 (highest discount)	10%	5%
2	5%	$5\% * (5/10) = 2.5\%$
3	2.5%	$5\% * (2.5/10) = 1.25\%$

6. Bid Clarification

After reviewing and evaluating the written proposals, DESNZ may decide to hold bid clarification meetings. DESNZ reserves the right not to invite Tenderers to a meeting. DESNZ shall confirm the location / method of any clarification prior to the scheduled meeting.

7. Feedback

Feedback will be given to unsuccessful tenderers within thirty (30) days of the date of award of the Contract by letter.

Section 4-Further Information on Tender Procedure

A. Definitions

Please note that references to "DESNZ" throughout these documents mean The Secretary of State for Business, Energy and Industrial Strategy acting through his representatives in the Department for Business, Energy & Industrial Strategy.

The Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR") apply to DESNZ. You should be aware of DESNZ' obligations and responsibilities under FOIA or EIR to disclose, on written request, recorded information held by DESNZ. Information provided in connection with this procurement exercise, or with any contract that may be awarded as a result of this exercise, may therefore have to be disclosed by DESNZ in response to such a request, unless DESNZ decides that one of the statutory exemptions under the FOIA or the exceptions in the EIR applies. If you wish to designate information supplied as part of this response as confidential, or if you believe that its disclosure would be prejudicial to any person's commercial interests, you must provide clear and specific detail as to the precise information involved and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. Such designation alone may not prevent disclosure if in the DESNZ' reasonable opinion publication is required by applicable legislation or Government policy or where disclosure is required by the Information Commissioner or the First-tier Tribunal (Information Rights).

Additionally, the Government's transparency agenda requires that tender documents (including ITTs such as this) are published on a designated, publicly searchable web site. The same applies to other tender documents issued by DESNZ (including the original advertisement and the pre-qualification questionnaire (if used)), and any contract entered into by DESNZ with its preferred supplier once the procurement is complete. By submitting a tender you agree that your participation in this procurement may be made public. The answers you give in this response will not be published on the transparency web site (but may fall to be disclosed under FOIA or EIR (see above)). Where tender documents issued by DESNZ or contracts with its suppliers fall to be disclosed DESNZ will redact them as it thinks necessary, having regard (inter alia) to the exemptions/exceptions in the FOIA or EIR.

B. Non-Collusion

No tender will be considered for acceptance if the firm has indulged or attempted to indulge in any corrupt practice or canvassed the tender with an officer of DESNZ. The Jaggaer event contains a "Statement of non-collusion" ; any breach of the undertakings covered under items 1 - 3 inclusive will invalidate your tender. If a firm has indulged or attempted to indulge in such practices and the tender is accepted, then grounds shall exist for the termination of the contract and the claiming damages from the successful contractors. You must not:

- Tell anyone else what your tender price is or will be, before the time limit for delivery of tenders.
- Try to obtain any information about anyone else's tender or proposed tender before the time limit for delivery of tenders.
- Make any arrangements with another organisation about whether or not they should tender, or about their or your tender price.

Offering an inducement of any kind in relation to obtaining this or any other contract with DESNZ will disqualify your tender from being considered and may constitute a criminal offence.

Section 5 -Declarations to be submitted by the Tenderer

- Declarations will be required on the Jaggaer system for the following;

- Statement of Non-Collusion
- Form of Tender
- Conflict of Interest

A DECLARATION OF INTEREST WILL NOT NECESSARILY MEAN THE INDIVIDUAL OR ORGANISATION CANNOT WORK ON THE SERVICE PROVISION; BUT IT IS VITAL THAT ANY INTEREST OR CONFLICT IS DECLARED SO IT CAN BE CONSIDERED OPENLY.

Annex A Standard Questionnaire

The standard Selection Questionnaire can be found within the Jaggaer event for completion.

Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion¹. If there are grounds for exclusion, there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning).

A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2. For example these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

When completed, this form is to be sent back to the contact point given in the procurement documents along with the selection information requested in the procurement documentation.

Consequences of misrepresentation

If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce an authority to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

¹ For the list of exclusion please see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf

Notes for completion

1. The “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.
2. “You” / “Your” refers to the potential supplier completing this standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
3. Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
4. The authority recognises that arrangements set out in section 1.2 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
6. The authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the authority is under a legal or regulatory obligation to make such a disclosure.

ANNEX 1 – Coal Health Claim Numbers Financial Year 2021 - 2022

Claims received and open in Financial Year 2021/2022

Period: 01/04/21 to 31/03/22	Claims	Open
Claim Type	Received in period	Claims at end of period
NIHL (Non-Litigated)	789	864
CIPC Scheme (pneumoconiosis)	104	49
Mesothelioma	17	40
Asbestos (Other)	7	27
COPD	12	33
Upper Limb Disorders	3	3
Other	1	3
Total	933	1,019

Note: figures do not include group claims related to Coke Workers and Coventry Homefire Group actions

ANNEX 2 – CIPCS and Disease Types

Coal Industry Pneumoconiosis Compensation Scheme (CIPCS)

The CIPCS is a no-fault scheme which came into operation on 1 October 1974. It is a private agreement between the British Coal Corporation and the three of the mining unions, namely the National Union of Mineworkers, National Association of Colliery Overmen, Deputies and Shotfirers and the British Association of Colliery Management. The CIPCS provides compensation to former mineworkers or their estates who meet a set of defined criteria and have compensable respiratory disease. There are three categories of compensation being:

- **Lump Sum Payments:** Tariffs are normally based on age at the date of onset.
- **Progression Payments:** These are paid to those who have an increase in disability evidenced by an IIDB re-assessment.
- **Loss of Earning Allowance Payments:** These relatively uncommon payments are made to former mineworkers until they turn, or would have turned, 62. In living claims, payment is subject to being in receipt of one of a number of specific benefits and verification that the relevant disease has caused an inability to work.

To qualify, mineworkers need to:

- Have been employed by BCC/NCB; and
- Have 10 years of more in the coal mining industry; and
- Be in receipt of IIDB (for a compensable disease) and/or
- In deceased claims, provide a death certificate with a relevant descriptor.

For the purposes of the CIPCS, employment with BCC/NCB extends to contractors and those that worked in BCC/NCB licensed mines. The compensable disease include:

- Pneumoconiosis, which is an umbrella term which includes asbestosis, silicosis and Coal Workers' Pneumoconiosis.
- Primary carcinoma of the lung where there is accompanying evidence of asbestosis:
- Diffuse bilateral pleural thickening

- Primary carcinoma of the lung where there is accompanying evidence of diffuse bilateral pleural thickening

Acceptance of an offer under the terms of the CIPCS means that a claimant forgoes the right to pursue a common law claim through the court. No costs are payable under the CIPCS and there is no provision to raise issues such as limitation or medical causation.

The CIPCS documentation consists of the CIPCS Agreement as it was in 1974 supplemented by:

- Various side letters and agreements
- Lump Sum Payment Tables
- Loss of Earnings Allowance Payment Tables
- A variety of forms (e.g. Claim Forms, DWP Enquiry Forms, Forms of Discharge)

Disease Types

Asbestos induced lung cancer: This cancer is distinct from mesothelioma, it occurs further to asbestos fibres lodging in the lung tissue. As asbestos was not commonly used underground, when claims arise they are normally from former surface workers.

Asbestosis: An interstitial lung disease caused by inhaling asbestos fibres resulting in damage to the lungs. Damages for this disease can be sought at common law or under the CIPCS. As asbestos was not commonly used underground and this disease is associated with intense exposure, when claims arise they are normally from former surface workers.

Bronchiectasis: A condition whereby the airways of the lungs become widened, leading to a build-up of excess mucus. There is not an established causal link between occupational exposure and bronchiectasis. Whilst such claims have been received they have been successfully defended.

Carpal Tunnel Syndrome: A condition of the hand and fingers caused by compression of a major nerve where it passes over the carpal bones through a passage at the front of the wrist. It can be caused by using hand held vibratory tools but it can also develop for a number of other reasons. Also see VWF section.

Chronic Bronchitis: A term describing a daily productive cough that lasts for 3 months of the year and for at least consecutive 2 years.

Chronic Obstructive Pulmonary Disease/Chronic Obstructive Airways Disease/Emphysema:

These are largely interchangeable terms for lung conditions that cause breathing difficulties. COPD can have a number of causes, most commonly smoking and exposure to coal mine dust. Given the way in which it manifests, recently diagnosed claims are most commonly due to smoking.

Coal Workers' Pneumoconiosis: An interstitial lung disease caused by inhaling coal dust resulting in damage to the lungs. Damages for this disease can be sought at common law or under the CIPCS.

Dupuytren's: An abnormal thickening of tissues in the palm of the hand which can be caused by using vibratory tools or by a number of other causes (for example, cigarette smoking, alcoholism, diabetes, nutritional deficiencies, medicines used to treat seizures etc). The thickened tissues may develop into a hard lump. Over time it can cause 1 or more fingers to curl (contract) or pull in toward the palm.

Mesothelioma: This is a type of cancer which develops in the organ linings. It is associated with exposure to asbestos. As asbestos was not commonly used underground, when claims arise they are normally from former surface workers.

Mixed Dust Pneumoconiosis: An interstitial lung disease caused by inhaling various dust/fibre types resulting in damage to the lungs. Damages for this disease can be sought at common law or under the CIPCS.

Nitroglycerin Headaches: Debilitating headaches caused by setting explosives for use underground and the absorption of nitrates through the skin and into blood vessels.

Noise Induced Hearing Loss: Permanent damage to the hairs within the cochlear leading to reduced hearing perception in a narrow range of frequencies caused by exposure to excessive noise.

Occupational Asthma: A chronic lung disease caused by breathing in substances at work. As there is not a causal link between coal mine dust exposure and occupational asthma, such claims are rare.

Pleural Plaques: This term is a descriptor for areas of minimal fibrous thickening of the lining of the lungs and rib cage. In England & Wales, this condition is not actionable. In Scotland, the condition is actionable and a small number of claims are received.

Pleural Thickening: This develops when scar tissue thickens the membrane lining the lungs (the pleura). There are a number of known causes, which include asbestos exposure. As asbestos was not commonly used underground, when claims arise they are normally from former surface workers. Damages for this disease can be sought at common law or under the CIPCS.

Progressive Massive Fibrosis: This is an advanced form of either CWP or silicosis. It is characterised by mass lesions and is a progressive disease. Damages for this disease can be sought at common law or under the CIPCS.

Squamous Cell Carcinoma: Cancer of the upper cells of the epidermis. Occupational exposure to coal tar and coal tar pitch may be the cause, or one of the causes, of this condition.

Silicosis: An interstitial lung disease caused by inhaling silica particles resulting in damage to the lungs. Damages for this disease can be sought at common law or under the CIPCS. Claims are most likely to emanate from such as development workers and tunnellers.

Temporary Exacerbation of Asthma: Whilst the exposure to coal mine dust cannot cause asthma, it is recognised that, in certain instances, the symptoms of asthma can be exacerbated by coal mine dust. Given the transient nature of the condition and limitation, such claims are rare.

Tinnitus: A common condition in the general population (15/20%) where the sufferer experiences ringing, buzzing or other noises in one or both ears. It is recognised that exposure to excessive noise over a prolonged period can result in its development.

Vibration White Finger: Also known as Hand Arm Vibration Syndrome. A permanent and painful numbness and tingling in the hands and arms, also painful joints and muscle weakening that is caused by using hand held vibratory tools. It is a secondary form of Raynaud's Phenomenon which can develop for other reasons other than exposure to vibration.

ANNEX 3 - Past Group Litigations

The BCRDL

The British Coal Respiratory Disease Litigation (BCRDL) is a formal group action which pre-dates Group Litigation Orders. It was initiated by order of the High Court in 1995, in order to regulate and determine claims by mineworkers (and the estates of deceased mineworkers). The claims related to a number of non-malignant respiratory diseases (primarily COPD and Chronic Bronchitis) alleged to have been caused or contributed to by occupational exposure below ground.

The trial of the lead actions (Griffiths and Others v British Coal Corporation) commenced in 1996 and Judgment was handed down in 1998. The court found in favour of the claimants in six of the eight lead claims, and established a mechanism for apportioning damages to account for pre 1954 exposure, the irreducible minimum of injurious dust and the effects of smoking. A compensation scheme (the Claims Handling Agreement or CHA), based on the Judgment and approved by the court, was commenced in 1999 and closed to new claims in 2004. Approximately 600,000 claims were processed by the CHA. The BCRDL remains in operation, under the management of a High Court Judge. It manages post CHA litigated claims (for example, from claimants who were not diagnosed with COPD until after the CHA had closed to new claims).

The Contractors Litigation

Within the framework of the BCRDL the defendants commenced contribution proceedings against underground contractors, who employed mineworkers who (as a result of the Griffiths Judgment) had valid claims against the defendants.

The resulting trial (AB and Others v Corporation) took place in 2004. It was held that the defendants were entitled to recover, from the contractors, a contribution of 30% of the damages (which individual contractors employees recovered from the defendants).

Surface Dust

In 2008 a number of former surface workers commenced proceedings, under the BCRDL, alleging that surface work alone (without any contribution from underground exposure) was causative of COPD and chronic bronchitis.

Shortly before trial Judgment was entered for the defendants when the claimants conceded that they were unable to produce evidence that the quantum of dust, generated by surface employment, was sufficient to cause injury.

The claimants were represented by Hugh James.

The Phurnacite GLO

The Phurnacite Plant, in south Wales, produced manufactured solid fuel between 1942 and 1990. In a GLO, commenced in 2009 and discharged in 2014, the claimants alleged that exposure to dust and fumes at work were causative of lung cancer, squamous cell cancer, basal cell cancer, bladder cancer and non-malignant respiratory diseases.

At a trial of the lead cases in 2012 the claimants succeeded in relation to non-malignant respiratory disease (subject to a smoking apportionment) and squamous cell cancer; and failed in relation to basal cell cancer and bladder cancer. Lung cancer claims succeeded or failed on the basis of whether individual claimants could prove that their exposure levels doubled their statistical risk of developing lung cancer. The claimants were represented by Hugh James.

Vibration White Finger litigation

The Vibration White Finger litigation was a formal group action which pre-dated Group Litigation Orders.

A large number of claims (some 25,000) were brought by several firms, led by Irwin Mitchell. A

hearing took place in the lead case, which involved nine claimants, (Armstrong and others v British Coal) in 1995 to determine certain preliminary issues. In a judgment handed down on 15 January 1996, the court found that:

1. by 1 January 1973, British Coal ought to have recognised that work with the tools complained of gave risk to a foreseeable risk of Vibration White Finger;
2. by 1 January 1975, British Coal ought to have recognised that effective precautions in the form of warnings, system and routine examinations could and should have been taken in respect of such work;
3. by 1 January 1976, British Coal ought to have recognised that effective precautions in the form of job rotation could and should have been taken.

Following an unsuccessful appeal by British Coal, the trial involving the nine lead claimants followed, judgment being handed down on 30 September 1997. The court found in favour of seven of the nine claimants. British Coal appealed once more, but the Court of Appeal upheld the first instance decisions, save for reductions being made to the damages recovered by two of the nine.

A compensation scheme (the Claims Handling Arrangement or CHA) based on these judgments and approved by the court, commenced in 1999 and closed by Order of the presiding Judge in April 2009.

The CHA was used to process the 175,000 subsequently claims received.

Miners' Knee litigation

A number of claimants alleged, that as a result of the tasks that they had to undertake in underground activities, they had developed osteoarthritis of the knee. They were represented by Hugh James.

In December 2006, a GLO commenced. A preliminary issue trial of the lead cases was heard in June and July 2010 (Davies and others v Secretary of State for Energy and Climate Change). The Judge found that actual or constructive knowledge of injury in all eight lead cases was outside of the three-year limitation period and no grounds to exercise discretion were made out in those lead cases. All the claims were struck out.

This decision was appealed to the Court of Appeal, but the appeal was unsuccessful.

ANNEX 4 - BRITISH COAL COKE OVEN WORKER GROUP LITIGATION ORDER (GLO)

This Group Litigation Order (GLO) consisted of claims for damages from former coke workers (or the estates and dependents of deceased coke workers) for damages resulting from tortious exposure to dust and fumes at work. Claims from a total of 18 former coke works, situated variously in the former coalfields of England and Wales, were included in the GLO.

The tortious injuries complained of included chronic obstructive pulmonary disease, chronic bronchitis, temporary exacerbation of asthma, squamous cell skin cancer and lung cancer. Coal Products Ltd and National Smokeless Fuels Ltd (formerly wholly owned subsidiaries of the National Coal Board and the British Coal Corporation, prior to being privatised) were co-defendants.

The GLO was made on 30 July 2015 and was discharged on 21 April 2021. When the GLO register of claims was closed to new cases on 24 May 2016 there were 379 claimants listed. All of the GLO claimants were represented by one of two firms of solicitors.

There were four primary GLO issues: apportionment for non-malignant respiratory diseases; causation of lung cancer; the determination of an irreducible minimum exposure level and quantum of damages. The first of these was agreed between the parties. The second and third of these were conceded, by the claimants and defendants respectively, prior to trial. The fourth issue featured in the single claim where damages were assessed by the court.

There were also a number of subsidiary generic issues including the appropriate date for the introduction of effective respiratory protection; the extent of contributory negligence in failing to adopt the same; contributory negligence by smoking (in lung cancer cases); the effectiveness of dust sampling methodology; and entitlement to provisional damages.

A total of 10 cases were nominated for lead case trials, four of which were discontinued in their entirety. A further four claims were settled following discontinuance of various aspects of those claims.

Two claims proceeded to trial. In one of those claims judgment was entered for the claimant and in the other judgement was entered for the defendants.

A total of 250 non-lead claimants reached agreed settlements with the defendants. The remaining non-lead claims were discontinued.

Following the discharge of the GLO a small number of cases remained as unitary actions. All damages have been settled.

Save for the costs of two settled claims, all common costs and individual costs have been discharged.

19 October 2022

ANNEX 5 - BRITISH COAL COVENTRY HOMEFIRE CLAIMS

The Homefire plant at Coventry produced manufactured fuel between 1965 and 2000. It was originally owned by the National Coal Board (subsequently the British Coal Corporation) and operated by the wholly owned subsidiaries Coal Products Ltd and National Smokeless Fuels Ltd.

A number of claims for damages have been received from former employees at the plant (or the estates and dependents of deceased employees). The claims relate to alleged tortious exposure to dust and fumes at work.

The injuries complained of include chronic obstructive pulmonary disease, chronic bronchitis, temporary exacerbation of asthma, squamous cell skin cancer and lung cancer.

To date some 60 risk assessed claims have been made, and in all cases the claimants have been represented by a single firm of solicitors.

Thus far only a single claim (which was the initial claim) has resulted in Part 7 proceedings. All subsequent claims have been dealt with on a non-litigated basis. However, the parties have utilised Part 8 Applications in order to deal with claims for costs and (in the case of living former workers) claims settled on the basis of provisional damages.

A total of 51 claims have been settled to date, and it should be noted that this figure does not include any lung cancer claims as all lung cancer claims were subsequently withdrawn.

Individual claims for costs have been agreed in 42 cases and all common costs have been discharged up to 30th of April 2022.

It is anticipated that further claims for damages may be made. Although no application for a Group Litigation Order has been made, such an application cannot be ruled out.

19 October 2022

ANNEX 6 - British Coal Corporation subsidiaries note

Over the period of nationalisation (1947 to 1994) British Coal created, owned and operated a range of subsidiary companies dealing with land ownership, the production of coal derivative products, transportation, exploration, technical and medical services. These subsidiaries were a mixture of wholly owned, non-wholly owned and joint ventures. Most were UK based although there was a limited international involvement for some of those subsidiary businesses. Subsidiaries were spun out of BCC ownership and or formally privatised at various times during the lifetime of British Coal.

The principal subsidiary businesses were Coal Products Limited (CPL) and National Smokeless Fuels Limited (NSFL) who operated the production, supply and distribution of coal products including coke and various patent fuels. As its principal wholly owned subsidiaries CPL and NSFL have featured in the major litigations the Department has been involved with and their operations continue to give rise to claims from time to time.

CPL and NSFL were previously known as NCB (Coal Products Ltd). Throughout their operation until privatisation in 1993 these were self-insured and had no recourse to commercial insurance. BCC placed a levy on the businesses to reflect what commercial insurance might have been in the marketplace and in turn provided an indemnity to CPL/NSFL in respect of claims made. From 1993 commercial insurance and the entities themselves have the liabilities for injuries occurring thereafter. There is a Memorandum of Understanding governing the relationship between the Department and CPL. There is an indemnity within the privatisation documents, provided by British Coal to CPL in respect of claims. Claims that fall within the indemnity will need to be recorded and the cap under the indemnity monitored and reported on periodically.

ANNEX 7 – Prompt Payment Letter



Department for
Business, Energy
& Industrial Strategy

Nick Sammons
Director Commercial and Operations
Department for Business, Energy &
Industrial Strategy
1 Victoria Street London SW1H 0ET

T +44 (0) 20 7215 5000
E www.DESNZ.gov.uk/contact
www.DESNZ.gov.uk

IMPORTANCE OF PROMPT PAYMENT IN DESNZ SUPPLY CHAINS

21 February 2022

Dear DESNZ Supplier,

I am writing to you today with regards to the measures the government is taking to promote prompt payment across the UK, and changes that may affect your company.

The government is committed to promoting prompt payment and supporting cash flow throughout our economy. Strong cash flow will help generate jobs, protect suppliers, and ensure we can build back better from the pandemic. As a key supplier to DESNZ please ensure that you are supporting your supply chains by paying them as quickly as possible.

As a reminder, the Public Contracts Regulations (2015) already require 30-day payment terms to be passed down the supply chain on those contracts that relate to public sector work. I know many of our suppliers have continued to make improvements in their payment performance over the past year, so please keep up the good work.

I am also writing to highlight an upcoming change in the prompt payment measures and ask that you take any necessary action in response.

Prompt Payment Measure changes from April 2022 – Supplier Exclusions

From 01 April 2022, suppliers bidding for central government contracts worth more than £5m per annum, will need to demonstrate that they pay at least **90% of their invoices to all suppliers within 60 days** in one of their previous two published payment reports, or risk being excluded from the procurement. This is an **increase** from the existing 'pass' mark of 85% in 60 days and applies to all a company's external invoices, irrespective of whether they relate to government work.

Cabinet Office has published a new PPN (08/21), detailing this change. PPN 07/20, and the 85% threshold will continue to apply until 31 March 2022. The new PPN is linked in the Annex. Please note the inclusion of this measure into in-scope selection questionnaires will be mandatory and exemption will require sign-off from a Cabinet Office minister.

Please review your performance to make sure you are up to standard and take immediate action if required.

Prompt Payment Code

If you are yet to sign up to the Prompt Payment Code (a voluntary code of practice for businesses) I encourage you to get in touch with the Office of the Small Business Commissioner to take this forward (contact details in the Annex).

The Government remains committed to paying suppliers promptly ourselves. We aim to pay 90% of valid and undisputed invoices from SMEs in 5 days and the rest in 30 days. If you are experiencing any difficulties with this, please get in touch.

If you have any questions or concerns regarding this letter, please contact the DESNZ Commercial Policy mailbox CommercialPolicy@DESNZ.gov.uk cc-ing our Commercial Policy lead Martin Hayter (martin.hayter@DESNZ.gov.uk)

Yours Sincerely,



Nick Sammons

Director Commercial and Operations

Annex - Links to Documentation

Prompt Payment Code -

<https://sbcppcportal.icasework.com/resource?id=29992&db=sbcppc>

The Prompt Payment Code (PPC) is a voluntary code of practice for businesses, administered by the Office of the Small Business Commissioner (SBC) on behalf of DESNZ. It was established in December 2008 and sets standards for payment practices between organisations of any size and their suppliers.

Small Business Commissioner - <https://www.smallbusinesscommissioner.gov.uk/ppc/>

Contact details: ppc@smallbusinesscommissioner.gov.uk

Prompt Payment Measure - <https://www.gov.uk/government/publications/procurement-policy-note-0821>.

Public Contract Regulations (2015) (113) -

<https://www.legislation.gov.uk/uksi/2015/102/regulation/113/made>

Payment Transparency and Duty to Report - <https://check-payment-practices.service.gov.uk/search>

Public Procurement Review Service - <https://www.gov.uk/government/publications/public-procurement-review-service-scope-and-remit>

ANNEX 8: DESNZ CLU Data Handling Compliance Statement : December 2022

Name of contractor:	Completed by:	Date:

1. All DESNZ/CLU contractors must have a named individual who acts as the equivalent of a Security Officer and who is responsible for DESNZ/CLU data. That individual must be a main point of contact with DESNZ/CLU and ensure that the requirements of this document (and any updates) are followed.
2. It is the responsibility of all Government Departments to implement robust data handling in line with the Department's requirements.
3. DESNZ/CLU contractors who have core Information Assets identified in section 3.2 must have the equivalent of an IAO. This person must meet all the Department's requirements.
4. All DESNZ/CLU contractors must explain and document their vetting process for new recruits and agency staff and aftercare arrangements post vetting.
5. All DESNZ/CLU contractors must provide mandatory training in line with the Department's requirements.
6. All DESNZ/CLU contractors must support any audit activity relating to data handling and act reasonably and timely in relation to recommendations identified. They will be expected to co-operate

with short notice activity relating to data handling for DESNZ/CLU.

7. All DESNZ/CLU contractors must identify, manage and take actions to mitigate any risks surrounding the storage, use, transfer, destruction and deletion of records and data in line with the Department's requirements.
8. All DESNZ/CLU contractors should have a current Data Handling Policy in place, in line with the Department's requirements.
9. All DESNZ/CLU contractors must have an Incident Management Process in place in line with the Department's requirements.
10. All DESNZ/CLU contractors must ensure that all new documents or documents being reprocessed containing Sensitive Data are electronically and/or physically labelled "OFFICIAL-SENSITIVE: PERSONAL".
11. If the files are in an electronic format then security controls should be in place such as password protection; protective marking; access restriction on the system; and/or encryption.
12. All DESNZ/CLU contractors must ensure that the use of portable storage devices is kept to a minimum and if possible not used at all. Storage devices such as USB sticks should never be used to carry important documents – they should only be used as a

temporary data store for duplicate files and used in a highly controlled way with encryption. All DESNZ/CLU contractors must ensure that any electronic records transferred to removable media devices such as CDs or USB sticks are encrypted to a standard of at least FIPS 140-2 or equivalent, in addition to being protected by an authentication mechanism, such as a strong password.

13. All DESNZ/CLU contractors must ensure that information stored in any web based system is stored securely and that any information transferred to a third party or backed-up is encrypted.
14. All DESNZ/CLU contractors must ensure all hard copy records are marked appropriately and are stored suitably and in locked cabinets where necessary. In addition contractors must have a clear desk policy for prolonged periods of absence/overnight.
15. DESNZ/CLU contractors must conduct regular user access right reviews in line with the Department's requirements.
16. All DESNZ/CLU contractors must ensure that all bulk Personal Data being sent by post must either be sent by Royal Mail 'Special delivery', secure DX or via an internal van service specific to that contractor (or courier van approved by DESNZ). Use of these services means that, if required, progress in

delivery can be tracked and traced. Records or data must be in a sealed envelope. Use of other regular postal distribution involving multiple parties and Personal Data should be agreed with DESNZ/CLU.

17. All DESNZ/CLU contractors must ensure that all media devices/data are encrypted to the FIPS 140-2 standard before they are sent. Contractors should ensure that as a minimum, either the data file or the media is encrypted to the relevant standard. The content of data drives etc should not be identified.
18. All DESNZ/CLU contractors must ensure that all Personal Data sent via email or over the internet is encrypted.
19. No data should be transferred abroad without DESNZ/CLU's prior authority. Where DESNZ/CLU contractors do send data overseas it must meet the Department's requirements.
20. All DESNZ/CLU contractors must make sure processes are in place to ensure that records are:
 - retrievable and traceable;
 - retained as long as it is needed and in accordance to the DESNZ/CLU retention policy;
 - stored appropriately with regard to the data sensitivity; and
 - appropriately disposed of when instructed by DESNZ/CLU.
21. All DESNZ/CLU contractors must ensure that all electronic records are

deleted so that they cannot be retrieved. Any magnetic media such as CD/DVDs must be completely destroyed via disintegration, pulverisation, and incineration or shredding.

22. All DESNZ/CLU contractors must ensure that all hard copy records and data are destroyed in line with the DESNZ/CLU retention policy. All Personal hard copy documents must be destroyed via shredding or the use of approved confidential waste arrangements.
23. All DESNZ/CLU contractors must have a Mobile device policy in place in line with NCSC Guidance.
24. All DESNZ/CLU contractors must have a remote access policy in place which is in line with the Department's requirements.
25. All DESNZ/CLU contractors must have an email and scanning policy in place in line with the Department's requirements.
26. All DESNZ/CLU contractors must have an internet usage policy in place in line with the Department's requirements.
27. All DESNZ/CLU contractors must complete annual risk assessments on all Information Assets identified by DESNZ/CLU in line with the Department's requirements.
28. All DESNZ/CLU contractors must enable audit logs on all systems containing Personal Data in line with the Department's requirements.

29. All DESNZ/CLU contractors must have processes and procedures in place to enable successful back-ups and ensure all systems and services are backed up regularly.
30. DESNZ/CLU contractors, who are responsible for Information Assets identified in section 3.2, must complete the Accreditation process for all relevant IT based systems subject to the Accreditation arrangements. All Accreditation assessments should be documented within the Risk Management Accreditation Document Sets ("RMADS"). The systems will then be formally accredited by DESNZ prior to live running and annually thereafter.

ANNEX 9 – Autumn FMR Documents

These can be found attached on the Jaggaer system.

Please note that, these documents have the following disclaimer which tenderers must review and accept.

The Report(s) is made available to potential legal advisors in respect of a future claims handling procurement exercise where the Report(s) is made available within a data room and is subject to non-disclosure to any other party and you use reasonable efforts to inform us prior to such disclosure

All recipients please be aware that the Report(s) was not prepared for the purpose of a procurement exercise and Deloitte owes no duty of care or liability to them and that our sole responsibility is to DESNZ as our Client.”

ANNEX 10 - Delegated Authority Letter

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Department for
Business, Energy
& Industrial Strategy

Gregor Woods
Partner
CMS Cameron McKenna Nabarro Olswang LLP
1-3 Charter Square
Sheffield S1 4HS

1 April 2022

Dear Greg,

SUB-DELEGATION OF FINANCIAL AUTHORITY
FOR THE PERIOD 2022/23

Department for Business, Energy and
Industrial Strategy
1 Victoria Street,
London SW1H 0ET
M: 07788 337484
E: keremy.cousins@ds.gov.uk
www.gov.uk

As Head of the Coal Liabilities Unit, I am authorised to sub-delegate the Department's financial powers to CMS Cameron McKenna Nabarro Olswang LLP (CMS) and its subcontractors, Harper Macleod and Deloitte as appropriate.

2. Following the transfer of the remaining health liabilities from British Coal to the Department of Trade and Industry, on 1 January 1998, and subsequently to the Department for Business, Energy and Industrial Strategy, I sub-delegate to you, in your capacity as legal adviser and claims handler to the Department, authority to commit and certify expenditure, accept receipts and process payments in connection with personal injury claims handled by CMS and its subcontractors under the Legal Services and Claims Handling contract up to the financial limits set out in Annex 1 of this letter.

3. This delegated financial authority will apply with effect from 1 April 2022 and will run until 31 March 2023 unless otherwise instructed by the Department.

4. You are authorised to further sub-delegate this authority to appropriate staff within CMS and its sub-contractors as you consider necessary for the efficient management of the expenditure and receipts for which you are responsible.

Yours faithfully,

Jerry Cousins
Head of Coal Liabilities Unit

ANNEX 11 – TUPE Liabilities

Information will be provided as soon as possible.

ANNEX 12 – MI Template

The MI Template can be found in the Jaggaer event.

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;

"Maximum Permitted Profit Margin" means the Anticipated Contract Life Profit Margin plus 5%;

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 the first 3 years following the Start Date (the date of expiry of such period is a **"Review Date"**). After this 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 least three (3) Months' 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;]
- 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;

7. When you will be reimbursed for travel and subsistence

7.1 Expenses shall only be recoverable where:

7.1.1 the Time and Materials pricing mechanism is used; and

7.1.2 the Award Form states that recovery is permitted; and

7.1.3 they are Reimbursable Expenses and are supported by Supporting Documentation.

7.2 The Buyer shall provide a copy of their current expenses policy to the Supplier upon request.

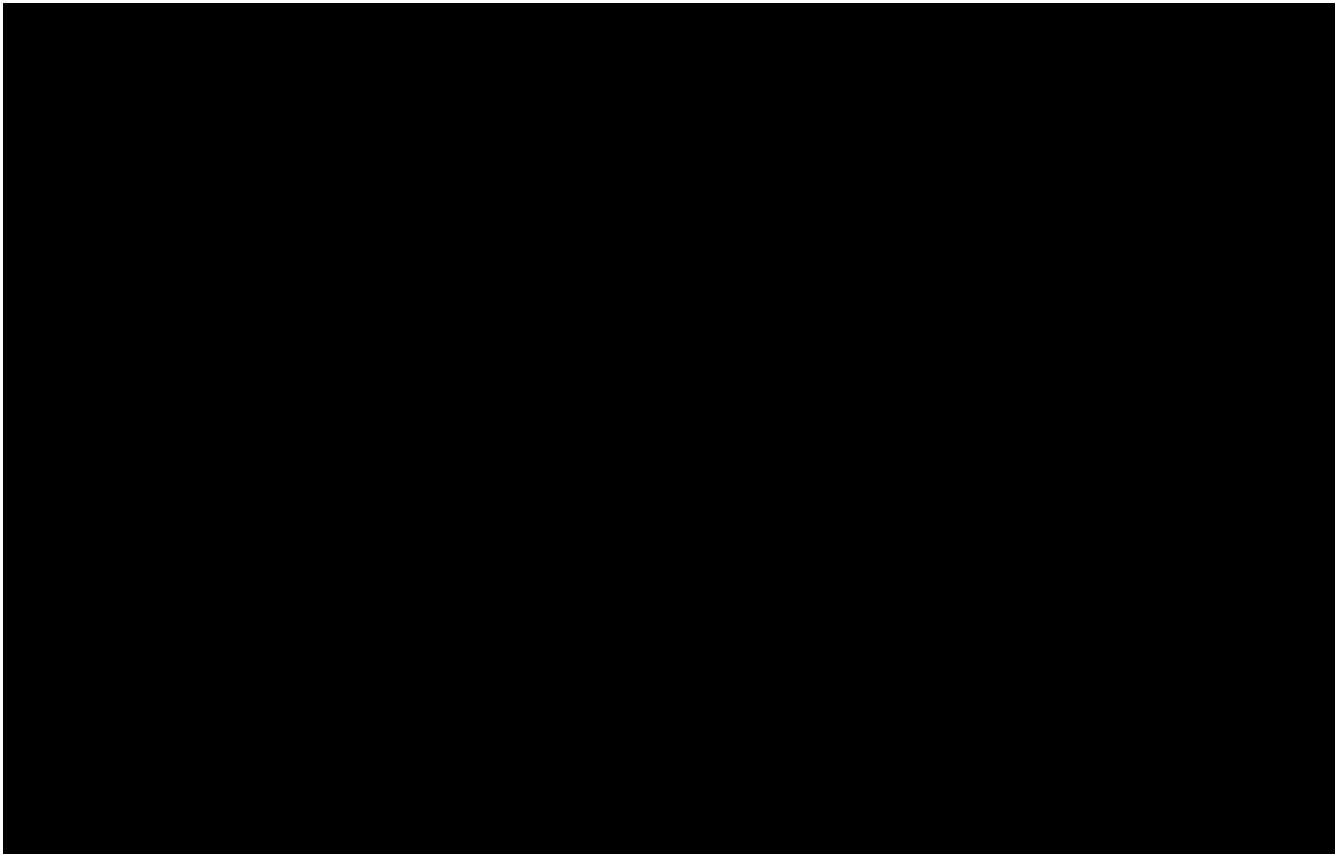
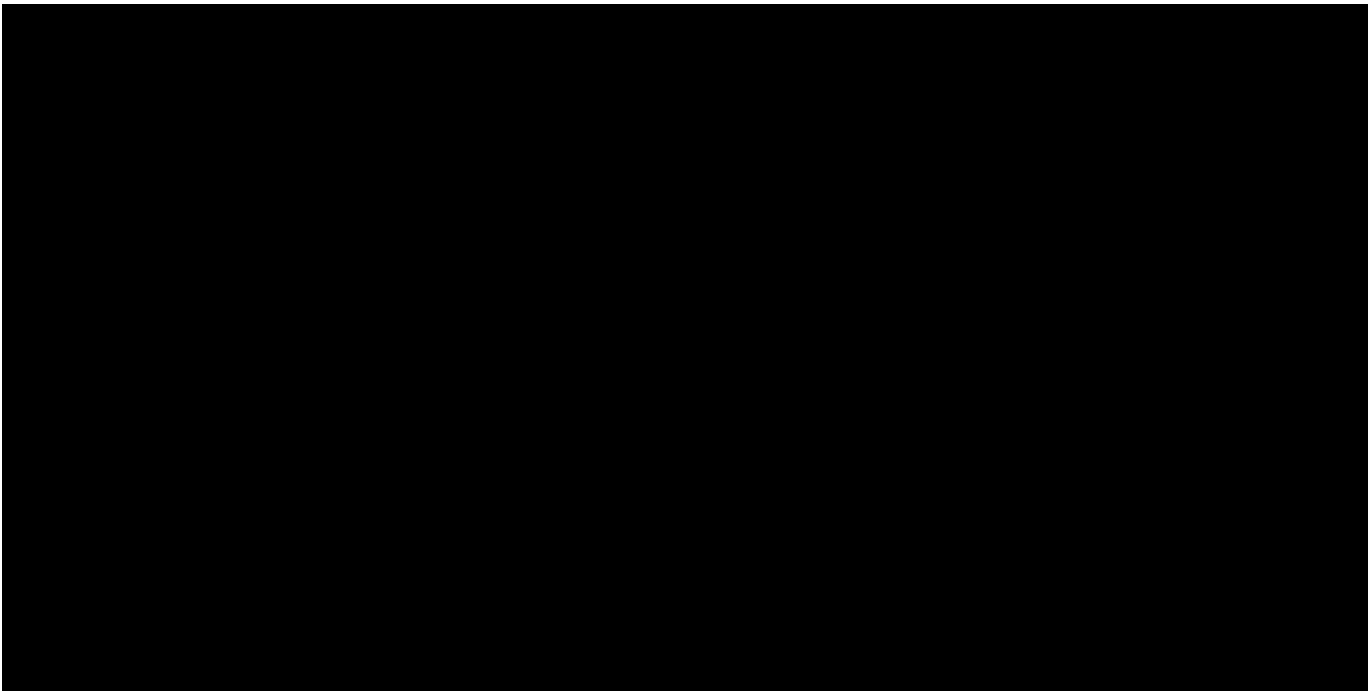
Annex 1: Rates and Prices

Table 1: Time and Materials

The Supplier (and its Subcontractor) shall not be entitled to include any uplift for risks or contingencies within its day rates

The rates below shall not be subject to variation by way of Indexation.

	Hourly Rates for Legal Support, Advice and Claims Handling
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[Subject to Contract]
Schedule 4 (Tender)
Crown Copyright 2022

Schedule 4 (Tender)



BEIS Technical
Response - Full Respc

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:

No.	Date	Item(s)	Duration of Confidentiality
1	22/05/23	Tender Response	Ongoing
2	22/05/23	Pricing Charges	Ongoing
3	22/05/23	Personal Details	Ongoing

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

TBC

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):

as defined in Part D;

“Admission Agreement”

"Employee Liability"

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:

- (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;

as defined in Part D;

**“Fair Deal
Employees”**

"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” the revised Fair Deal position set out in the HM Treasury guidance: *“Fair Deal for staff pensions: staff transfer from central government”* issued in October 2013 including:

- (a) any amendments to that document immediately prior to the Relevant Transfer Date;

**“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 0 (*Table of Staffing Information*) 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 0 from time to time.

means the CSPA, NHSPA or LGPS as defined in the Annexes to of this Schedule;

**"Statutory
Schemes"**

a list provided by the Supplier of all Supplier Staff whose will transfer under the Employment Regulations on the Service Transfer Date;

**"Supplier's Final
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;

**"Supplier's
Provisional
Supplier Staff
List"**

those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date; and

**"Transferring
Buyer
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
Former 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.

**"Transferring
Supplier
Employees"**

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.

[Subject to Contract]

Schedule 7 (Staff Transfer)

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3. Which parts of this Schedule apply

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

Transferring Employees from the Buyer to the Supplier)

3.5 Part E (Staff Transfer on Exit)

3.5.1 Annex E1 (List of Notified Subcontractors)

3.5.2 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 1.7, 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 D: Pensions

1. Definitions

In this Part D and Part E, the following words have the following meanings and they shall supplement Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes:

"Actuary"	a Fellow of the Institute and Faculty of Actuaries;
"Admission Agreement"	means either or both of the CSPA Admission Agreement (as defined in Annex D1: CSPA) or the LGPS Admission Agreement) as defined in Annex D3: LGPS), as the context requires;
"Best Value Direction"	the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);
"Broadly Comparable"	<p>(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and</p> <p>(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,</p> <p>and "Broad Comparability" shall be construed accordingly;</p>
"CSPA"	the schemes as defined in Annex D1 to this Part D;

"Fair Deal Employees"	<p>those:</p> <ul style="list-style-type: none">(a) Transferring Buyer Employees; and/or(b) Transferring Former Supplier Employees; and/or(c) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.3.4 of Parts A or B or Paragraph 1.2.4 of Part C;(d) where the Former Supplier becomes the Supplier those employees; <p>who at the Start Date or Relevant Transfer Date (as appropriate) are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by the Buyer;</p>
"Fair Deal Schemes"	means the relevant Statutory Scheme or a Broadly Comparable pension scheme;
"Fund Actuary"	means Fund Actuary as defined in Annex D3 to this Part D;
"LGPS"	the schemes as defined in Annex D3 to this Part D;
"NHSPS"	the schemes as defined in Annex D2 to this Part D;
"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> <ul style="list-style-type: none">(a) any amendments to that document immediately prior to the Relevant Transfer Date; and(b) any similar pension protection in accordance with the subsequent Annex D1-D3 inclusive as notified to the Supplier by the Buyer; and

2. Supplier obligations to participate in the pension schemes

- 2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPS, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.
- 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/Determination, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
- 2.3 The Supplier undertakes:
 - 2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and
- 2.4 Where the Supplier is the Former Supplier (or a Subcontractor is a subcontractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor) at the Start Date, at the Supplier (or Subcontractor) shall comply with its requirements from the Start Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Subcontractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer.

3. Supplier obligation to provide information

- 3.1 The Supplier undertakes to the Buyer:
 - 3.1.1 to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and
 - 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed); and

- 3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former New Deal Eligible Employees arising on expiry or termination of this Contract.

4. Indemnities the Supplier must give

- 4.1 The Supplier undertakes to the Buyer to indemnify and keep indemnified [NHS Pensions,] the Buyer and/or any Replacement Supplier and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

- 4.1.1 arise out of or in connection with any liability towards all and any Fair Deal Employees in respect of service on or after the Relevant Transfer Date which arises from any breach by the Supplier of this Part D, and/or the CSPA Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement

- 4.1.2 relate to claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:

- a) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract;
 - b) arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this before the date of termination or expiry of this Contract; and/or

- 4.1.3 arise out of or in connection with the Supplier (or its Subcontractor) allowing anyone who is not an NHSPS Fair Deal Employee to join or claim membership of the NHSPS at any time during the Term

- 4.2 The indemnities in this Part D and its Annexes:

- 4.2.1 shall survive termination of this Contract; and

- 4.2.2 shall not be affected by the caps on liability contained in Clause 15 (How much you can be held responsible for).

5. What happens if there is a dispute

- 5.1 The Dispute Resolution Procedure will not apply to this Part D and any dispute (i) between the Buyer and the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the Buyer and the Supplier be referred to an independent Actuary:
- 5.1.1 who will act as an expert and not as an arbitrator;
- 5.1.2 whose decision will be final and binding on the Buyer and the Supplier; and
- 5.1.3 whose expenses shall be borne equally by the Buyer and the Supplier unless the independent Actuary shall otherwise direct.
- 5.2 The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

6. Other people's rights

- 6.1 The Parties agree Clause 23 (Other people's rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.
- 6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in his or her or its own right under section 1(1) of the CRTPA.

7. What happens if there is a breach of this Part D

- 7.1 The Supplier agrees to notify the Buyer should it breach any obligations it has under this Part D and agrees that the Buyer shall be entitled to terminate its Contract for material Default in the event that the Supplier:
- 7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or
- 7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the breach and requiring the Supplier to remedy it.

8. Transferring New Fair Deal Employees

- 8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under the

Employment Regulations or other form of compulsory transfer of employment), the Supplier shall and shall procure that any relevant Subcontractor shall:

- 8.1.1 notify the Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangement for participation with the relevant Statutory Scheme(s);
- 8.1.2 consult with about, and inform those Fair Deal Employees of, the pension provisions relating to that transfer; and
- 8.1.3 procure that the employer to which the Fair Deal Employees are transferred (the "**New Employer**") complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Employees so transferred to the New Employer.

9. What happens to pensions if this Contract ends

- 9.1. The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of this Contract.
- 9.2. The Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier and/or NHS Pension and/or CSPA and/or the relevant Administering Authority and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

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

a) 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							

CONTRACTUAL PAY AND BENEFITS		Details
ASSIGNMENT		
% 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						

Schedule 7 (Staff Transfer)
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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 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

- 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.

[Subject to Contract]

Schedule 13 (Contract Management)

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Annex: Operational Boards

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

TBC

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 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 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; as a
 - 3.2.2 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:
- comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;

- 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:

- b) emerging changes in Good Industry Practice;
- c) any change or proposed change to the Deliverables and/or associated processes;
- d) where necessary in accordance with Paragraph 2.2, any change to the Security Policy;
- e) any new perceived or changed security threats; and
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 20 (Processing Data)

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;

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;

-) the Data Subject has enforceable rights and effective legal remedies;
- a) 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
- b) 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.

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;

- 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

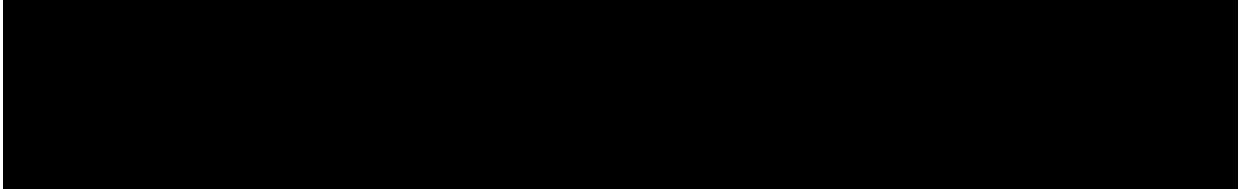
- 3.2 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data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

- 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

- 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.



- 1.3 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 Buyer is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with Paragraph 2 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <p>The contract involves the Supplier carrying out a claims handling service on behalf of DESNZ/CLU.</p> <p>The Supplier will receive claims from law firms representing individual clients. The Supplier will collate</p> <p>Description of such claims and bring into existence (and maintain) a database of personal data which it will manage and maintain on behalf of (and under instruction from) DESNZ/CLU.</p> <p>The personal data concerned will include special categories of personal data; in particular, the medical records of individual claimants in support of their claims for compensation.</p> <p>As well as bringing into existence (and maintaining) a database of personal data (including, in some cases, information from medical records), the Supplier will compile on a regular basis management information for DESNZ/CLU to keep the customer updated and informed of the progress of existing and new claims.</p>

	<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"> ● Business contact details of Supplier Personnel for which the Supplier is the Controller, ● 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, ● Personal data received from the Supplier and third parties in relation to claims which they are advising on. <p>The Supplier will receive claims from law firms representing individual clients. The Supplier will collate such claims and bring into existence (and maintain) an authorised database of personal data</p> <p>As well as bringing into existence and maintaining a database of personal data (including, in some cases, information from medical records) the Supplier will compile on a regular basis, management information for DESNZ to keep them updated and informed of the progress of existing and new claims.</p> <p>As a regulated law firm, the Supplier has professional and regulatory obligations in respect of Personal Data received from the Buyer and are recognised by the ICO and SRA as an independent controller</p>
<p>Duration of the Processing</p>	<p><i>Duration of the contract</i></p>

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Annex 2 - Joint Controller Agreement

1. Joint Controller Status and Allocation of Responsibilities

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of Paragraph 2 of this Schedule 20 (Where one Party is Controller and the other Party is Processor) and Paragraphs 3.2 - 3.12 of this Schedule 20 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.

1.2 The Parties agree that the Buyer:

1.2.1 is the exclusive point of contact for Data Subjects and is responsible for using all reasonable endeavours to comply with the UK GDPR regarding the exercise by Data Subjects of their rights under the UK GDPR;

1.2.2 shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;

1.2.3 is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the UK GDPR;

1.2.4 is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Services where consent is the relevant legal basis for that Processing; and

1.2.5 shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the [Supplier's/Buyer's] privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).

1.3 Notwithstanding the terms of Paragraph 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

2. Undertakings of both Parties

2.1 The Supplier and the Buyer each undertake that they shall:

2.1.1 report to the other Party every 6 months on:

- a) the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
- b) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- c) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- d) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- e) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

that it has received in relation to the subject matter of the Contract during that period;

2.1.2 notify each other immediately if it receives any request, complaint or communication made as referred to in Paragraphs 2.1.1a) to e);

2.1.3 provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Paragraphs 2.1.1c) to e) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;

2.1.4 not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Contract or is required by Law) that disclosure or transfer of Personal Data is otherwise considered to be lawful processing of that Personal Data in accordance with Article 6 of the UK GDPR or EU GDPR (as the context requires). For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;

2.1.5 request from the Data Subject only the minimum information necessary to provide the Services and treat such extracted information as Confidential Information;

2.1.6 ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;

2.1.7 use all reasonable endeavours to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:

- a) are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information
- b) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so;
- c) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;

2.1.8 ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach 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;

2.1.9 ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that the Supplier holds; and

2.1.10 ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach;

2.1.11 where the Personal Data is subject to UK GDPR, not transfer such Personal Data outside of the UK unless the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:

- a) the transfer is in accordance with Article 45 of the UK GDPR or DPA 2018 Section 73; or
- b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75) as agreed with the non-transferring Party which could include 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;
- 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

2.1.12 where the Personal Data is subject to EU GDPR, not transfer such Personal Data outside of the EU unless the prior written consent of non-transferring Party 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 as well as any additional measures;
- c) the Data Subject has enforceable rights and effective legal remedies;
- d) the transferring Party complies with its obligations under the EU GDPR 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.

2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations

3. Data Protection Breach

3.1 Without prejudice to Paragraph 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Personal Data Breach or circumstances that are

likely to give rise to a Personal Data Breach, providing the Buyer and its advisors with:

3.1.1 sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation;

3.1.2 all reasonable assistance, including:

- a) co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
- b) co-operation with the other Party including using such reasonable endeavours as are directed by the Buyer to assist in the investigation, mitigation and remediation of a Personal Data Breach;
- c) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
- d) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in Paragraph 3.2.

3.2 Each Party shall use all reasonable endeavours to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:

3.2.1 the nature of the Personal Data Breach;

3.2.2 the nature of Personal Data affected;

3.2.3 the categories and number of Data Subjects concerned;

3.2.4 the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;

3.2.5 measures taken or proposed to be taken to address the Personal Data Breach; and

3.2.6 describe the likely consequences of the Personal Data Breach.

4. Audit

4.1 The Supplier shall permit:

4.1.1 the Buyer, or a third-party auditor acting under the Buyer's direction, to conduct, at the Buyer's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or

4.1.2 the Buyer, or a third-party auditor acting under the Buyer's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 UK GDPR by the Supplier so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Services.

4.2 The Buyer may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with Paragraph 4.1 in lieu of conducting such an audit, assessment or inspection.

5. Impact Assessments

The Parties shall:

5.1 provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and

5.2 maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 UK GDPR.

6. ICO Guidance

The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Buyer may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

7. Liabilities for Data Protection Breach

- 7.1 If financial penalties are imposed by the Information Commissioner on either the Buyer or the Supplier for a Personal Data Breach ("**Financial Penalties**") then the following shall occur:
- 7.1.1 if in the view of the Information Commissioner, the Buyer is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Buyer, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Buyer, then the Buyer shall be responsible for the payment of such Financial Penalties. In this case, the Buyer will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Supplier shall provide to the Buyer and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;
- 7.1.2 if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Buyer is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Buyer and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
- 7.1.3 if no view as to responsibility is expressed by the Information Commissioner, then the Buyer and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 39 of the Core Terms (Resolving disputes).
- 7.2 If either the Buyer or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
- 7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):
- 7.3.1 if the Buyer is responsible for the relevant Personal Data Breach, then the Buyer shall be responsible for the Claim Losses;
- 7.3.2 if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses: and

7.3.3 if responsibility for the relevant Personal Data Breach is unclear, then the Buyer and the Supplier shall be responsible for the Claim Losses equally.

7.4 Nothing in either Paragraph 7.2 or Paragraph 7.3 shall preclude the Buyer and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Buyer.

38. Termination

If the Supplier is in material Default under any of its obligations under this Annex 2 (*Joint Controller Agreement*), the Buyer shall be entitled to terminate the Contract by issuing a Termination Notice to the Supplier in accordance with Clause 14 of the Core Terms (Ending the contract).

39. Sub-Processing

In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

9.1 carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and

9.2 ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

40. Data Retention

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

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:	[insert name of contract to be changed] (“the Contract”)	
Contract reference number:	[insert 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: ● [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]

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.

Schedule 21 (Variation Form)
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3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Schedule 21 (Variation Form)

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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 **[£to be determined by the Buyer]** 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.

[Subject to Contract]

Schedule 22 (Insurance Requirements)

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- 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 Professional Indemnity Insurance: Not less than **£100 million** in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period (to the extent insured by the relevant policy).
- 3.2 Public Liability Insurance: Not less than £10 million per claim and
- 3.3 Employers liability insurance for not less than £10 million pounds sterling per claim.

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.
- 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.

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:	[ad date (minimum 10 days from request)]	
Signed by Buyer:		Date:
Supplier [Revised] Rectification Plan		
Cause of the Notifiable Default	[ad 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]

[Subject to Contract]

Schedule 25 (Rectification Plan)

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	[...]	[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:

- (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:

- (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 C

1. Social Value

- 1.1 The Supplier shall provide a Social Value Report to the Buyer as outlined in Table A.

Table A: Social Value Report

Required Detail	Frequency
A high-level summary of the Supplier's performance against the Social Value priorities over the relevant period	Quarterly
Performance by the Supplier against each of the Social Value outcomes in the tender response	Quarterly

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.

- 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 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

[Subject to Contract]

Schedule 29 (Key Supplier Staff)

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respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

Annex 1- Key Roles

Key Role	Key Staff	Contract Details

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 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

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 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.

