

POST OFFICE PAYOUT® TERMS AND CONDITIONS



THIS AGREEMENT is made the

BETWEEN:

- (2) **HM REVENUE & CUSTOMS**, whose registered office is situated at 100 Parliament Street, London, SW1A 2BQ (“**The Client**”).
- (2) **POST OFFICE LIMITED**, a company registered in England and Wales under number 2154540, whose registered office is situated at 100 Wood Street, London, EC2V 7ER (“**Post Office**”).

WHEREAS:

- | | | | |
|----|--|----|--|
| A. | The Client wishes for Post Office to act as its agent to make Payments (as defined below) on its behalf. | 42 | Post Office will confirm to the Client the Charges and Operations Specification to apply to the new Scheme and the required implementation plan and timings. |
| B. | Post Office has agreed to perform this service on the terms and conditions set out below. | 43 | |

NOW IT IS HEREBY AGREED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

In this Agreement terms and expressions defined in Part 1 of Schedule 1 will have the meanings set out in that Schedule when used in this Agreement and the rules of construction and interpretation set out in Part 2 of Schedule 1 will be applied when interpreting this Agreement.

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SUBMISSION OF DATAFILES

5.1

The Client may from time to time submit Datafiles to Post Office under an existing Scheme in order to send out Payment Instructions to Customers.

2 TERM

This Agreement shall commence on the date of this Agreement and shall continue until terminated in accordance with clause 14.

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It will be a pre-condition to Post Office’s acceptance of any Datafile for processing under a Scheme that:

3 PROVISION OF THE SERVICE

3.1 This Agreement sets out the terms on which Post Office will provide the Services to the Client. The extent and scope of the Service to be provided will be as specified in the Operations Specification and each Client Requirement Document placed pursuant to the terms of this Agreement.

52.1 the Client has complied with all applicable terms of this Agreement and the relevant Operations Specification in completing and submitting the Datafile;

3.2 In the event of any inconsistency between the terms of this Agreement and the Operations Specification or any Client Requirement Document, this Agreement will prevail.

52.2 the Client has transferred as cleared funds into the Nominated Account an additional amount in Sterling equal to the maximum Sterling amount of all Payment Instructions it has requested in the relevant Datafile that Post Office issues and/or accepts for Payment;

3.3 Post Office shall be entitled to withdraw a Post Office Branch and/or to revise the number of Post Office Branches at which the Payout Service is provided at any time.

52.3 Post Office has received, tested and approved the form of the Payment Instruction proposed under the Datafile together with any related letter or other communication intended to accompany the Payment Instruction when presented to Post Office for Payment;

3.4 Post Office agrees to upgrade the Payout Portal to accessibility standard Web Content Accessibility Guidelines (WCAG) 2.2 AA within 1 (one) year of the date of this Agreement.

52.4 in the event that the Client is to produce and print the Payment Instructions and related letter or other communication as tested and approved by Post Office in accordance with clause 5.2.3, the specification and format of the Barcode has been agreed and approved by Post Office;

4 SUBMISSION OF CLIENT REQUIREMENT DOCUMENT

4.1 The Client can request a new Scheme by submitting a Client Requirement Document to Post Office. The Client must complete all fields in the Client Requirement Document in order for Post Office to evaluate and approve any new Schemes.

52.5 Post Office has received a data file in a format and content acceptable to it and which will enable Post Office to generate either the Barcode or

barcode data or complete Payment Instructions as required by the terms of the Scheme. Data files must be submitted in accordance with Post Office's protocol for file transfer as from time to time advised to the Client;

53 Subject to clause 5.4, Post Office, nor any of its subcontractors, will alter or amend the content of any Datafile. In the event an error in a Datafile becomes apparent then Post Office will reject the Datafile and notify the Client why it has been rejected. The Client acknowledges that Post Office cannot guarantee that errors in the Datafile will be identified.

54 The Parties agree that Post Office's auto-formatting will apply to the Datafile, irrespective of how the data has been supplied in the Datafile, on the basis of the following:

5.4.1 First letter of name fields will be capitalised, with the remainder lower case.

5.4.2 Where a name contains a hyphen, the letter immediately after the hyphen will be capitalised – i.e. Smith-Simpkins.

5.4.3 Where a name contains an apostrophe as the second character, the letter immediately after the apostrophe will be capitalised – i.e. 'O'Doherty'.

5.4.4 Where a name begins with the letters "MC" the first letter and third letter will be capitalised – i.e. 'McDonald'.

5.4.5 Where a surname begins with "Mac" the first and fourth letter will be capitalised – i.e. 'MacDonnell'.

55 Post Office is not obliged to keep all funds paid into the Nominated Account by the Client separate from other monies paid by other clients for whom Post Office provides a similar service or to hold such amounts on trust.

56 Post Office shall keep an account of all amounts paid into the Nominated Account and of all Payments made by it against Payment Instructions received. The net amount calculated by deducting all Payments made from all such receipts into the Nominated Account is referred to below as the "**Balance**". For this purpose a payment back to the Client from the Nominated Account will also be treated as a Payment.

57 At all times the Balance must at least equal the aggregate face value of all Active Payment Instructions that have not been discharged by Payment having been made (this is referred to below as the "**Required Balance**"). If for any reason this requirement is not met Post Office will not be able to process the Datafile and will notify the Client of the shortfall. Until the Client pays the shortfall into the Nominated Account Post Office will not process the Datafile in whole or in part.

58 Post Office will not be obliged to honour any Payment Instruction (or to allow for any Payment Instruction to be issued) if the relevant Payment Instruction is not within the Payment Validity Period, insufficient identification has been provided by the Customer, the Payment Instructions

have been printed by the Client in a way which is not compatible with Post Office Systems or the Payment Instruction has been validly cancelled by the Client in accordance with the Operations Specification.

59 If at any time the Balance is greater than the Required Balance then Post Office will account to the Client for the excess value of the Balance on written request from the Client on the Client's headed paper confirming the account to which the excess value should be paid within seven (7) days of the end of the relevant calendar month. Post Office's determination of which is and is not an Active Payment Instruction, which shall at all times be made in good faith, will, in the absence of manifest error, be conclusive.

6 MAKING OF PAYMENTS

6.1 Post Office agrees with the Client (but not for the avoidance of any doubt with Customers directly) that it will make Payments to Customers who present an Active Payment Instruction at a Post Office Branch through which the Payout Service is provided. For the avoidance of doubt, Post Office shall not be obliged to provide the Payout Service in relation to a Payment Instruction which is no longer an Active Payment Instruction, has been printed or produced by the Client and is not compatible with the Post Office System or which does not comply with the terms of this Agreement.

6.2 In carrying out the Payout Service the Client accepts that Post Office is entitled to make Payment against any Payment Instruction which the Post Office System states is an Active Payment Instruction.

6.3 Post Office does not have any responsibility to check the authenticity of the Payment Instruction or (subject to clause 6.4) the identity or authority of the person presenting it.

6.4 Post Office will only pay out under an Active Payment Instruction when the scanning of the Barcode on the Payment Instruction on the Post Office System shows that the Payment can be processed, and if applicable, the required identification has been provided by the Customer (or relevant third party authorised in the Payment Instruction to collect the Payment on behalf of the Customer) to indicate that they are the Customer or authorised third party in the Payment Instruction to receive the Payment on behalf of the Customer. If the Client requests that Post Office provide the Identification Check Service then Post Office's responsibility is limited to acting in good faith in confirming that the evidence of identity required of the Customer or relevant third party appears to have been provided. Payments will only be made to third parties acting on behalf of the Customer where specifically instructed by the Client. The Client acknowledges that Post Office will not provide Post Office Branch staff with any specific training to enable such persons to recognise any specific documentary evidence of identity required by the Client.

6.5 Unless otherwise agreed in the Operations Specification for that particular Scheme payment will be made in Sterling and in cash only.

6.6 Without prejudice to the Charges payable by the Client under this Agreement, Post Office shall provide the Payout Service free of charge to the Customer.

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67	If Post Office agrees to use reasonable endeavours to make a Payment by the issue of gift vouchers, top-up or similar pursuant to the Operations Specification then Post Office will not be responsible for the honour of such gift vouchers or top-up save where (and to the extent) directly redeemable with Post Office.		increase the Charges immediately on written notice to reflect any increase in Royal Mail postage charges. Any such increase pursuant to this clause 7.2.3 will only be to recover any increase to Royal Mail postage charges.
68	Payments will be made by Post Office as agent for the Client and on terms such that Post Office does not by making any Payment assume or acquire any contractual or other obligations to the Customer.	73	Post Office will invoice the Client at the end of each Accounting Period in arrears in respect of the Charges incurred. The invoices will show the total number and value of Transactions for that Accounting Period and the total Charges due to Post Office. Post Office may require that the Non-Recurring Charges be paid upfront before Post Office incurs any liability to any third party or processes the Client Requirement Document or relevant Datafile.
69	The issue of a receipt and recording on the Post Office System that an Active Payment Instruction has been discharged by a Payment will be conclusive proof that the Payment has been made save in relation to matters of proven fraud.	74	The Client shall pay the Charges by electronic transfer to the Charges Account within thirty (30) days of the date of Post Office's invoice.
7	THE CHARGES	75	Interest will become payable on all overdue payments payable by the Client under this Agreement calculated on a daily basis at the rate of 4% per annum above the published base rate of National Westminster Bank plc (or its successor entity from time to time) (as amended from time to time) from the due date to the actual date of payment.
71	In consideration of Post Office providing and performing the Service the Client shall pay the Charges, being the Recurring Charges and the Non Recurring Charges specified in Schedule 2 as revised from time to time in accordance with this clause 7.	76	All Charges payable by the Client to Post Office under this Agreement are expressed to be exclusive of VAT. Where VAT is applicable on the Charges or other sums payable under this Agreement, a tax invoice shall be issued by Post Office and VAT shall be paid to Post Office by the Purchaser in addition to the Charges or other amounts.
72	Post Office reserves the right otherwise to vary the Charges during the term of this Agreement, subject to the remaining provisions of this clause 7.2.	8	OBLIGATIONS OF THE CLIENT
72.1	<u>Recurring Charges:</u> Subject to clause 7.2.3 Post Office shall notify the Client sixty (60) days' prior to any proposed increase of any Recurring Charges. The increase in Recurring Charges will only apply to any future Datafiles placed under this Agreement. The Client shall inform Post Office within seven (7) days of the date of the notice if the varied Recurring Charges are not acceptable, and if such a notice is served the parties shall attempt to negotiate mutually satisfactory Recurring Charges for the Service. If mutually satisfactory Recurring Charges cannot be agreed within twenty-one (21) days of the date of the original notification of the proposed Recurring Charges (or such other date as agreed between the parties), then the Client may elect to terminate this Agreement on not less than thirty (30) days' prior written notice, such notice expiring on the date of the proposed change of the Recurring Charges.	8.1	The Client shall be responsible for (and must ensure) compliance with all laws, regulations and guidelines relating to the making of the Payment and the terms of the Payment Instructions, and in particular, the Client shall be responsible for and warrants its compliance with all anti-money laundering, counter-terrorism, financial services and similar, laws, regulations and guidelines in its dealings with the Customers and in relation to the making of Payments to the Customers by Post Office.
72.2	<u>Non- Recurring Charges:</u> Post Office shall notify the Client sixty (60) days' prior to any proposed increase to the Non-Recurring Charges in connection with any future Client Requirement Documents and Datafiles placed under this Agreement. The Client shall promptly notify Post Office in writing prior to commencement of the requested Service (or implementation activity in connection with the requested Service) under the next Datafile and/or Client Requirement Document, if it does not agree to the varied Non-Recurring Charges. If the parties cannot agree the varied Non-Recurring Charges, Post Office shall not be obliged to perform the requested Service.	82	The Client acknowledges that it and not Post Office is solely responsible for the accuracy and consistency of all data provided to Post Office to enable Post Office to generate all Barcodes and/or barcode data and (if appropriate under any Scheme) the Payment Instructions. Post Office does not have any responsibility to check or verify such data.
72.3	<u>Royal Mail Postal Charges:</u> Post Office may	83	The Client agrees that it will not issue a Client Requirement Document or Datafile in circumstances, or do or omit to do anything in connection with any matter for which a Payment Instruction is requested or issued, which is or could be (in the opinion of Post Office) detrimental to or inconsistent with the good name, goodwill or reputation of Post Office and in breach of the same the Client will indemnify Post Office against all losses and damages suffered or incurred by it as a result of any breach of this provision.
		84	The Client agrees that once the form of a given Payment Instruction under a Scheme has been approved by Post Office it will not be changed in any material respect without Post Office's prior written consent.

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85	If under the terms of any Scheme Post Office has agreed to dispatch Payment Instructions to Customers then its obligation will be limited to placing the Payment Instructions into the UK postal system for delivery in the manner and on the basis agreed under the terms of the Operations Specification (or in the absence of such agreement by normal second class post).	11.1	Subject to clause 12.4, neither party shall use any of the other party's names, logos or devices without first obtaining the other party's prior written consent including prior written consent for any promotional, advertising or publicity material bearing such names, logos or devices. Any use shall be on a non-exclusive, non-transferable, non- sub licensable basis, and subject to such terms and conditions (including (where appropriate) a trade mark licence) and branding guidelines as notified by a party ("the Licensor ") to the other party ("the Licensee ") from time to time. The Licensor reserves the right to withdraw consent at any time by giving notice in writing without incurring any liability on its part. The Licensee shall forthwith cease using any name, logo or device and if the Licensor so requires shall withdraw any promotional, advertising or publicity material bearing the same.
86	In the event that the Client is to produce and print the Payment Instruction, the Client shall be responsible for ensuring that the Payment Instructions will include a Barcode which is compatible with Post Office Systems.		
9	COMPLAINTS		
9.1	Post Office shall advise Customers to refer any complaints, claims or enquiries it receives about Payments and Payment Instructions made or issued under this Agreement directly to the Client.	11.2	Without prejudice to clause 11.1, the Client shall submit to Post Office for its prior written approval when submitting a Datafile each related Payment Instruction and all promotional, advertising, publicity or other material in any media which refers to Post Office or the Post Office Branches.
9.2	The Client agrees that it will maintain a client care facility open between 9.00am and 5.00pm on Business Days able to accept and deal with enquiries from Customers regarding Payment Instructions and to deal with any enquiries relating to the same. Details of this facility will be advised to Customers within the terms of each Payment Instruction.	11.3	Notwithstanding any other term of this Agreement, if Post Office authorises the Client to use Post Office's names, logos and devices, the Client:
9.3	If requested, and at the Client's expense, Post Office will confirm whether or not any specific Payment Instruction remains an Active Payment Instruction or if a Payment has been made on account of that Payment Instruction. Post Office will be able to confirm approximately when and where the Payment was made, but not to provide any further or other information in regards to that Transaction.	11.3.1	shall comply with the brand licence terms set out in Schedule 5 (Trade Mark Licence);
10	CHANGES	11.3.2	(unless Post Office expressly agrees otherwise in writing) shall only use the foregoing for use for the sole purpose of directing the public to Post Office Branches as locations where payment can be claimed by a Customer presenting a Payment Instruction;
10.1	The Client may propose a change to the procedures specified in the Operations Specification or to how the Service is delivered by Post Office. Any request for such a change by the Client shall be made pursuant to the Client Requirement Document.	11.3.3	shall accompany the foregoing with a notification to the public of this purpose in a clear manner, unless otherwise expressly agreed by Post Office in writing;
10.2	Post Office may make changes to the Service or the Operations Specification from time to time on sixty (60) days' prior written notice. If the change has a material effect on the Service:	11.3.4	shall not state, suggest or imply that Post Office endorses or is a sponsor of or is otherwise affiliated with the Client or any matter to which the Payment Instruction relates; and
10.2.1	the Client may notify Post Office within seven (7) days of the date of such notice, any disagreement with the change; and	11.3.5	will ensure that at all times it is familiar with, and adheres to, Post Office's branding guidelines relating to the use of Post Office's names, logos and devices as published from time to time.
10.2.2	if such a notice is served under clause 10.2.1 the parties shall attempt to negotiate a mutually satisfactory change to the Service. If a mutually satisfactory change cannot be agreed within twenty-one (21) days of the date of the original notification of the proposed change (or such other date as agreed between the parties), then the Client may elect to terminate this Agreement on not less than thirty (30) days' prior written notice, such notice expiring on the date of the proposed change of the Service.	11.4	All goodwill in Post Office's names, logos and devices shall accrue to Post Office.
11	NAMES, LOGOS AND DEVICES	12	CONFIDENTIALITY AND PUBLICITY
		12.1	Subject to clauses 12.2 and 12.3 each party shall, both during the term of this Agreement and thereafter, keep confidential and shall not disclose or divulge to any third party the contents of this Agreement and/or any information in writing or in any other form disclosed to it by the other party or otherwise obtained by it as a result of entering into this Agreement which is of a confidential nature including all such information which is clearly designated as being confidential (" Confidential Information ") and shall only use such Confidential Information for the purpose of this

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122 Clause 12.1 shall not apply to any Confidential Information which:

122.1 enters the public domain other than as a result of a breach of clause 12;

122.2 is received from a third party which is under no confidentiality obligation in respect of that information;

122.3 is independently developed by the receiving party without use of the disclosing party's information; or

122.4 was lawfully in the possession of the receiving party prior to its disclosure.

liable, and its agents or subcontractors to the extent the party colluded in such fraud or fraudulent misrepresentation), or any other liability to the extent it cannot be excluded or limited at law..

132 Post Office shall not be liable to the Client for any loss or damage suffered or incurred by the Client of any kind except where such loss or damage is caused by the breach of this Agreement by Post Office or its employees, agents or subcontractors.

133 Post Office shall not be liable to the Client in connection with this Agreement whether in contract, tort (including negligence), for breach of statutory duty or otherwise, in respect of:

133.1 any loss of profit, business, contracts, revenues, anticipated savings reputation or goodwill howsoever caused; or

133.2 any loss, damage, costs or expenses of an indirect or consequential or special or punitive nature suffered or incurred.

123 Each party may disclose any Confidential Information:

123.1 to the extent the disclosure is approved by the other party in writing in advance, such approval not to be unreasonably withheld or delayed;

123.2 to its agents, subcontractors and suppliers as required for the performance of its obligations, and to members of its group, auditors and professional advisors, on equivalent confidential terms and the relevant party shall procure compliance with such terms; and

123.3 as required by law or any regulatory authority.

134 Other than liability specified in clause 13.5, Post Office's total aggregate liability for all events giving rise to liability arising out of or in connection with this Agreement in any year of this Agreement shall be limited to the amount of the Charges paid or payable for that calendar year. The Client acknowledges that this limitation is reasonable in the light of the total financial benefit which Post Office will receive from this Agreement.

135 Post Office's total liability where a Payment has been paid out incorrectly due to the negligence of Post Office in carrying out the Services and only where the Client has complied in full with its obligations under this Agreement will be limited to the face value of the relevant Payment. Post Office may satisfy this liability by depositing the relevant sum incorrectly paid out into the Nominated Account.

124 Post Office shall be entitled to use the Client's name and branding in producing the Payment Instructions, in internal communications or communications to Post Office Branches and in communications to third parties or the public to publicise Post Office's clients.

125 The parties shall each take all reasonable security precautions in the safekeeping of the Confidential Information of the other party and in preventing its unauthorised disclosure to third parties, applying no lesser security measures to it than to its own confidential information.

136 Post Office shall not be liable for fraud of third parties including for fraud of Customers. Post Office will be entitled to pay the face value of each Active Payment Instruction received irrespective of whether or not it is presented by the person the Client intends should receive the Payment.

126 Neither party shall use any Confidential Information for its own benefit, or that of any third party, nor shall it use any Confidential Information to the other party's detriment.

137 The Client shall pay Post Office in full for any loss, damage, cost or expense suffered or incurred by Post Office or a Post Office Branch as a result of a complaint, demand or claim by a Customer in connection with a Payment Instruction or a Payment or any use made of personal data provided by the Client for the purposes of this Agreement as a result of any negligence, breach of statutory duty or breach of this Agreement by the Client or its employees, agents or subcontractors.

127 The parties shall notify each other in writing of any unauthorised use or disclosure of any Confidential Information promptly, and in all cases within two (2) Business Days.

128 The Client will not make any announcement or publicity statement relating to Post Office, this Agreement or its subject matter without the prior written approval of Post Office (except as required by law or by any legal or regulatory authority).

138 The Client shall indemnify and keep Post Office and the Post Office's group indemnified against:

13 LIABILITY AND INDEMNITY

13.1 Nothing in this Agreement shall exclude or limit a party's liability for death or personal injury resulting from a party's negligence, for fraud or fraudulent misrepresentation (including that of its employees for which it is vicariously

13.8.1 all liabilities incurred or suffered by Post Office and/or the Post Office's group in accordance with paragraph 8 of Schedule 5 (Trade Mark Licence); and

13.8.2 all liabilities incurred or suffered by Post Office and/or the Post Office's group howsoever arising

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as a result of or in connection with a breach of its obligations under the money laundering and terrorist financing including the Criminal Finances Act 2017, The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Proceeds of Crime Act 2002 and the Terrorist Asset Freezing Act 2010 or other applicable money laundering or terrorist financing legislation.

14 SUSPENSION AND TERMINATION

14.1 Post Office shall be entitled to suspend the Service (or part thereof) on immediate notice:

14.1.1 until the Client remedies its breach, where the Client commits a material breach of this Agreement; or

14.1.2 if Post Office considers that the Client has or may issue Payment Instructions in breach of any law, regulation and/or guideline applicable to Post Office or the Client.

14.2 Post Office may terminate this Agreement without cause on not less than three (3) months' prior written notice.

14.3 The Client may terminate this Agreement without cause on not less than three (3) months' prior written notice.

14.4 A party may terminate this Agreement immediately by giving written notice in the event that the other party is in material breach of its obligations under this Agreement and such breach is irremediable, or where such breach is remediable, such breach is not remedied within thirty (30) days (or any other deadline stated in this Agreement) of a written request to do so.

14.5 A party may terminate this Agreement immediately by giving written notice in the event that the other party enters into any arrangement or composition with its creditors, has an order for winding up made against it, issues a notice to call a meeting to pass a resolution for winding up (except in the case of voluntary liquidation for the purpose of bona fide reconstruction or amalgamation), has a liquidator, receiver, manager, administrative receiver or administrator appointed over all or substantially all of its assets, ceases to carry on all of or a substantial part of its business, or in the case of the Client, is unable to meet its debts as they fall due.

14.6 Post Office may terminate this Agreement on immediate notice if it has reason to consider that its connection with the Client or any given Payment Instruction will or might damage the reputation of Post Office or bring Post Office into disrepute, ridicule or to lessen its goodwill or favourable reputation.

14.7 Termination or expiry of this Agreement shall be without prejudice to the rights or obligations of either party, which may have accrued prior to the date of termination or expiry. The obligations of each party set out in any clause intended to survive such termination or expiry, including clauses 7 and 11, 12, 13, 18, 19, 24.1, and 29, shall continue in full force and effect notwithstanding termination or expiry of this Agreement.

14.8 Unless the Agreement is terminated by Post Office under clause 14.6, upon termination or expiry of the Agreement Post Office will still, subject always to the overriding requirements of clauses 5 and 6 in regard to payment into the Nominated Account and the maintenance of the Balance, honour all Payment Instructions presented prior to expiry of the relevant Payment Instruction Validity Period. All Charges payable in respect of such matters will continue to accrue and be payable by the Client.

14.9 Upon termination or expiry of the Agreement, the Client shall use all reasonable endeavours to advise Customers that the Service has ceased, and save as reasonably required for its records, it shall at its own expense dispose of advertisements, promotional and publicity materials in its possession which refer to the Service.

15 FORCE MAJEURE

15.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from a Force Majeure Event. If either party (the "Affected Party") is prevented from or delayed in performing any of its obligations under this Agreement by a Force Majeure Event:

15.1.1 the Affected Party shall, as soon as reasonably practicable, give notice to the other party of the nature of the Force Majeure Event, the date and time at which it started and the likely effects and duration of the Force Majeure Event;

15.1.2 the Affected party shall use all reasonable endeavours to mitigate the effects of the Force Majeure Event on the performance of its obligations under this Agreement; and

15.1.3 as soon as practicable after the end of the Force Majeure Event that party shall notify the other party and resume performance of its obligations under this Agreement.

15.2 Each party shall ensure it has in place reasonable contingency measures to mitigate the effects of a foreseeable Force Majeure affecting its IT system, data processing system, network or communications links relevant to the Services. Each party shall use its reasonable endeavours to mitigate the impact of a Force Majeure on the Services.

16 DATA PROCESSING OBLIGATIONS

16.1 Post Office and the Client acknowledge that for the purposes of the Data Protection Legislation, Post Office is the Processor and the Client is the Controller of any Personal Data. A description of the processing activities undertaken pursuant to this Agreement, including the Personal Data concerned is set out in Schedule 7.

16.2 Each party shall comply with its obligations under the Data Protection Legislation.

16.3 Post Office agrees that it shall only process Client Personal Data in accordance with the Client's instructions as set out in this Agreement or in order to perform its obligations under this Agreement, unless Post Office is subject to an

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	obligation under Applicable Law (including Data Protection Legislation) to do otherwise, in which case it shall (unless prohibited by law on important grounds of public interest) notify the Client in advance of that legal obligation.		conducted will be agreed by the parties in advance. Any costs and expenses incurred by Post Office in assisting the Client with any audit shall be the responsibility of the Client.
		16.10	[NOT USED]
164	Post Office shall notify the Client immediately if it considers that any of the Client's instructions breach Data Protection Legislation, provided that:	16.11	Subject always to clause 16.12, the Client agrees and consents to Post Office using sub-contractors to Process any Personal Data in connection with this Agreement (Subprocessors), and in particular, the Client consents to the use of the following Subprocessors:
	16.4.1 such notification shall not be construed as an obligation on Post Office to provide legal or professional advice or services to the Client; and	16.11.1	any sub-contractors already engaged by Post Office under this Agreement as at the date of this Agreement;
	16.4.2 Post Office makes no warranty or representation regarding the information provided in the notification whatsoever.	16.11.2	any and all agents and operators appointed by Post Office from time to time for the operation of a Post Office branch; and
165	Post Office agrees that it shall, at the Client's cost, assist and co-operate with the Client (as reasonably requested by the Client) in connection with ensuring the Client's compliance with its obligations under the Data Protection Legislation, including:	16.11.3	other additional or replacement sub-contractors appointed by Post Office to provide certain services relating to this Agreement on Post Office's behalf, provided that Post Office shall notify the Client in writing of such additional or replacement sub-contractors. Post Office shall determine the means and frequency of such notifications to the Client, but they shall not be less than once every six months during the term of this Agreement.
	16.5.1 assisting the Client in completing and reviewing any Data Protection Impact Assessment;		
	16.5.2 taking into account the nature of the Processing, assisting the Client by appropriate technical and organisational measures, in so far as this is possible, to enable the Client to respond to requests from Data Subjects exercising their rights under the Data Protection Legislation, including: (a) promptly notifying the Client if it receives a request from a Data Subject under Data Protection Legislation; and (b) providing the Client with the Client Personal Data and details of its Processing of Client Personal Data in response to a request by a Data Subject; and	16.12	In respect of any Subprocessor appointed by Post Office pursuant to clause 16.11, Post Office shall:
	16.5.3 assisting with any enquiries from a Data Protection Regulator.	16.12.1	enter into a written agreement with each such Subprocessor which gives effect to the terms set out in this Agreement such that they apply to the Subprocessor; and
		16.12.2	remain fully liable for all acts or omissions of any Subprocessor.
166	When Processing Client Personal Data, Post Office shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, taking into account the state of the art, the costs of implementation, the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of the Data Subjects.	16.13	Post Office shall notify the Client promptly should it:
		16.13.1	receive notice of any complaint made to a Data Protection Regulator or any finding by a Data Protection Regulator in relation to its Processing of Client Personal Data, under this Agreement; and
167	Post Office shall ensure that any of its employees, agents and contractors and any employees, agents and contractors of any Subprocessor who are involved in Processing the Client Personal Data under the Agreement are subject to appropriate contractual or statutory obligations of confidentiality concerning the Client Personal Data.	16.13.2	receive any request from or on behalf of a Data Subject exercising their rights in relation to Client Personal Data under the Data Protection Legislation.
168	Post Office shall make available to the Client all information reasonably requested by the Client to enable the Client to verify Post Office's compliance with the obligations in this Agreement, and subject to clause 16.9 shall allow for and contribute to audits of its Processing by the Client or the Client's designated auditor.	16.14	Subject to clause 16.15, Post Office shall notify the Client promptly if it becomes aware of any Personal Data Breach. This notification shall include:
		16.14.1	the nature of the breach, including the categories and approximate number of Data Subjects and records concerned;
		16.14.2	the contact at Post Office who will liaise with the Client concerning the breach; and
169	The Client shall give Post Office reasonable notice of any audit to be undertaken in accordance with clause 16.8 and the scope of the audit and manner in which it is to be	16.14.3	the remediation measures being taken to mitigate and contain the breach.

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16.15	If Post Office is unable to provide all of the information required under clause 16.14 in accordance with the time limits set out in that Clause, Post Office shall provide as much information as it is able to within those time limits and shall provide all further information as soon as reasonably practicable thereafter.		8, this Agreement shall take priority over any other terms and conditions, which may appear in the Client's documents or elsewhere and will supersede any communication (verbal or written) relating to the subject matter of this Agreement. All previous agreements relating to the subject matter of this Agreement will also be superseded by this Agreement. Neither party has relied on any statement or representation made by either party prior to entering into this Agreement. Nothing in this clause 19 will operate to limit or exclude any liability for fraud or fraudulent misrepresentation.
16.16	On termination or expiry of this Agreement for whatever reason, and unless required otherwise by Applicable Law, Post Office shall cease to Process any Client Personal Data and shall, at the Client's discretion, and in accordance with the Client's instructions, either:	20	WAIVER
16.16.1	return all Client Personal Data to the Client, together with all copies of the Client Personal Data in its possession or control;		Any failure to exercise or delay in exercising any rights or remedies in this Agreement will not operate as a waiver of the rights or remedies or prevent any further exercise of them. A waiver of a breach of or default under the terms of this Agreement will not affect the other terms of this Agreement and does not constitute a waiver of any other breach or default. A waiver of a breach of or default under the terms of this Agreement will not prevent a party from subsequently requiring compliance with the waived obligation. All rights and remedies under this Agreement are cumulative and (subject as otherwise provided in this Agreement) not exclusive of any rights and remedies provided by law.
16.16.2	provide the Client Personal Data to a third party as instructed by the Client, together with any copies of the Client Personal Data in its possession or control;		
16.16.3	carry out a certified and secure destruction of the Client Personal Data, together with any copies of the Client Personal Data in its possession or control.	21	VARIATION
16.17	In such event, and unless required otherwise by Applicable Law, Post Office shall not retain any copy of any part of the Client Personal Data, in any form or media.		No variation of this Agreement shall be valid unless it is in writing and signed by and on behalf of each of the parties.
17	ASSIGNMENT AND SUB-CONTRACTING	22	SEVERABILITY
17.1	Subject to clause 17.2 neither Post Office nor the Client shall assign, transfer or otherwise dispose of any of its rights or obligations hereunder without obtaining the other's prior written consent.		22.1.1 Each provision of this Agreement is severable and distinct from the others. If any provision of this Agreement is or at any time becomes to any extent invalid, illegal or unenforceable under any enactment or rule of law in any jurisdiction, it will to that extent be deemed not to form part of this Agreement but (except to that extent in the case of that provision) it and all other provisions of this Agreement will continue in full force and effect and their validity, legality and enforceability will not be affected or impaired.
17.2	The parties agree that:		22.1.2 If any provision of this Agreement is so found to be invalid, illegal or unenforceable, but would be valid, legal or enforceable if some part of the provision were deleted or amended, that provision will apply with whatever modification(s) as are necessary to make it valid, legal and enforceable.
17.2.1	Post Office may assign its rights or novate its rights and obligations to a member of its group; and		
17.2.2	Post Office may perform any or all of its obligations under this Agreement through agents, franchises or sub-contractors, provided that Post Office shall remain fully liable for such performance.		
18	CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999	23	FURTHER ASSURANCE
	This Agreement is not intended to create any right enforceable by any person not a party to it and none will arise. The Contracts (Rights of Third Parties) Act 1999 is by this clause 18 excluded from the operation of this Agreement.		Each party undertakes, at the request of the other party, to sign all documents and to do all other acts, which may be necessary to give full effect to this Agreement.
19	ENTIRE AGREEMENT	24	NOTICES
	This Agreement and any other document or agreement referred to in this Agreement sets out the entire agreement and understanding between the Client and Post Office relating to the subject matter referred to in this Agreement. Subject to the provisions of Schedule	24.1	Subject to Clause 24.3 any notice given under this Agreement shall be in writing and served by email to:
		24.1.1	In the case of Post Office: Andy Locker, Senior Product & Commercial Manager – andy.locker@postoffice.co.uk;

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24.1.2 In the case of the Client: Richard Thomas - richard.s.thomas@hmrc.gov.uk; or

24.1.3 An alternative representative to those detailed above for the respective Parties, as agreed between the Parties in writing from time to time.

242 Any such notice shall be deemed to have been received at the time of transmission except: (i) where an automatic report or reply is received that the email was not delivered successfully, in which case notice is deemed as not having been received; or (ii) where the time of transmission is on a day which is not a Business Day or is after 5pm it is deemed to be received at 9am on the next Business Day. Where an out of office message is received by the Supplier from Post Office, the Supplier shall forward the notice to Post Office's Legal Director in accordance with Clause 24.3, and such notice shall only be deemed to have been received by Post Office when it has been so forwarded (and subject to the deemed delivery provisions of this Clause 24.2).

243 Where a notice is given to Post Office under Clause 14 (Termination) or where proceedings or other documents in any legal action are served on Post Office, notice must also be given to Post Office's Legal Director by copy email to LegalNotices@postoffice.co.uk.

25 MANAGEMENT REVIEW AND DISPUTES

25.1.1 Each party shall appoint one or more suitably qualified representatives to manage the relationship between the parties and ensure that the role and remit of each such representative is agreed and understood by the other party (the **"Appointed Representatives"**). Each party shall inform the other party of any changes to its Appointed Representatives and provide the other party with contact details from time to time.

25.1.2 If any dispute arises out of this Agreement:

25.1.3 the dispute shall be referred to the Appointed Representatives who will attempt to settle it by negotiation;

25.1.4 if the Appointed Representatives are unable to settle any dispute by negotiation within fourteen (14) days of such referral (or such longer period as they shall agree), the matter shall be referred to the appropriate level of senior management (**"Senior Management"**);

25.1.5 the Senior Management shall meet to attempt to resolve the dispute within fourteen (14) days of the dispute being referred to them (or such longer period as they shall agree);

25.1.6 If the Senior Management are unable to settle any dispute so referred within thirty (30) days of the meeting attempting to resolve the dispute being referred to them (or such longer period as they shall agree) then the parties may elect (but shall not be obliged) to refer the dispute to mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure in accordance with clause 26.

25.3 For the avoidance of doubt, nothing in this clause 24.1 shall limit either party's right to bring court proceedings against the other party at any time.

26 MEDIATION

26.1.1 Any dispute may be referred to mediation in accordance with the CEDR Model Mediation Procedure. The mediation shall be conducted by a single mediator appointed by mutual agreement, or (failing mutual agreement within seven (7) days of a notice from either party to the other calling upon the other so to agree) by CEDR. Both parties agree to co-operate fully with such mediator, provide such assistance as is necessary to enable the mediator to discharge his duties, and to bear equally between them the fees and expenses of the mediator.

26.1.2 The mediation shall be conducted in London in English. The mediation shall be conducted without prejudice to the rights of any of the parties in future proceedings.

27 NO SET OFF

All amounts payable by the Client to Post Office under this Agreement must be paid without any set off, counterclaim or deduction being made.

28 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which so executed shall be an original, but together shall constitute one and the same instrument.

29 FOIA AND ENVIRONMENTAL INFORMATION REGULATIONS

29.1 The Client shall assist and co-operate with Post Office (at the Client's expense and upon demand by Post Office) to enable Post Office to comply with FOIA Law.

29.2 The Client shall:

29.2.1 transfer any Request for Information received by the Client to Post Office as soon as practicable after receipt and, in any event, within 2 Business Days;

29.2.2 provide Post Office with a copy of all Information in its possession or control in the form required by Post Office within 5 Business Days of Post Office requesting such Information; and

29.2.3 provide all necessary assistance as requested by Post Office to enable Post Office to respond to a Request for Information within the time for compliance set out in FOIA Law, as applicable.

29.3 The Supplier shall not respond directly to a Request for Information unless expressly authorised in writing by Post Office.

29.4 Post Office shall, in its absolute discretion, be responsible for determining whether the Information requested is:

29.4.1 exempt from disclosure in accordance with the

	provisions of FOIA Law; or		or other advantage or offer or promise of the same.
29.4.2	to be disclosed in response to the Request for Information.	322	Post Office shall:
295	The Client acknowledges that Post Office may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of FOIA, November 2004), be obliged under FOI Law to disclose Information relating to, or received from, the Client::	322.1	comply with all Applicable Law relating to anti-bribery, anti-corruption and competition law, including but not limited to, the Bribery Act 2010, the Competition Act 1998 and the Enterprise Act 2002;
29.5.1	without consulting with the Client; or	322.2	not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity had been carried out in the UK, or which would constitute an offence under the Competition Act 1998 or the Enterprise Act 2002; and
29.5.2	following consultation with the Client and having taken its views into account;	322.3	promptly report to the Client any request or demand for any undue financial or other advantage of any kind received by Post Office in connection with the performance of this Agreement.
	provided always that where clause 29.5.1 applies, Post Office shall, in accordance with any recommendations of the Secretary of State for Constitutional Affairs' Code of Practice, take reasonable steps, where appropriate, to give the Client advanced notice, or failing that, to draw the disclosure to the Client's attention after any such disclosure.	33	APPLICABLE LAW
296	The Client acknowledges that:	33.1.1	This Agreement is governed by and will be construed in accordance with the laws of England.
29.6.1	any lists or schedules provided by it outlining Confidential Information or Commercially Sensitive Information are of indicative value only and that Post Office may disclose such Information in accordance with clause 16; and	33.1.2	The parties irrevocably submit to the exclusive jurisdiction of the courts of England which will have jurisdiction to hear and decide any suit, action or proceedings and/or to settle any dispute (whether contractual or non-contractual) which may arise out of or in connection with this Agreement.
29.6.2	any disclosure made by Post Office under this clause 29 shall not constitute a breach of clause 12.		
30	COMPETITION LAW		
30.1	If any provision of this Agreement is or is likely to become void or unenforceable either under the Competition Act 1998 Post Office may, by notice to the Client, require the Client to enter into discussions with Post Office to vary this Agreement so that it does comply with the relevant law, or if no agreement is reached or a court holds any provision of this Agreement to be void for such reason, Post Office may terminate this Agreement immediately on notice to the Client.		
31	NO PARTNERSHIP		
31.1	Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between any of the parties.		
31.2	The parties agree that they will have the relationship of principal and agent where specifically provided for in this Agreement and not that of employer and employee in relation to the matters that are the subject of this Agreement.		
32	NO BRIBERY		
32.1	In accordance with the provisions of the Bribery Act 2010 each of the Parties acknowledges and confirms that it does not enter into this Agreement on the basis of any gift in kind, reward, compensation, inducement		

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Schedule 1

Part 1

Definitions

“Accounting Period” means a period of approximately one month, the actual periods in each of Post Office's Financial Years to be determined by Post Office and notified in advance to the Client;

“Active Payment Instruction” means a Payment Instruction which has been issued by Post Office or which the Client has been authorised to issue containing a Barcode against which Payment has not yet been made and in relation to which is still within the Payment Instruction Validity Period or the Payment Instruction has not been cancelled in accordance with the Operations Specification and **“Active”** will be construed accordingly;

“Agreement” means this agreement together with the schedules and appendices to it;

“Applicable Law” means all applicable laws, statutes and regulations, including by-laws of local or other authorities;

“Balance” has the meaning given in clause 5.6;

“Barcode” means a unique barcode (or series of numbers in the case of electronically issued Payment Instructions) per Transaction used to identify via the Post Office System the value of the Payment Instructions and to take account of the Payment to be made;

“Business Day” means a day which is not a Saturday or Sunday or a bank or national holiday in England;

“Charges” means the charges and other sums payable by the Client to Post Office under this Agreement as specified in Schedule 2 and as revised in accordance with clause 7.2;

“Charges Account” means the following bank account details for the Post Office or such other account as Post Office may notify to the Client in writing:

Bank: Barclays Bank

Account Name: Post Office Ltd Accounts Receivable

Sort Code: 20-00-00

Account Number: 43520218

“Client Personal Data” means the Personal Data Processed by Post Office (or its Subprocessors) under or in connection with this Agreement;

“Client Requirement Document” means the form in substantially the same form as set out in Part 2 of Schedule 3 of this Agreement;

“Commercially Sensitive Information” means the information contained in the Operations Specification (including all specifications for the Services listed in Schedule 4), details of the Charges, transaction data and connectivity information (without limitation network addresses, credentials and passwords), together comprising the information of a commercially sensitive nature relating to the Client, its intellectual property rights or its business or which the Client has indicated to Post Office that, if disclosed by Post Office,

would cause the Client significant commercial disadvantage or material financial loss;

“Controller” has the meaning set out in the Data Protection Legislation;

“Competent Authority” means the Secretary of State, the Director and any local or national agency, authority, department, inspectorate, industry or regulatory body, Minister, Ministry official and any other representative body or public or statutory person of or the Government of the United Kingdom, acting within its authority;

“Customer” means a customer of the Client to whom the Client wishes to make a Payment by means of a Payout to be made by Post Office on presentation of a Payment Instruction at a Post Office Branch;

“Datafile” means a datafile in the format and content acceptable to Post Office containing all of the Customer information it requires to generate either the Barcode or barcode data or complete Payout Instructions as required by the terms of an existing Scheme;

“Data Protection Impact Assessment” means an assessment of the impact of the envisaged Processing operations on the protection of Personal Data, as required by the Data Protection Legislation;

“Data Protection Legislation” means:

- (i) the Data Protection Act 2018;
- (ii) the UK General Data Protection Regulation (Regulation (EU) 2016/679) (the "General Data Protection Regulation" or "GDPR"), as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as may be modified or amended from time to time) and any applicable national implementing Applicable Law as amended from time to time; and
- (iii) all Applicable Law about the processing of Personal Data and privacy including any applicable codes of practice that are issued by a Data Protection Regulator;

“Data Protection Regulator” means the Information Commissioner's Office, Competent Authority or any successor body and any other supervisory authority with jurisdiction over either party in relating to matters of data protection and privacy;

“Data Subject” has the meaning set out in the Data Protection Legislation;

“Environmental Information Regulations” means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;

“Financial Year” means Post Office's financial year, commencing 1 April in any year and terminating 31 March in the following year, or such other financial year determined by Post Office from time to time;

“FOIA” means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations and as may be amended, consolidated, extended or re-enacted from time to time;

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“FOIA Law” means FOIA and/or the Environmental Information Regulations;

“Force Majeure Event” means any event or sequence of events preventing, hindering or delaying, either party from performing all or any of its obligations under this Agreement which arise from or are attributable to acts, events, omissions or accidents beyond the reasonable control of that party, including fire, flood, explosion, riot, act of terrorism, government action or requirement, civil emergency or commotion, war, act of God, illness, epidemic or pandemic, industrial action (whether strike, lock-out, stoppage or otherwise and whether of its or a third party’s employees) or failure of any IT system, data process system, network or communications link, and provided that the event (a) does not arise from the act, omission or negligence of that party, and (b) could not have been anticipated, or mitigated by means of insurance, contingency planning or other prudent business means;

“Identification Check Service” means the optional additional service specified in any Operations Specification;

“Information” has the meaning set out in section 84 of the FOIA;

“Nominated Account” means the following bank account details for the Post Office account or such other account as Post Office may notify to the Client in writing:

Bank: Barclays Bank

Account Name: Post Office Limited - Payout

Sort Code: 20-00-00

Account Number: 93383210

“Non-Recurring Charges” means charges other than the Recurring Charges payable by the Client to Post Office under this Agreement;

“Payment” means a payment of cash the Client wishes Post Office to make to a Customer on its behalf by means of payment against receipt of a Payment Instruction and, if required by the terms of the Payment Instruction, presentation of identification documentation;

“Payment Instruction” means the instruction to Post Office to make a Payment to the Customer presenting it at a Post Office branch;

“Payment Instruction Validity Period” means the period the Client and Post Office agree in the Client Requirement Document that a Payment Instruction will be valid on the Post Office system and always commencing on the date a Datafile is processed;

“Payout Portal” means the Client interface for provision of the Service;

“Payout Service” means that part of the Service under which Post Office agrees to make Payments to Customers on receipt of an Active Payment Instruction;

“Personal Data” has the meaning given to it in the Data Protection Legislation;

“Personal Data Breach” has the meaning given to it in the Data Protection Legislation;

“Post Office Branch” means any “post office branch” or other form of outlet, terminal or presence in the network owned or operated by or on behalf of Post Office from time to time, at which the Service shall be provided;

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“Post Office System” means the computer system operated by Post Office from time to time which will record the creation and value of each Barcode, when a Payment Instruction becomes an Active Payment Instruction and when Payment is made against an Active Payment Instruction;

“Processing” has the meaning given to it in the Data Protection Legislation and the words **“Process”** and **“Processed”** shall be construed accordingly;

“Processor” has the meaning set out in the Data Protection Legislation;

“Recurring Charges” means the charges per Transaction payable by the Client to Post Office under this Agreement specified in table 2 of Schedule 2;

“Request for Information” means a request for information under the FOIA Law

“Required Balance” has the meaning given in clause 5.7

“RPI Percentage” means the average level of the General Index of Retail Prices (all items) as published by the Central Statistical Office or its successor;

“RPI Increase” means the average annual increase in the RPI Percentage over a 12 month period as last published at the relevant time by the Central Statistical Office or its successor (but, so that for the purposes of this Agreement, RPI Increase shall never be less than zero);

“Safe Countries” means:

- (i) the countries that comprise the European Economic Area, and in the event that the United Kingdom or any part of it falls outside the European Economic Area, those countries and the United Kingdom or that part of it; and
- (ii) any other country, territory or organisation which the Competent Authority has formally recognised as providing an adequate level of protection for Personal Data; and

“Scheme” means a scheme created by Post Office relating to a Client Requirement Document to allow the operational aspects of the Service to be performed in accordance with the relevant Client Requirement Document;

“Service” means the services provided by Post Office as described in Part 1 of Schedule 3 and specified in the relevant Operations Specification and as selected by the Client in any given Client Requirement Document;

“Service Schedule” means each service or services specifications for each Scheme substantially detailed in the form set out in Schedule 5 as amended from time to time under the Client Requirement Document accepted by Post Office;

“Subprocessor” has the meaning set out in Clause 16.11;

“Trade Mark” means the Post Office trade marks as set out in the Annex to Schedule 5 (Trade Mark Licence);

“Transaction” means a transaction involving Post Office making a Payment following presentation to it of a Payment Instruction; and

“Value Added Tax” or **“VAT”** has the meaning defined in the Value Added Tax Act 1994 and includes any other value added or sales tax from time to time.

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Part 2

Interpretation

- 1.1 Headings are for convenience only and shall not affect the construction or interpretation of this Agreement.
- 1.2 Unless the contrary intention appears:
 - 1.2.1 words in the singular include the plural and vice versa;
 - 1.2.2 words importing the masculine gender include the feminine and neuter and vice versa;
 - 1.2.3 references to persons include bodies corporate, unincorporated associations, partnerships or an authority;
 - 1.2.4 any reference to a statute shall include any subordinate legislation made from time to time

under that statute which is in force at the date of this Agreement;

- 1.2.5 any reference to a statute shall include such statute as from time to time modified, re-enacted or consolidated whether before or after the date of this Agreement;
- 1.2.6 the words “include”, “includes” and “including” and any words following them shall be construed without limitation to the generality of any preceding words or concepts and vice versa;
- 1.2.7 the Schedules and Appendices to this Agreement form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement; and
- 1.2.8 in circumstances of conflict between the main body of this Agreement on the one hand and the Schedules and Appendices on the other, the main body of this Agreement shall take precedence.

Schedule 2

Charges

Table 1: Initial Charges (Non-Recurring)	
Description	Amount
Scheme Set-up Includes: Dedicated Implementation Support, Associated Administration & contract provision; Datafile set-up, Data Transfer set-up; 1 st Years ongoing support and Management Information Reports.	████████
Bespoke Datafile coding (if applicable)	████████
Scheme Amendments	████████

Table 2: Recurring Charges	
Description	Amount per Transaction
Cost per Template submission (including amendments)	████████
Datafile transfer	████████
Processing and transfer of Barcode Reference:	████████
Postage (per item)	████████
Annual renewal	████████
Cancellation Fee (per item cancelled)	████████
Cancellation Fee (per file cancelled)	████████
Returned Mail Handling (per item)	████████

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The Charges will increase each year by an amount equivalent to the RPI Increase [calculated on 1 December in each year]. Such increase shall first come into effect on the 1 January after the date of this Agreement and on each successive anniversary of the 1 January thereafter.

All Charges quoted are exclusive of VAT.

Post Office shall be entitled to charge for other miscellaneous charges agreed between the parties in writing from time to time.

Post Office shall be entitled to charge the Client for any initial costs set out in Table 1 that are incurred.

Schedule 3

Part 1: Overview of Services



Schedule 4

Specification of Services for Post Office Payout® Scheme 065



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Annex A
HMRC Payment by Exception Procurement Specifications Document

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Schedule 5

Trade Mark Licence

1 DEFINITIONS AND INTERPRETATION

1.1 In this Schedule 5 (*Trade Mark Licence*), unless the context otherwise requires:

- (i) **Artwork** means all images, text, type, proofs, illustrations, graphic work, products, packaging, website, text and layout of any advertisements, promotional material or publications reproduced from or incorporating the Trade Marks;
- (ii) **Brand Manual** means Post Office's brand manual updated from time to time; and
- (iii) **Territory** means the United Kingdom.

2 LICENCE

- 2.1 Post Office hereby grants to the Client a non-exclusive, revocable, non-transferrable, royalty-free licence to use the Trade Marks in the Territory in accordance with the Brand Manual, and as strictly necessary for the purpose of performing its obligations under the Agreement.
- 2.2 Notwithstanding Clause 21 (*Variation*), Post Office may, at its sole discretion, on written notice to the Client add to or delete any of the entries in the Annex to this Schedule 5 (*Trade Mark Licence*).

3 OWNERSHIP

- 3.1 The Client acknowledges that Post Office is the owner of the Trade Marks.
- 3.2 The Client shall include the following acknowledgement in close proximity to the Trade Marks or in an appropriate "Acknowledgements" section:

"Trade Marks of Post Office Limited used under licence"

"All rights reserved",

or such other statement as notified in writing to the Client by Post Office.

- 3.3 The Client shall not do, or omit to do, or permit to be done, any act that will or may weaken, damage or be detrimental to the Trade Marks or the reputation or goodwill associated with the Trade Marks or Post Office or that may invalidate or jeopardise any registration of the Trade Marks.
- 3.4 The Client shall not apply for, or obtain, registration of:
 - (i) the Trade Marks for any goods or services in any country
 - (ii) any trade or service mark in any country which consists of, or comprises, or is confusingly similar to, the Trade Marks.
- 3.5 Any goodwill derived from the use by the Client of the Trade Marks shall accrue to Post Office. If requested by Post Office the Client shall promptly assign such goodwill to Post Office by executing any additional documents and performing any acts as may be required.

4 TERMS OF USE

- 4.1 The Client shall:
 - (i) use the Trade Marks only as expressly permitted in this Agreement and the Brand Manual in the form set out in the Annex to this Schedule 5 (*Trade Mark Licence*) or as otherwise stipulated from time to time by Post Office;
 - (ii) comply with Post Office's requirements as to the colours and size of representations of the Trade Marks and their position and manner of use;
 - (iii) ensure that the reproduction of the Trade Marks will be accurate and of high quality.

- 4.2 If Post Office permits the Trade Marks to be featured on a website, the Client shall ensure that terms and conditions of use are displayed on such website and that such terms include a clause which provides that no Trade Marks may be copied or reproduced in any way without Post Office's express written permission.
- 4.3 The Client shall not use:
- (i) any Trade Marks in any way that is liable to mislead the public or which would otherwise be detrimental to or inconsistent with the good name, goodwill, reputation or image of Post Office;
 - (ii) any Trade Marks for any illegal or immoral purpose or in any way which is obscene, indecent, vulgar, unsavoury, defamatory or otherwise offensive or inappropriate;
 - (iii) any imagery or words in relation to Post Office in any way which would or would be likely to bring Post Office into disrepute; and/or
 - (iv) any Trade Marks in conjunction with any other marks or names without Post Office's prior written consent.
- 4.4 The Client shall not create a website or any webpages which include any links or reference to any internet site controlled by Post Office, without Post Office's prior written consent.

5 ARTWORK

- 5.1 The Client shall not use or reproduce for any purpose, or permit any third party to use or reproduce for any purpose, any Artwork which has not been approved by Post Office.

6 INFRINGEMENT

- 6.1 The Client shall immediately notify Post Office in writing giving full particulars of any:
- (i) actual, suspected or threatened infringement or passing off or misuse of any of the Trade Marks;
 - (ii) actual or threatened claim that any of the Trade Marks is invalid;
 - (iii) actual or threatened opposition to any of the Trade Marks;
 - (iv) claim made or threatened that use of any of the Trade Marks infringes the rights of any third party;
 - (v) any person applies for, or is granted, a registered trade mark by reason of which that person may be, or has been, granted rights which conflict with any of the rights granted to the Client under this Agreement; or
 - (vi) any other form of attack, charge or claim to which any of the Trade Marks may be subject.
- 6.2 In respect of any of the matters listed in the above paragraph 6.1 of this Schedule 5 (*Trade Mark Licence*):
- (i) Post Office shall, in its absolute discretion, decide what action, if any, to take;
 - (ii) Post Office shall have exclusive control over, and conduct of, all claims and proceedings;
 - (iii) the Client shall not make any admissions other than to Post Office and shall provide Post Office with all assistance that it may reasonably require in the conduct of any claims or proceedings; and
 - (iv) Post Office shall bear the cost of any proceedings and shall be entitled to retain all sums recovered in any action.
- 6.3 The provisions of section 30 of the Trade Marks Act 1994 (or equivalent legislation in any jurisdiction) are expressly excluded.

- 6.4 Nothing in this Agreement shall constitute any representation or warranty that:
- (i) any Trade Mark is valid;
 - (ii) any Trade Mark (if an application) shall proceed to grant or, if granted, shall be valid; or
 - (iii) the exercise by the Client of rights granted under this Agreement will not infringe the rights of any person.

7 TERMINATION



- 7.1 Post Office may terminate the licence granted at paragraph 2.1 of this Schedule 5 (*Trade Mark Licence*) at any time on not less than five (5) Business Days' written notice to the Client.
- 7.2 Following termination in accordance with paragraph 7.1 of this Schedule 5 (*Trade Mark Licence*) the Client shall:
- (i) immediately cease using any Trade Marks;
 - (ii) remove any Trade Marks or Artwork from public display; and
 - (iii) promptly deliver to Post Office any and all documents and other materials: (a) supplied to the Client by, or on behalf of, Post Office in connection with the Trade Marks; and (b) bearing the Trade Marks.
- 7.3 Termination of the licence granted at paragraph 2.1 of this Schedule 5 (*Trade Mark Licence*) shall not affect this Agreement which shall continue in full force and effect.

8 INDEMNITY

- 8.1 The Client shall indemnify and keep Post Office and the Post Office's group indemnified against all liabilities incurred or suffered by Post Office and/or the Post Office's group howsoever arising (unless such liabilities are caused by Post Office's acts or omissions or caused by the Client following Post Office's direct instructions) as a result of or in connection with the Client's breach or negligent performance or non-performance of this Schedule 5 (*Trade Mark Licence*).

Annex

Trade Marks

Registration or Application number	Trade mark	Class
2278732A	POST OFFICE	09, 14, 16, 35, 36, 38, 39, 40, 41 & 42
2278918	SWYDDFA'R POST	09, 14, 16, 28, 35, 36, 38, 39, 40, 41 & 42
2469778	POST OFFICE lozenge 2007 	9 14 16 28 35 36 38 39 41 42
2469774	SWYDDFA'R POST lozenge 2007 	9 14 16 28 35 36 38 39 41 42

Schedule 7 DESCRIPTION OF DATA PROCESSING

Subject matter, nature and purpose of the processing of Personal Data	<p>Subject matter The provision of Payout Services to the Supplier by Post Office.</p> <p>Nature Processing activities, such as provision and processing of payee data, and storage until destruction will all be undertaken by the Supplier.</p> <p>Purpose Personal Data is processed in order to personalise Payout vouchers to the payee in order that they may redeem their voucher.</p>
Duration of the processing of Personal Data	For the full term of this agreement
Type of Personal Data processed	<p>Personal Data: May include customer name, address, and delivery email address or phone number</p> <p>Special Categories of Personal Data: None</p> <p>Criminal Records Data: None</p>
Categories of data subjects of the Personal Data	Known customers (past or present) of the client.
Sub-processors involved in Payout service delivery	

Schedule 8

CLIENT'S MANDATORY TERMS



- A. For the avoidance of doubt, references to 'the Agreement' mean 'Post Office Payout Terms and Conditions' between the Supplier and the Authority. References to 'the Authority' mean 'the Buyer' (the Commissioners for His Majesty's Revenue and Customs). References to 'the Supplier' mean Post Office Limited.
- B. The Agreement incorporates the Authority's mandatory terms set out in this Schedule 8.
- C. In case of any ambiguity or conflict, the Authority's mandatory terms in this Schedule 8 will supersede any other terms in the Agreement.
- D. For the avoidance of doubt, the relevant definitions for the purposes of the defined terms set out in the Authority's mandatory terms in this Schedule 8 are the definitions set out at Clause 1 of this Schedule 8.

1. Definitions

"Affiliate"	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 with, that body corporate from time to time;
"Authority Data"	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(i) supplied to the Supplier by or on behalf of the Authority; and/or</p> <p>(ii) which the Supplier is required to generate, process, store or transmit pursuant to this Agreement; or</p> <p>(b) any Personal Data for which the Authority is the Controller, or any data derived from such Personal Data which has had any designatory data identifiers removed so that an individual cannot be identified;</p>
"Charges"	the charges for the Services as specified in Schedule 2 of the Supplier's Terms and Conditions;
"Connected Company"	means, in relation to a company, entity or other person, the Affiliates of that company, entity or other person or any other person associated with such company, entity or other person;
"Control"	the possession by a person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or

	otherwise) and “Controls” and “Controlled” shall be interpreted accordingly;
“Controller”, “Processor”, “Data Subject”,	take the meaning given in the UK GDPR;
“Data Protection Legislation”	(a) "the data protection legislation" as defined in section 3(9) of the Data Protection Act 2018; and; (b) all applicable Law about the processing of personal data and privacy;
“Key Subcontractor”	any Subcontractor: (a) which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or (b) with a Subcontract with a contract value which at the time of appointment exceeds (or would exceed if appointed) ten per cent (10%) of the aggregate Charges forecast to be payable under this Call-Off Contract;
“Law”	any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
“Personal Data”	has the meaning given in the UK GDPR;
“Purchase Order Number”	the Authority’s unique number relating to the supply of the Services;
“Services”	the services to be supplied by the Supplier to the Authority under the Agreement, including the provision of any Goods;
“Subcontract”	any contract or agreement (or proposed contract or agreement) between the Supplier (or a Subcontractor) and any third party whereby that third party agrees to provide to the Supplier (or the Subcontractor) all or any part of the Services, or facilities or services which are material for the provision of the Services, or any part thereof or necessary for the management, direction or control of the Services or any part thereof;
“Subcontractor”	any third party with whom: (a) the Supplier enters into a Subcontract; or (b) a third party under (a) above enters into a Subcontract, or the servants or agents of that third party;

“Supplier Personnel”	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;
“Supporting Documentation”	sufficient information in writing to enable the Authority to reasonably verify the accuracy of any invoice;
“Tax”	<p>(a) all forms of tax whether direct or indirect;</p> <p>(b) national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction;</p> <p>(c) all statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imports, contributions, levies or liabilities (other than in return for goods or services supplied or performed or to be performed) and withholdings; and</p> <p>(d) any penalty, fine, surcharge, interest, charges or costs relating to any of the above,</p> <p>in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction;</p>
“Tax Non-Compliance”	<p>where an entity or person under consideration meets all 3 conditions contained in the relevant excerpt from HMRC’s “Test for Tax Non-Compliance”, as set out in Annex 1, where:</p> <p>(a) the “Economic Operator” means the Supplier or any agent, supplier or Subcontractor of the Supplier requested to be replaced pursuant to Clause 4.2.1; and</p> <p>(b) any “Essential Subcontractor” means any Key Subcontractor;</p>
“UK GDPR”	the UK General Data Protection Regulation, the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679);
“VAT”	value added tax as provided for in the Value Added Tax Act 1994.

2. Payment and Recovery of Sums Due

- 2.1** The Supplier shall invoice the Authority as specified in Clause 7.3 of the Agreement. Without prejudice to the generality of the invoicing procedure specified in the Agreement, the Authority shall provide a Purchase Order Number to the Supplier prior to the commencement of any Services and the Supplier acknowledges and agrees that should it commence Services without a Purchase Order Number:
- 2.1.1** the Supplier does so at its own risk; and
- 2.1.2** the Authority shall not be obliged to pay any invoice without a valid Purchase Order Number having been provided to the Supplier.
- 2.2** Each invoice and any Supporting Documentation required to be submitted in accordance with the invoicing procedure specified in the Agreement shall be submitted by the Supplier, as directed by the Authority from time to time via the Authority’s electronic transaction system.
- 2.3** If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Authority from any sum then due, or which may come due, to the Supplier under the Agreement or under any other

agreement or contract with the Authority. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Authority in order to justify withholding payment of any such amount in whole or in part.

3. Warranties

3.1 The Supplier represents and warrants that:

- 3.1.1** in the three years prior to the Effective Date, it has been in full compliance with all applicable securities and Laws related to Tax in the United Kingdom and in the jurisdiction in which it is established;
- 3.1.2** it has notified the Authority in writing of any Tax Non-Compliance it is involved in; and
- 3.1.3** no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue and the Supplier has notified the Authority of any profit warnings issued in respect of the Supplier in the three years prior to the Effective Date.

3.2 If at any time the Supplier becomes aware that a representation or warranty given by it under Clause 3.1.1, 3.1.2 and/or 3.1.3 has been breached, is untrue, or is misleading, it shall immediately notify the Authority of the relevant occurrence in sufficient detail to enable the Authority to make an accurate assessment of the situation.

3.3 In the event that the warranty given by the Supplier pursuant to Clause 3.1.2 is materially untrue, the Authority shall be entitled to terminate the Agreement pursuant to the Call-Off clause which provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

4. Promoting Tax Compliance

4.1 All amounts stated are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice.

4.2 To the extent applicable to the Supplier, the Supplier shall at all times comply with all Laws relating to Tax and with the equivalent legal provisions of the country in which the Supplier is established.

- 4.2.1** The Supplier shall provide to the Authority the name and, as applicable, the Value Added Tax registration number, PAYE collection number and either the Corporation Tax or self-assessment reference of any Key Subcontractors of the Supplier listed in Appendix A, prior to the provision of any material Services under the Agreement by Key Subcontractors. Upon a request by the Authority, the Supplier shall not contract, or will cease to contract, with any Key Subcontractor supplying Services under the Agreement.

- 4.2.2** For the avoidance of doubt, clause 4.3 is not applicable to Postmasters.

4.3 If, at any point during the Term, there is Tax Non-Compliance, the Supplier shall:

- 4.3.1** notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
- 4.3.2** promptly provide to the Authority:
 - (a)** details of the steps which the Supplier is taking to resolve the Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

(b) such other information in relation to the Tax Non-Compliance as the Authority may reasonably require.

- 4.4** The Supplier shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any Tax relating to payments made to the Supplier under this Agreement. Any amounts due under this Clause 4.4 shall be paid in cleared funds by the Supplier to the Authority not less than five (5) Working Days before the date upon which the Tax or other liability is payable by the Authority.
- 4.5** Upon the Authority's request, the Supplier shall provide (promptly or within such other period notified by the Authority) information which demonstrates how the Supplier complies with its Tax obligations.
- 4.6** If the Supplier:
- 4.6.1** fails to comply (or if the Authority receives information which demonstrates to it that the Supplier has failed to comply) with Clauses 4.2, 4.3.1 and/or 4.5 this shall be a material breach of the Agreement;
 - 4.6.2** fails to comply (or if the Authority receives information which demonstrates to it that the Supplier has failed to comply) with a reasonable request by the Authority that it must not contract, or must cease to contract, with any agent, supplier or Subcontractor of the Supplier as required by Clause 4.2.1 on the grounds that the agent, supplier or Subcontractor of the Supplier is involved in Tax Non-Compliance this shall be a material breach of the Agreement; and/or
 - 4.6.3** fails to provide details of steps being taken and mitigating factors pursuant to Clause 4.3.2 which in the reasonable opinion of the Authority are acceptable this shall be a material breach of the Agreement;

and any such material breach shall allow the Authority to terminate the Agreement pursuant to the Call-Off Clause which provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

- 4.7** The Authority may internally share any information which it receives under Clauses 4.2.1 to 4.3 (inclusive) and 4.5, for the purpose of the collection and management of revenue for which the Authority is responsible.

5. Use of Off-shore Tax Structures

- 5.1** Subject to the principles of non-discrimination against undertakings based either in member countries of the European Union or in signatory countries of the World Trade Organisation Agreement on Government Procurement, the Supplier shall not, and shall ensure that its Connected Companies, Key Subcontractors (and their respective Connected Companies) shall not, have or put in place (unless otherwise agreed with the Authority) any arrangements involving the use of off-shore companies or other off-shore entities the main purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom Tax of any description which would otherwise be payable by it or them on or in connection with the payments made by or on behalf of the Authority under or pursuant to this Agreement or (in the case of any Key Subcontractor and its Connected Companies) United Kingdom Tax which would be payable by it or them on or in connection with payments made by or on behalf of the Supplier under or pursuant to the applicable Key Subcontract ("**Prohibited Transactions**"). Prohibited Transactions shall not include transactions made between the Supplier and its Connected Companies or a Key Subcontractor and its Connected Companies on terms which are at arms-length and are entered into in the ordinary course of the transacting parties' business.

- 5.2** The Supplier shall notify the Authority in writing (with reasonable supporting detail) of any proposal for the Supplier or any of its Connected Companies, or for a Key Subcontractor (or any of its Connected Companies), to enter into any Prohibited Transaction. The Supplier shall notify the Authority within a reasonable time to allow the Authority to consider the proposed Prohibited Transaction before it is due to be put in place.
- 5.3** In the event of a Prohibited Transaction being entered into in breach of Clause 5.1 above, or in the event that circumstances arise which may result in such a breach, the Supplier and/or the Key Subcontractor (as applicable) shall discuss the situation with the Authority and, in order to ensure future compliance with the requirements of Clauses 5.1 and 5.2, the Parties (and the Supplier shall procure that the Key Subcontractor, where applicable) shall agree (at no cost to the Authority) timely and appropriate changes to any such arrangements by the undertakings concerned, resolving the matter (if required) through the escalation process in the Agreement.
- 5.4** Failure by the Supplier (or a Key Subcontractor) to comply with the obligations set out in Clauses 5.2 and 5.3 shall allow the Authority to terminate the Agreement pursuant to the Clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause).

6 Data Protection and off-shoring

- 6.1** The parties agree that the Supplier shall, whether it is the Controller or Processor, in relation to any Personal Data processed in connection with its obligations under the Agreement:
 - 6.1.1** not process or permit to be processed Personal Data outside of the United Kingdom unless the prior explicit written consent (for the avoidance of doubt, written consent is inclusive of email) of the Authority has been obtained, such consent not to be unreasonably withheld, and the following conditions are fulfilled:
 - (a)** the Supplier or any applicable Processor has provided appropriate safeguards in relation to any transfer of the Personal Data (whether in accordance with UK GDPR Article 46 or, where relevant, section 75 of the Data Protection Act 2018) as determined by either the Authority or the Supplier when it is the Controller;
 - (b)** the Data Subject has enforceable rights and effective legal remedies;
 - (c)** the Supplier or any applicable Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is processed (or, if it is not so bound, uses its best endeavours to assist either the Authority or the Supplier when it is the Controller in meeting its obligations); and
 - (d)** the Supplier or any applicable Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- 6.2** Failure by the Supplier to comply with the obligations set out in Clause 6.1 shall allow the Authority to terminate the Agreement pursuant to the Clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

7 Commissioners for Revenue and Customs Act 2005 and related Legislation

- 7.1** The Supplier shall comply with and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in Section 18 of the Commissioners for Revenue and Customs Act 2005 ('CRCA') to maintain the confidentiality of Authority Data. Further, the Supplier acknowledges that (without prejudice to any other rights and remedies of the Authority) a breach of the aforesaid obligations may lead to a prosecution under Section 19 of CRCA.

- 7.2** The Supplier shall comply with and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in Section 123 of the Social Security Administration Act 1992, which may apply to the fulfilment of some or all of the Services. The Supplier acknowledges that (without prejudice to any other rights and remedies of the Authority) a breach of the Supplier's obligations under Section 123 of the Social Security Administration Act 1992 may lead to a prosecution under that Act.
- 7.3** The Supplier shall comply with and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in the Official Secrets Acts 1911 to 1989 and the obligations set out in Section 182 of the Finance Act 1989.
- 7.4** The Supplier shall regularly remind all Supplier Personnel who will have access to, or are provided with, Authority Data in writing of the obligations upon Supplier Personnel set out in Clause 7.1 above. The Supplier shall monitor the compliance by Supplier Personnel with such obligations.
- 7.5** The Supplier shall ensure that all Supplier Personnel who will have access to, or are provided with Authority Data are subject to a written confidentiality agreement with the Supplier containing confidentiality obligations no less onerous than those contained in this Agreement.
- 7.6** In the event that the Supplier or the Supplier Personnel fail to comply with this Clause 7, the Authority reserves the right to terminate the Agreement with immediate effect pursuant to the clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause).

8 Confidentiality, Transparency and Publicity

8.1 The Supplier shall not, and shall take reasonable steps to ensure that the Supplier Personnel shall not:

8.1.1 make any press announcement or publicise the Agreement or any part of the Agreement in any way; or

8.1.2 use the Authority's name or brand in any promotion or marketing or announcement of orders, except with the prior written consent of the Authority.

8.2 Each Party acknowledges to the other that nothing in this Agreement either expressly or by implication constitutes an endorsement of any products or services of the other Party and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

8.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 ("FOIA"), the content of this Agreement is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of this Agreement, the Supplier hereby gives its consent for the Authority to publish the Agreement in its entirety, (*but any information which is exempt from disclosure in accordance with the provisions of the FOIA may be redacted by the Authority*) including from time-to-time agreed changes to the Agreement, to the general public. The Authority may consult with the Supplier to inform its decision regarding any redactions, but the Authority shall have the final decision at its absolute discretion.

8.4 The Supplier shall assist and cooperate with the Authority to enable the Authority to publish this Agreement.

9 Security Requirements

9.1 The Supplier shall comply with the security management plan set out at Annex 3 ("Security Management Plan") and the security policy identified as such within the Security Management Plan

("Security Policy").

9.2 The Authority shall notify the Supplier of any changes or proposed changes to the Security Policy.'

Appendix A
Key Subcontractors of the Supplier

[N/A]

Annex 1

Excerpt from HMRC's "Test for Tax Non-Compliance"

Condition one (An in-scope entity or person)

1. There is a person or entity ("X") which is either:
 - (a) The Economic Operator or Essential Subcontractor ("EOS");
 - (b) Part of the same group of companies as EOS. An entity will be treated as within the same group of EOS where that entities' financial statements would be required to be consolidated with those of EOS if prepared in accordance with *IFRS 10 Consolidated Financial Accounts*¹;
 - (c) Any director, shareholder or other person ("P") which exercises control over EOS. 'Control' means P can secure, through holding of shares or powers under articles of association or other document that EOS's affairs are conducted in accordance with P's wishes.

Condition two (Arrangements involving evasion, abuse or tax avoidance)

2. X has been engaged in one or more of the following:
 - (a) Fraudulent evasion²;
 - (b) Conduct caught by the General Anti-Abuse Rule³;
 - (c) Conduct caught by the Halifax Abuse principle⁴;
 - (d) Entered into arrangements caught by a DOTAS or VADR scheme⁵;
 - (e) Conduct caught by a recognised 'anti-avoidance rule'⁶ being a statutory provision which targets arrangements where either a main purpose, or an expected benefit, is to obtain a tax advantage or where the arrangement is not effected for commercial purposes. 'Targeted Anti-Avoidance Rules' (TAARs). It may be useful to confirm that the Diverted Profits Tax is a TAAR for these purposes;
 - (f) Entered into an avoidance scheme identified by HMRC's published Spotlights list⁷;
 - (g) Engaged in conduct which falls under rules in other jurisdictions which are equivalent or similar to (a) to (f) above.

Condition three (Arrangements are admitted, or subject to litigation/prosecution or identified in a

¹ <https://www.iasplus.com/en/standards/ifrs/ifrs10>

² 'Fraudulent evasion' means any 'UK tax evasion offence' or 'UK tax evasion facilitation offence' as defined by section 52 of the Criminal Finances Act 2017 or a failure to prevent facilitation of tax evasion under section 45 of the same Act.

³ "General Anti-Abuse Rule" means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into Parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions

⁴ "Halifax Abuse Principle" means the principle explained in the CJEU Case C-255/02 Halifax and others

⁵ A Disclosure of Tax Avoidance Scheme (DOTAS) or VAT Disclosure Regime (VADR) scheme caught by rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Section 19 and Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Section 19 and Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

⁶ The full definition of 'Anti-avoidance rule' can be found at Paragraph 25(1) of Schedule 18 to the Finance Act 2016 and Condition 2 (a) above shall be construed accordingly.

⁷ Targeted list of tax avoidance schemes that HMRC believes are being used to avoid paying tax due and which are listed on the Spotlight website: <https://www.gov.uk/government/collections/tax-avoidance-schemes-currently-in-the-spotlight>

published list (Spotlights)

3. X's activity in *Condition 2* is, where applicable, subject to dispute and/or litigation as follows:
- (a) In respect of 2(a), either X:
 - (i) Has accepted the terms of an offer made under a Contractual Disclosure Facility ("CDF") pursuant to the Code of Practice 9 (COP9) procedure⁸; or,
 - (ii) Has been charged with an offence of fraudulent evasion.
 - (b) In respect of 2(b) to (e), once X has commenced the statutory appeal process by filing a Notice of Appeal and the appeal process is ongoing including where the appeal is stayed or listed behind a lead case (either formally or informally). NB: Judicial reviews are not part of the statutory appeal process and no supplier would be excluded merely because they are applying for judicial review of an HMRC or HMT decision relating to tax or national insurance.
 - (c) In respect of 2(b) to (e), during an HMRC enquiry, if it has been agreed between HMRC and X that there is a pause with the enquiry in order to await the outcome of related litigation.
 - (d) In respect of 2(f) this condition is satisfied without any further steps being taken.
 - (e) In respect of 2(g) the foreign equivalent to each of the corresponding steps set out above in 3(a) to (c).

For the avoidance of doubt, any reference in this Annex 1 to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time including any implementing or successor legislation.

⁸ The Code of Practice 9 (COP9) is an investigation of fraud procedure, where X agrees to make a complete and accurate disclosure of all their deliberate and non-deliberate conduct that has led to irregularities in their tax affairs following which HMRC will not pursue a criminal investigation into the conduct disclosed.

Annex 2 Form
CONFIDENTIALITY DECLARATION

[NOT USED]

Annex 3 Form
SECURITY MANAGEMENT PLAN



EXECUTION PAGE

IN WITNESS WHEREOF the parties have duly executed this Agreement.

Signed for and on behalf of **HM Revenue & Customs**

[Redacted signature]

[Redacted signature]

Name, Title

Signed for on behalf of **Post Office Limited**

[Redacted signature]

[Redacted signature]

Name, Title

