

Unlimited liability

26.1 Neither Party limits its liability for:

- (a) death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);
- (b) fraud or fraudulent misrepresentation by it or its employees;
- (c) breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- (d) any liability to the extent it cannot be limited or excluded by Law.

26.2 The Supplier's liability in respect of the indemnities in Clause 10.5 (VAT), Clause 14.8 (*Employment Indemnity*), Clause 14.9 (*Income Tax and National Insurance Contributions*), Clause 19 (*IPRs Indemnity*), Schedule 9.1 (*Staff Transfer*) and the Annexes to Schedule 9.1 (*Staff Transfer*) shall be unlimited. The Supplier shall have unlimited liability if it wrongfully terminates or abandons the Agreement. The Supplier shall have unlimited liability if breaches the confidentiality provisions under Clause 22 (*Confidentiality*), except to the extent such breach relates to, or involves, Authority Data (including Personal Data) or is a breach of the "Data Protection Legislation".

26.3 The Authority's liability in respect of the indemnities in Clause 14.8 (*Employment Indemnity*), Schedule 9.1 (*Staff Transfer*) and the Annexes to Schedule 9.1 (*Staff Transfer*) shall be unlimited.

Financial and other limits

26.4 Subject to Clauses 26.1 and 26.2 (*Unlimited Liability*) and Clauses 26.7 (*Consequential Losses*):

- (a) the Supplier's aggregate liability in respect of loss of or damage to the Authority Premises or other property or assets of the Authority (including technical infrastructure, assets or equipment but excluding any loss or damage to the Authority's Data or any other data) that is caused by Defaults of the Supplier occurring in each and any Contract Year shall in no event exceed [REDACTED];
- (b) the Supplier's aggregate liability in respect of
 - (i) loss or damage to Authority Data;
 - (ii) breach of the Data Protection Legislation; and
 - (iii) breach of the Standard Contractual Clausesthat is caused by Default of the Supplier occurring in each and any Contract Year shall in no event exceed [REDACTED]
- (c) the Supplier's aggregate liability in respect of all:
 - (i) Service Credits; and
 - (ii) Compensation for Unacceptable KPI Failure;incurred in any relevant 12 month period to which the Service Credit Cap applies, shall be subject to the Service Credit Cap; and
- (d) the Supplier's aggregate liability in respect of all other Losses (except for liability for the Delay Payments which does not count or is included within this Clause 26.4(d) and is a separate liability cap, as more particularly described in Paragraph 1 of Part C of Schedule 7.1 (*Charges and Invoicing*)) incurred by the Authority under or in connection with this Agreement as a result of Defaults by the Supplier shall in no event exceed:

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- (i) in relation to Defaults occurring in the first Contract Year, an amount equal to the higher of 150% of the Estimated Year 1 Charges [REDACTED];
- (ii) in relation to Defaults occurring during any subsequent Contract Year, an amount equal to the higher of 150% of the Charges paid and/or due to be paid to the Supplier under this Agreement in the Contract Year immediately preceding the occurrence of the Default [REDACTED] and [REDACTED];
- (iii) in relation to Defaults occurring after the end of the Term, an amount equal to the higher of 150% of the Charges paid and/or due to be paid to the Supplier in the 12-month period immediately prior to the last day of the Term [REDACTED];

26.5 Deductions from Charges shall not be taken into consideration when calculating the Supplier's liability under Clause 26.4(c).

26.6 Subject to Clauses 26.1 and 26.3 (*Unlimited Liability*) and Clause 26.7 (*Consequential Losses*) and without prejudice to the Authority's obligation to pay the Charges as and when they fall due for payment:

- (a) the Authority's total aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Agreement as a result of early termination of this Agreement by the Authority pursuant to Clause 34.1(a) or Clause 34.1(b) (*Termination by the Authority*), as applicable or by the Supplier pursuant to Clause 34.3 (*Termination by the Supplier*) shall in no event exceed the following amounts:
 - (i) in relation to the Unrecovered Costs Payment, the amount set out in Paragraph 4 of Schedule 7.2 (*Payments on Termination*);
 - (ii) in relation to the Breakage Costs Payment, the amount set out in Paragraph 3.2 of Schedule 7.2 (*Payments on Termination*); and
 - (iii) where the Authority has given the amount of notice described under Clause 35.4(b) (*Payments by the Authority*) to terminate the whole Agreement and subject to the provisions of Schedule 7.2 (*Payments on Termination*) in relation to the Compensation Payment set out in Paragraph 6 of Schedule 7.2 (*Payments on Termination*); and
- (b) the Authority's aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Agreement as a result of Defaults of the Authority shall in no event exceed, in relation to Defaults occurring:
 - (i) in the first Contract Year, an amount equal to the Estimated Year 1 Charges;
 - (ii) during any subsequent Contract Year, an amount equal to the total Charges paid and/or due to be paid under this Agreement in the Contract Year immediately preceding the occurrence of the Default; and
 - (iii) after the end of the Term, an amount equal to the total Charges paid and/or due to be paid to the Supplier in the 12-month period immediately prior to the last day of the Term.

Consequential Losses

26.7 Subject to Clauses 26.1, 26.2 and 26.3 (*Unlimited Liability*) and Clause 26.8 (*Consequential Losses*), neither Party shall be liable to the other Party for:

- (a) any indirect, special or consequential Loss; or
- (b) any loss of profits, turnover, business opportunities, anticipated savings or damage to goodwill (in each case whether direct or indirect).

26.8 Notwithstanding Clause 26.7 (*Consequential Losses*) but subject to Clause 26.4 (*Financial and other limits*), the Supplier acknowledges that the Authority may, amongst other things, recover from the Supplier the following Losses incurred by the Authority to the extent that they arise as a result of a Default by the Supplier:

- (a) any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional cost of procuring Replacement Services for the remainder of the Term and/or replacement Deliverables, which shall include any incremental costs associated with such Replacement Services and/or replacement Deliverables above those which would have been payable under this Agreement;
- (d) any compensation (excluding any compensation by way of ex gratia payments) or interest paid to a third party by the Authority;
- (e) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty; and
- (f) amounts equal to the difference between the higher charges the Authority is required to pay under the Exiting Supplier Contract and the lower charges under this Agreement for any period of delay until Milestone M2 (Service Desk Go Live) is Achieved;

Conduct of indemnity claims

26.9 Where under this Agreement one Party indemnifies the other Party, the Parties shall comply with the provisions of Schedule 8.7 (*Conduct of Claims*) in relation to the conduct of Claims made by a third person against the Party having (or claiming to have) the benefit of the indemnity.

Mitigation

26.10 Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Agreement, including any Losses for which the relevant Party is entitled to bring a Claim against the other Party pursuant to the indemnities in this Agreement.

27 INSURANCE

The Supplier shall comply with the provisions of Schedule 2.5 (*Insurance Requirements*) in relation to obtaining and maintaining insurance.

SECTION H – REMEDIES AND RELIEF

28 RECTIFICATION PLAN PROCESS

28.1 In the event that:

- (a) there is, or is reasonably likely to be, a Delay; and/or
- (b) in any Service Period there has been:
 - (i) a Material KPI Failure; and/or
 - (ii) a Material SPI Failure; and/or
- (c) the Supplier commits: (i) a material Default which is irremediable; or (ii) a material Default that is capable of remedy, (and for these purposes a material Default under

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

Clauses 28.1(c)(i) and 28.1(c)(ii) may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default and irrespective of whether such material Default is irremediable or capable of remedy);

(each a “**Notifiable Default**”), the Supplier shall notify the Authority of the Notifiable Default as soon as practicable but in any event within 3 Working Days of becoming aware of the Notifiable Default, detailing the actual or anticipated effect of the Notifiable Default and, unless the Notifiable Default, also constitutes a Rectification Plan Failure or other Supplier Termination Event or a material Default under Clause 28.1(c) above, the Authority may not terminate this Agreement in whole or in part on the grounds of the Notifiable Default without first following the Rectification Plan Process.

Notification

28.2 If:

- (a) the Supplier notifies the Authority pursuant to Clause 28.1 (*Rectification Plan Process*) that a Notifiable Default has occurred; or
- (b) the Authority notifies the Supplier that it considers that a Notifiable Default has occurred (setting out sufficient detail so that it is reasonably clear what the Supplier has to rectify),

then, unless the Notifiable Default: (i) constitutes a Supplier Termination Event and the Authority serves a Termination Notice, or (ii) is a material Default under Clause 28.1(c) (*Rectification Plan Process*) above and the Authority serves a Termination Notice, and if the Authority requests the Supplier to comply with the Rectification Plan Process, the Supplier shall promptly comply with the Rectification Plan Process.

28.3 The “**Rectification Plan Process**” shall be as set out in Clauses 28.4 (*Submission of the draft Rectification Plan*) to 28.9 (*Agreement of the Rectification Plan*).

Submission of the draft Rectification Plan

28.4 The Supplier shall submit a draft Rectification Plan to the Authority for it to review as soon as possible and in any event within ten (10) Working Days (or such other period as may be agreed between the Parties) after the original notification pursuant to Clause 28.2 (*Notification*). The Supplier shall submit a draft Rectification Plan even if the Supplier Disputes that it is responsible for the Notifiable Default.

28.5 The draft Rectification Plan shall set out:

- (a) full details of the Notifiable Default that has occurred, including a root cause analysis;
- (b) the actual or anticipated effect of the Notifiable Default; and
- (c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable).

28.6 The Supplier shall promptly provide to the Authority any further Documentation that the Authority reasonably requires to assess the Supplier's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with Paragraph 6 of Schedule 8.3 (*Dispute Resolution Procedure*).

Agreement of the Rectification Plan

28.7 The Authority may reject the draft Rectification Plan by notice to the Supplier if, acting

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:

- (a) is insufficiently detailed to be capable of proper evaluation;
- (b) will take too long to complete;
- (c) will not prevent reoccurrence of the Notifiable Default; and/or
- (d) will rectify the Notifiable Default but in a manner which is unacceptable to the Authority.

28.8 The Authority shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Authority rejects the draft Rectification Plan, the Authority shall give reasons for its decision and the Supplier shall take the reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit the revised draft of the Rectification Plan to the Authority for review within 5 Working Days (or such other period as agreed between the Parties) of the Authority's notice rejecting the first draft.

28.9 If the Authority consents to the Rectification Plan:

- (a) the Supplier shall immediately start work on the actions set out in the Rectification Plan; and
- (b) the Authority may no longer terminate this Agreement in whole or in part on the grounds of the relevant Notifiable Default; save in the event of a Rectification Plan Failure or other Supplier Termination Event.

29 **DELAY PAYMENTS**

29.1 If a Key Milestone has not been Achieved by its relevant Milestone Date, the provisions of Paragraph 1 of Part C of Schedule 7.1 (*Charges and Invoicing*) shall apply in relation to the payment of Delay Payments.

29.2 Delay Payments shall not be the Authority's exclusive financial remedy for the Supplier's failure to Achieve a Key Milestone by its Milestone Date and the Parties agree that the Authority is entitled to claim damages for such failure to Achieve a Key Milestone by its Milestone Date along with any other rights and remedies the Authority may have under this Agreement.

30 **REMEDIAL ADVISER**

30.1 If:

- (a) any of the Intervention Trigger Events occur; or
- (b) the Authority reasonably believes that any of the Intervention Trigger Events are likely to occur,

(each an **"Intervention Cause"**), the Authority may give notice to the Supplier (an **"Intervention Notice"**) giving reasonable details of the Intervention Cause and requiring:

- (i) a meeting between the Authority Representative and the Supplier Representative to discuss the Intervention Cause; and/or
- (ii) the appointment as soon as practicable by the Supplier of a Remedial Adviser, as further described in this Clause 30.

For the avoidance of doubt, if the Intervention Cause is also a Supplier Termination Event, the Authority has no obligation to exercise its rights under this Clause 30.1 prior to or instead of exercising its right to terminate this Agreement.

30.2 If the Authority gives notice that it requires the appointment of a Remedial Adviser:

- (a) the Remedial Adviser shall be:

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- (i) a person selected by the Supplier and approved by the Authority save that such person is required to be a third party of the Supplier and its Subcontractors and cannot be a person of the Supplier and its Suppliers; or
 - (ii) if none of the persons selected by the Supplier have been approved by the Authority (or no person has been selected by the Supplier) within 10 Working Days following the date on which the Intervention Notice is given, a person identified by the Authority;
 - (b) the terms of engagement and start date agreed with the Remedial Adviser must be approved by the Authority; and
 - (c) any right of the Authority to terminate this Agreement pursuant to Clause 34.1(c) (*Termination by the Authority*) for the occurrence of that Intervention Cause shall be suspended for 60 Working Days from (and including) the date of the Intervention Notice (or such other period as may be agreed between the Parties)(the “**Intervention Period**”).
- 30.3 The Remedial Adviser’s overall objective shall be to mitigate the effects of, and (to the extent capable of being remedied) to remedy, the Intervention Cause and to avoid the occurrence of similar circumstances in the future. In furtherance of this objective (but without diminishing the Supplier’s responsibilities under this Agreement), the Parties agree that the Remedial Adviser may undertake any one or more of the following actions:
- (a) observe the conduct of and work alongside the Supplier Personnel to the extent that the Remedial Adviser considers reasonable and proportionate having regard to the Intervention Cause;
 - (b) gather any information the Remedial Adviser considers relevant in the furtherance of its objective;
 - (c) write reports and provide information to the Authority in connection with the steps being taken by the Supplier to remedy the Intervention Cause;
 - (d) make recommendations to the Authority and/or the Supplier as to how the Intervention Cause might be mitigated or avoided in the future; and/or
 - (e) take any other steps that the Authority and/or the Remedial Adviser reasonably considers necessary or expedient in order to mitigate or rectify the Intervention Cause.
- 30.4 The Supplier shall:
- (a) work alongside, provide information to, co-operate in good faith with and adopt any reasonable methodology in providing the Goods and Services recommended by the Remedial Adviser;
 - (b) ensure that the Remedial Adviser has all the access it may require in order to carry out its objective, including access to the Assets;
 - (c) submit to such monitoring as the Authority and/or the Remedial Adviser considers reasonable and proportionate in respect of the Intervention Cause;
 - (d) implement any reasonable recommendations made by the Remedial Adviser that have been approved by the Authority within the timescales given by the Remedial Adviser; and
 - (e) not terminate the appointment of the Remedial Adviser prior to the end of the Intervention Period without the prior consent of the Authority (such consent not to be unreasonably withheld).
- 30.5 The Supplier shall be responsible for:

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- (a) the costs of appointing, and the fees charged by, the Remedial Adviser; and
- (b) its own costs in connection with any action required by the Authority and/or the Remedial Adviser pursuant to this Clause 30.

30.6 If:

- (a) the Supplier:
 - (i) fails to perform any of the steps required by the Authority in an Intervention Notice; and/or
 - (ii) is in Default of any of its obligations under Clause 30.4; and/or
- (b) the relevant Intervention Trigger Event is not rectified by the end of the Intervention Period,

(each a “**Remedial Adviser Failure**”), the Authority shall be entitled to terminate this Agreement pursuant to Clause 34.1(c) (*Termination by the Authority*).

31 STEP-IN RIGHTS

31.1 On the occurrence of a Step-In Trigger Event, the Authority may serve notice on the Supplier (a “**Step-In Notice**”) that it will be taking action under this Clause 31 (*Step-in Rights*), either itself or with the assistance of a third party (provided that the Supplier may require any third parties to comply with a confidentiality undertaking equivalent to Clause 22 (*Confidentiality*)). The Step-In Notice shall set out the following:

- (a) the action the Authority wishes to take and in particular the Services that it wishes to control (the “**Required Action**”);
- (b) the Step-In Trigger Event that has occurred and whether the Authority believes that the Required Action is due to the Supplier's Default;
- (c) the date on which it wishes to commence the Required Action;
- (d) the time period which it believes will be necessary for the Required Action;
- (e) whether the Authority will require access to the Supplier's premises and/or the Sites; and
- (f) to the extent practicable, the impact that the Authority anticipates the Required Action will have on the Supplier's obligations to provide the Goods and Services during the period that the Required Action is being taken.

31.2 Following service of a Step-In Notice, the Authority shall:

- (a) take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;
- (b) keep Records of the Required Action taken and provide information about the Required Action to the Supplier;
- (c) co-operate wherever reasonable with the Supplier in order to enable the Supplier to continue to provide the Goods and Services in relation to which the Authority is not assuming control; and
- (d) act reasonably in mitigating the cost that the Supplier will incur as a result of the exercise of the Authority's rights under this Clause 31.

31.3 For so long as and to the extent that the Required Action is continuing, then:

- (a) the Supplier shall not be obliged to provide the Goods and Services to the extent that they are the subject of the Required Action;

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- (b) no Deductions shall be applicable in relation to Charges in respect of Services that are the subject of the Required Action and the provisions of Clause 31.4 shall apply to Deductions from Charges in respect of other Services; and
 - (c) the Authority shall pay to the Supplier the Charges after subtracting any applicable Deductions and all costs and payments that the Authority has to meet / pay in taking the Required Action.
- 31.4 If the Supplier demonstrates to the reasonable satisfaction of the Authority that the Required Action has resulted in:
- (a) the degradation of any Services not subject to the Required Action; or
 - (b) the non-Achievement of a Milestone,
- beyond that which would have been the case had the Authority not taken the Required Action, then the Supplier shall be entitled to an agreed adjustment of the Charges.
- 31.5 Before ceasing to exercise its step-in rights under this Clause 31 the Authority shall deliver a written notice to the Supplier (a “**Step-Out Notice**”), specifying:
- (a) the Required Action it has actually taken; and
 - (b) the date on which the Authority plans to end the Required Action (the “**Step-Out Date**”) subject to the Authority being satisfied with the Supplier's ability to resume the provision of the Goods and Services and the Supplier's plan developed in accordance with Clause 31.6.
- 31.6 The Supplier shall, following receipt of a Step-Out Notice and not less than 20 Working Days prior to the Step-Out Date, develop for the Authority's approval a draft plan (a “**Step-Out Plan**”) relating to the resumption by the Supplier of the Services, including any action the Supplier proposes to take to ensure that the affected Services satisfy the requirements of this Agreement.
- 31.7 If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Supplier of its reasons for not approving it. The Supplier shall then revise the draft Step-Out Plan taking those reasons into account and shall re- submit the revised plan to the Authority for the Authority's approval. The Authority shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.
- 31.8 The Supplier shall bear its own costs in connection with any step-in by the Authority under this Clause 31, provided that the Authority shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Authority under:
- (a) limbs (c) or (d) of the definition of a Step-In Trigger Event; or
 - (b) limbs (e) and (f) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Authority serving the Step-In Notice is identified as not being the result of the Supplier's Default).

32 AUTHORITY CAUSE

- 32.1 Notwithstanding any other provision of this Agreement, if the Supplier has failed to:
- (a) Achieve a Milestone by its Milestone Date;
 - (b) provide the Operational Services in accordance with the Target Performance Levels; and/or
 - (c) comply with its obligations under this Agreement, (each a “**Supplier Non-Performance**”),

and can demonstrate that the Supplier Non-Performance would not have occurred but for an Authority Cause, then (subject to the Supplier fulfilling its obligations in this Clause 32):

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- (i) the Supplier shall not be treated as being in Default to the extent the Supplier can demonstrate that the Supplier Non-Performance was caused by the Authority Cause;
- (ii) the Authority shall not be entitled to exercise any rights that may arise as a result of that Supplier Non-Performance:
 - (A) to terminate this Agreement pursuant to Clause 34.1(c) (*Termination by the Authority*); or
 - (B) to take action pursuant to Clauses 30 (*Remedial Adviser*) or 31 (*Step-In*);
- (iii) where the Supplier Non-Performance constitutes the failure to Achieve a Milestone by its Milestone Date:
 - (A) the Milestone Date shall be postponed by a period equal to the period of Delay that the Supplier can demonstrate was caused by the Authority Cause;
 - (B) if the Authority, acting reasonably, considers it appropriate, the Implementation Plan shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from the Authority Cause; and
 - (C) if the Milestone is a Key Milestone, the Supplier shall have no liability to pay any Delay Payments associated with the Key Milestone to the extent that the Supplier can demonstrate that such failure was caused by the Authority Cause;
- (iv) where the Supplier Non-Performance constitutes a Performance Failure:
 - (A) the Supplier shall not be liable to accrue Service Points;
 - (B) the Authority shall not be entitled to withhold any of the Operational Service Charges pursuant to Clause 7.2(d)(ii) (*Performance Failures*);
 - (C) the Authority shall not be entitled to withhold and retain any Compensation for Unacceptable KPI Failure pursuant to Clause 7.4(a) (*Unacceptable KPI Failure*); and
 - (D) the Supplier shall be entitled to invoice for the Operational Service Charges for the relevant Operational Services affected by the Authority Cause,

in each case, to the extent that the Supplier can demonstrate that the Performance Failure was caused by the Authority Cause.

32.2 In order to claim any of the rights and/or relief referred to in Clause 32.1, the Supplier shall as soon as reasonably practicable (and in any event within 10 Working Days) after becoming aware that an Authority Cause has caused, or is reasonably likely to cause, a Supplier Non-Performance, give the Authority notice (a “**Relief Notice**”) setting out details of:

- (a) the Supplier Non-Performance;
- (b) the Authority Cause and its effect, or likely effect, on the Supplier’s ability to meet its obligations under this Agreement;
- (c) any steps which the Authority can take to eliminate or mitigate the consequences and impact of such Authority Cause; and
- (d) the relief claimed by the Supplier.

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- 32.3 Following the receipt of a Relief Notice, the Authority shall as soon as reasonably practicable consider the nature of the Supplier Non-Performance and the alleged Authority Cause and whether it agrees with the Supplier's assessment set out in the Relief Notice as to the effect of the relevant Authority Cause and its entitlement to relief, consulting with the Supplier where necessary.
- 32.4 The Supplier shall use all reasonable endeavours to eliminate or mitigate the consequences and impact of an Authority Cause, including any Losses that the Supplier may incur and the duration and consequences of any Delay or anticipated Delay.
- 32.5 Without prejudice to Clause 5.14 (*Continuing obligation to provide the Services*), if a Dispute arises as to:
- (a) whether a Supplier Non-Performance would not have occurred but for an Authority Cause; and/or
 - (b) the nature and/or extent of the relief claimed by the Supplier,
- either Party may refer the Dispute to the Dispute Resolution Procedure. Pending the resolution of the Dispute, both Parties shall continue to resolve the causes of, and mitigate the effects of, the Supplier Non-Performance.
- 32.6 Any Change that is required to the Implementation Plan or to the Charges pursuant to this Clause 32 shall be implemented in accordance with the Change Control Procedure.

33 FORCE MAJEURE

- 33.1 Subject to the remaining provisions of this Clause 33 (and, in relation to the Supplier, subject to its compliance with its obligations in Schedule 8.6 (*Service Continuity Plan and Corporate Resolution Planning*)), a Party may claim relief under this Clause 33 from liability for failure to meet its obligations under this Agreement for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Agreement which results from a failure or delay by an agent, Sub-contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.
- 33.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 33.3 If the Supplier is the Affected Party, it shall not be entitled to claim relief under this Clause 33 to the extent that consequences of the relevant Force Majeure Event:
- (a) are capable of being mitigated, but the Supplier has failed to do so;
 - (b) should have been foreseen and prevented or avoided by a prudent provider of goods and services similar to the Goods and Services, operating to the Standards required by this Agreement; or
 - (c) are the result of the Supplier's failure to comply with its Service Continuity Plan (except to the extent that such failure is also due to a Force Majeure Event that affects the execution of the Service Continuity Plan).
- 33.4 Subject to Clause 33.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Goods and Services affected by the Force Majeure Event.
- 33.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in

accordance with Good Industry Practice to overcome, the consequences of the Force Majeure Event.

33.6 Where, as a result of a Force Majeure Event:

- (a) an Affected Party fails to perform its obligations in accordance with this Agreement, then during the continuance of the Force Majeure Event:
 - (i) the other Party shall not be entitled to exercise any rights to terminate this Agreement in whole or in part as a result of such failure other than pursuant to Clause 34.1(d) (*Termination by the Authority*) or Clause 34.3 (*Termination by the Supplier*); and
 - (ii) neither Party shall be liable for any Default arising as a result of such failure;
- (b) the Supplier fails to perform its obligations in accordance with this Agreement:
 - (i) the Authority shall not be entitled:
 - (A) to receive Delay Payments pursuant to Clause 29 (*Delay Payments*) to the extent that the Achievement of any Milestone is affected by the Force Majeure Event; and
 - (B) to receive Service Credits, to withhold any of the Operational Service Charges pursuant to Clause 7.2(d)(ii) (*Performance Failures*) or withhold and retain any of the Operational Service Charges as compensation pursuant to Clause 7.4(a) (*Unacceptable KPI Failure*) to the extent that a Performance Failure has been caused by the Force Majeure Event; and
 - (ii) the Supplier shall be entitled to receive payment of the Charges (or a proportional payment of them) only to the extent that the provision of the Goods and Services (or part of the provision of the Goods and Services) continue to be performed by the Supplier in accordance with the terms of this Agreement during the occurrence of the Force Majeure Event.

33.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Agreement.

33.8 Relief from liability for the Affected Party under this Clause 33 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Agreement and shall not be dependent on the serving of notice under Clause 33.7.

SECTION I – TERMINATION AND EXIT MANAGEMENT

34 TERMINATION RIGHTS

Termination by the Authority

34.1 The Authority may terminate this Agreement by issuing a Termination Notice to the Supplier:

- (a) for convenience at any time after the first Contract Year;
- (b) for convenience at any time where the Agreement should not have been entered into in view of a serious infringement of obligations under European Law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU (if and to the extent applicable during the Term);
- (c) if a Supplier Termination Event occurs;
- (d) if a Force Majeure Event endures for a continuous period of more than ninety (90) days; or

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- (e) if the Agreement has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure,

and this Agreement shall terminate on the date specified in the Termination Notice either as an Emergency Exit or Ordinary Exit, as requested by the Authority in the relevant Termination Notice.

34.2 Where the Authority:

- (a) is terminating this Agreement under Clause 34.1(c) (*Termination by the Authority*) due to the occurrence of either limb (b) and/or (g) of the definition of Supplier Termination Event, it may rely on a single material Default or on a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are cured) which taken together constitute a material Default;
- (b) is terminating this Agreement under clause 34.1(a) or Clause 34.1(b) (*Termination by the Authority*), as applicable, the provisions of Schedule 7.2 (*Payments on Termination*) may apply with regard to payment by the Authority of the Breakage Costs to the Supplier; and/or
- (c) has the right to terminate this Agreement under Clause 34.1(c) or Clause 34.1(d) (*Termination by the Authority*), it may, prior to or instead of terminating the whole of this Agreement, serve a Termination Notice requiring the Partial Termination of this Agreement to the extent that it relates to any part of the Goods and Services which are materially affected by the relevant circumstances.

Termination by the Supplier

- 34.3 The Supplier may, by issuing a Termination Notice to the Authority, terminate this Agreement if the Authority fails to pay an undisputed sum due to the Supplier under this Agreement which in aggregate exceeds an amount equivalent to two (2) month's average Charges and such amount remains outstanding one hundred and eighty (180) Working Days after the receipt by the Authority of a written notice of non-payment from the Supplier, and this Agreement or the relevant Services (as the case may be) shall then terminate on the date identified by the Supplier in the Termination Notice provided such date is at least six (6) months from the date of issue of the Termination Notice, unless a longer period is agreed in writing by the Authority and the Supplier.

Partial Termination

- 34.4 Where a Partial Termination occurs, at the request of the Authority pursuant to this Agreement, the Supplier shall comply with all of its obligations in the Exit Plan in respect of such Partial Termination depending on whether the relevant Partial Termination triggers an Emergency Exit or Ordinary Exit.
- 34.5 The Parties shall agree the effect of any Change necessitated by a Partial Termination in accordance with the Change Control Procedure, including the effect the Partial Termination may have on any other Services and the Charges, provided that:
- (a) the Supplier shall not be entitled to an increase in the Charges in respect of the Services that have not been terminated if the Partial Termination arises due to the occurrence of a Supplier Termination Event;
- (b) any adjustment to the Charges (if any) shall be calculated in accordance with the Financial Model and must be reasonable; and
- (c) the Supplier shall not be entitled to reject the Change.

Extending the Termination Date

- 34.6 The Authority shall be entitled to extend any Termination Date that the Authority identified in the Termination Notice it has provided to the Supplier by providing to the Supplier at least three

(3) months' prior written notice to such Termination Date identified in the Termination Notice, such written notice to also identify the date of the revised extended termination date.

35 CONSEQUENCES OF EXPIRY OR TERMINATION

General Provisions on Expiry or Termination

35.1 The provisions of Clauses 5.13 (*Specially Written Software warranty*), 10.4 to 10.6 (Inclusive)(*VAT*), 10.7 and 10.8 (*Set-off and Withholding*), 12 (*Records, Reports, Audits and Open Book Data*), 14.8 (*Employment Indemnity*), 14.9 (*Income Tax and National Insurance Contributions*), 16 (*Intellectual Property Rights*), 17 (*Licences Granted by the Supplier*), 19.1 (*IPRs Indemnity*), 22 (*Confidentiality*), 23 (*Transparency and Freedom of Information*), 24 (*Protection of Personal Data*), 26 (*Limitations on Liability*), 35 (*Consequences of Expiry or Termination*), 41 (*Severance*), 43 (*Entire Agreement*), 44 (*Third Party Rights*), 46 (*Disputes*) and 47 (*Governing Law and Jurisdiction*), and the provisions of Schedules 1 (*Definitions*), 7.1 (*Charges and Invoicing*), 7.2 (*Payments on Termination*), 7.5 (*Financial Reports and Audit Rights*), 8.3 (*Dispute Resolution Procedure*), 8.4 (*Reports and Records Provisions*), 8.5 (*Exit Management*), and 9.1 (*Staff Transfer*), shall survive the termination or expiry of this Agreement.

Exit Management

35.2 On service of the Termination Notice, the Parties shall comply with the provisions of Schedule 8.5 (*Exit Management*), including the Supplier shall submit for Approval the latest version of the Exit Plan in accordance with Paragraph 5.6 of Schedule 8.5 (*Exit Management*) to ensure an orderly transition of the Services to the Authority and/or any Replacement Supplier.

35.3 Following service of the Termination Notice, the Authority may additionally submit a Termination Assistance Notice for the provision of Exit Services by the Supplier in accordance with Paragraph 6.1 of Schedule 8.5 (*Exit Management*).

Payments by the Authority

35.4 The Authority shall pay the Supplier the following payments (which shall be the sole remedy for the termination of this Agreement) if this Agreement is terminated:

(a) **Termination Payment:** by the Authority pursuant to Clause 34.1(a) or Clause 34.1(b) (*Termination by the Authority*), as applicable, or by the Supplier pursuant to Clause 34.3 (*Termination by the Supplier*), the Authority shall pay the Supplier the Termination Payment subject to and in accordance with the provisions of Schedule 7.2 (*Payments on Termination*); and

(b) **Compensation Payment:** in its entirety by the Authority pursuant to Clause 34.1(a) or Clause 34.1(b) (*Termination by the Authority*), as applicable, the Authority shall pay the Supplier the; Compensation Payment subject to and in accordance with the provisions of Schedule 7.2 (*Payments on Termination*), if the Termination Notice period given by the Authority is less than:

(i) in respect of a termination of the entire Agreement by the Authority, three hundred and sixty-five (365) days from (but excluding) the date that the Termination Notice is given (or, where Paragraph 2.1(d) of Part D of Schedule 7.1 (*Charges and Invoicing*) applies, deemed given by the Authority pursuant to Clause 34.1(a) or Clause 34.1(b) (*Termination by the Authority*), as applicable to (and including) the Termination Date. The number of days' notice that falls short of such three hundred and sixty-five (365) day period shall be known as the "**Shortfall Period**".

35.5 If this Agreement is terminated (in part or in whole) by the Authority pursuant to Clauses 34.1(c), 34.1(d) and/or 34.2 (*Termination by the Authority*), or the Term expires, the only payments that the Authority shall be required to make as a result of such termination (whether by way of compensation or otherwise) are payments in respect of:

(a) any Assets or apportionments in accordance with Schedule 8.5 (*Exit*

Management); and

- (b) unpaid Charges for Services received up until the Termination Date.

35.6 The costs of termination incurred by the Parties shall lie where they fall if:

- (a) either Party terminates or partially terminates this Agreement for a continuing Force Majeure Event pursuant to Clauses 34.1(d) or 34.3 (*Termination by the Supplier*); or
- (b) the Authority terminates this Agreement under Clause 34.1(e) (*Termination by the Authority*).

Payments by the Supplier

35.7 On termination or expiry of this Agreement, the Supplier shall repay to the Authority all Charges that it has been paid:

- (a) in advance in respect of Services not provided by the Supplier as at the date of expiry or termination; and
- (b) in excess of the Maximum Permitted Profit Margin, as shown by the Annual Contract Report for the final Contract Year (issued by the Supplier following the termination or expiry of this Agreement pursuant to Paragraph 2 of Part D of Schedule 7.1 (*Charges and Invoicing*)) during the Term.

35.8 If this Agreement is terminated (in whole or in part) by the Authority pursuant to Clause 34.1(c) (*Termination by the Authority*) prior to Achievement of one or more CPP Milestones, the Authority may at any time on or within twelve (12) months of the issue of the relevant Termination Notice by issue to the Supplier of written notice (a “**Milestone Adjustment Payment Notice**”) require the Supplier to repay to the Authority an amount equal to the aggregate Milestone Adjustment Payment Amounts in respect of each CPP Milestone to which the Milestone Adjustment Payment Notice relates.

35.9 A Milestone Adjustment Payment Notice shall specify:

- (a) each CPP Milestone to which it relates;
- (b) in relation to each such CPP Milestone, each Deliverable relating to that CPP Milestone that the Authority wishes to retain, if any (each such Deliverable being a “**Retained Deliverable**”); and
- (c) those Retained Deliverables, if any, the Allowable Price for which the Authority considers should be subject to deduction of an adjusting payment on the grounds that they do not or will not perform in all material respects in accordance with their specification (such adjusting payment being an “**Allowable Price Adjustment**”),

and may form part of a Termination Notice.

35.10 The Supplier shall within 10 Working Days of receipt of a Milestone Adjustment Payment Notice, in each case as applicable:

- (a) notify the Authority whether it agrees that the Retained Deliverables which the Authority considers should be subject to an Allowable Price Adjustment as specified in the relevant Milestone Adjustment Payment Notice should be so subject; and
- (b) in relation to each such Retained Deliverable that the Supplier agrees should be subject to an Allowable Price Adjustment, notify the Authority of the Supplier’s proposed amount of the Allowable Price Adjustment and the basis for its approval;
- (c) provide the Authority with its calculation of the Milestone Adjustment Payment Amount in respect of each CPP Milestone the subject of the relevant Milestone Adjustment Payment Notice using its proposed Allowable Price Adjustment, including details of:

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- (i) all relevant Milestone Payments; and
 - (ii) the Allowable Price of each Retained Deliverable; and
 - (d) provide the Authority with such supporting information as the Authority may require.
- 35.11 If the Parties do not agree the calculation of a Milestone Adjustment Payment Amount within 20 Working Days of the Supplier's receipt of the relevant Milestone Adjustment Payment Notice, either Party may refer the Dispute to the Dispute Resolution Procedure.
- 35.12 If the Authority issues a Milestone Adjustment Payment Notice pursuant to Clause 35.8 (*Payments by the Supplier*):
- (a) the Authority shall:
 - (i) securely destroy or return to the Supplier all Non-retained Deliverables that are in tangible form; and
 - (ii) ensure that all Non-retained Deliverables that are held in electronic, digital or other machine-readable form cease to be readily accessible (other than by the information technology staff of the Authority) from any computer, word processor, voicemail system or any other device containing such all Non-retained Deliverables,

in each case as soon as reasonably practicable after repayment of the aggregate Milestone Adjustment Payment Amounts repayable pursuant to that Milestone Adjustment Payment Notice; and
 - (b) all licences granted pursuant to Clause 17 (*Licences granted by the Supplier*) in respect of Specially Written Software and Project Specific IPRs and any Supplier Non-COTS Software and/or Supplier Background IPRs shall terminate upon such repayment to the extent that they relate to the Non-retained Deliverables.

SECTION J – MISCELLANEOUS AND GOVERNING LAW

36 COMPLIANCE

Health and Safety

- 36.1 The Supplier shall perform its obligations under this Agreement (including those in relation to the provision of the Goods Services) in accordance with:
- (a) all applicable Laws regarding health and safety; and
 - (b) the Authority's Health and Safety Policy whilst at the Authority Premises; and
 - (c) any other requirements and instructions which the Authority reasonably imposes from time to time in connection with any health and safety measures required.
- 36.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority Premises of which it becomes aware and which relate to or arise in connection with the performance of this Agreement. The Supplier shall instruct the Supplier Personnel to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

Equality and Diversity

- 36.3 The Supplier shall:
- (a) perform its obligations under this Agreement (including those in relation to the provision of the Goods and Services) in accordance with:
 - (i) all applicable equality Laws (whether in relation to race, sex, gender

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);

- (ii) the Authority's equality and diversity Policy as provided to the Supplier from time to time; and
 - (iii) any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law; and
- (b) take all necessary steps, and inform the Authority of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

Official Secrets Act and Finance Act

36.4 The Supplier shall comply with the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.

37 ASSIGNMENT AND NOVATION

37.1 The Supplier shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Agreement without the prior written consent of the Authority.

37.2 The Authority may at its discretion assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Agreement and/or any associated licences to:

- (a) any Central Government Body; or
- (b) to a body other than a Central Government Body (including any private sector body) which performs any of the functions that previously had been performed by the Authority,

and the Supplier shall, at the Authority's request, enter into a novation agreement in such form as the Authority shall reasonably specify in order to enable the Authority to exercise its rights pursuant to this Clause 37.2.

37.3 A change in the legal status of the Authority such that it ceases to be a Central Government Body shall not (subject to Clause 37.4) affect the validity of this Agreement and this Agreement shall be binding on any successor body to the Authority.

37.4 If the Authority assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Agreement to a body which is not a Central Government Body or if a body which is not a Central Government Body succeeds the Authority (any such body a "**Successor Body**"), the Supplier shall have the right to terminate for an Insolvency Event affecting the Successor Body identical to the right of termination of the Authority under limb (k) of the definition of Supplier Termination Event (as if references in that limb (k) to the Supplier and the Guarantor were references to the Successor Body).

38 WAIVER AND CUMULATIVE REMEDIES

38.1 The rights and remedies under this Agreement may be waived only by notice and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Agreement or by law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

38.2 Unless otherwise provided in this Agreement, rights and remedies under this Agreement are

cumulative and do not exclude any rights or remedies provided by law, in equity or otherwise.

39 RELATIONSHIP OF THE PARTIES

- 39.1 Except as expressly provided otherwise in this Agreement, nothing in this Agreement, nor any actions taken by the Parties pursuant to this Agreement, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.
- 39.2 Notwithstanding anything to the contrary in this Agreement, the Supplier acknowledges that it is not, and nor will it be, the exclusive supplier of the Goods and/or Services or any other goods and services to the Authority and that the Authority may perform itself, or engage a third party to provide the whole or any part of the provision of: (i) goods and services that are the same or similar to the Goods and Services under the Agreement; and (ii) Goods and Services Work Requests, Service Requests, any Contract Change requested in accordance Schedule 8.2 (*Change Control Procedure*) with or the provision of any other similar goods and services.

40 PREVENTION OF FRAUD AND BRIBERY

- 40.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, have at any time prior to the Effective Date:
- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
 - (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 40.2 The Supplier, and using best endeavours procure that the Supplier Personnel shall not during the Term of this Agreement:
- (a) commit a Prohibited Act; and/or
 - (b) do or suffer anything to be done which would cause the Authority or any of the Authority's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 40.3 The Supplier shall during the Term of this Agreement:
- (a) establish, maintain and enforce, and require that its Sub-contractors establish, maintain and enforce, Policies and Procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
 - (b) have in place reasonable prevention measures (as defined in sections 45(3) and 46(4) of the Criminal Finance Act 2017) to ensure that Associated Persons of the Supplier do not commit tax evasion facilitation offences as defined under that Act;
 - (c) keep appropriate Records of its compliance with its obligations under Clause 40.3(a) and make such Records available to the Authority on request;
 - (d) take account of any guidance about preventing facilitation of tax evasion offences which may be published and updated in accordance with Section 47 of the Criminal Finances Act 2017;
 - (e) keep appropriate Records of any gifts or hospitality, whether directly or indirectly given or received in connection with this Agreement, and make such Records available to the Authority on request. The Supplier shall be responsible for notifying the Authority of any gift or hospitality, whether directly or indirectly given or received in connection with this Agreement, which has a value of more than £50; and

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- (f) conduct reasonable and proportionate due diligence on each Sub-contractor, before engaging with that Sub-contractor in connection with this Agreement, to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act.
- 40.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of any Default of Clause 40.1 and/or 40.2, or has reason to believe that it has or any of the Supplier Personnel have:
- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
 - (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Agreement has committed or attempted to commit a Prohibited Act.
- 40.5 If the Supplier makes a notification to the Authority pursuant to Clause 40.4, the Supplier and using best endeavours procure that the Supplier Personnel, shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, Records and/or any other relevant Documentation in accordance with Clause 12 (*Records, Reports, Audits and Open Book Data*).
- 40.6 If the Supplier, or the Supplier Personnel (whether acting in the Supplier's knowledge or otherwise is in Default under Clauses 40.1 and/or 40.2, the Authority may by notice:
- (a) require the Supplier to remove from performance of this Agreement any Supplier Personnel whose acts or omissions have caused the Default; or
 - (b) immediately terminate this Agreement.
- 40.7 Any notice served by the Authority under Clause 40.6 shall specify the nature of the Prohibited Act, the identity of the Party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which this Agreement shall terminate).

41 SEVERANCE

- 41.1 If any provision of this Agreement (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall
- (a) to the maximum extent possible, be read down to ensure that the remaining parts of that provision and the remaining provisions of this Agreement are not void or unenforceable; and
 - (b) to the extent such remaining parts and provisions are unable to be read down, be deemed to be deleted to the extent necessary to ensure that the remaining provisions of this Agreement are not void or unenforceable and the validity and/or enforceability of the remaining provisions of this Agreement shall not be affected.
- 41.2 In the event that any deemed deletion under Clause 41.1 is so fundamental as to prevent the accomplishment of the purpose of this Agreement or materially alters the balance of risks and rewards in this Agreement, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Agreement so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Agreement and, to the extent that is reasonably possible, achieves the Parties' original commercial intention.

- 41.3 If the Parties are unable to agree on the revisions to this Agreement within 5 Working Days of the date of the notice given pursuant to Clause 41.2, the matter shall be dealt with in accordance with Paragraph 4 (Commercial Negotiation) of Schedule 8.3 (*Dispute Resolution Procedure*) except that if the representatives are unable to resolve the Dispute within 30 Working Days of the matter being referred to them, this Agreement shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Agreement is terminated pursuant to this Clause 41.3.

42 FURTHER ASSURANCES

Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be reasonably necessary to give effect to the meaning of this Agreement.

43 ENTIRE AGREEMENT

- 43.1 This Agreement constitutes the entire agreement between the Parties in respect of its subject matter and supersedes and extinguishes all prior negotiations, arrangements, understanding, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.
- 43.2 Neither Party has been given, nor entered into this Agreement in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Agreement.
- 43.3 Nothing in this Clause 43 shall exclude any liability in respect of misrepresentations made fraudulently.

44 THIRD PARTY RIGHTS

Third Party Rights

- 44.1 The provisions of: (i) Clause 19.1 (*IPRs Indemnity*), Paragraphs 2.1 and 2.6 of Part A, Paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B, Paragraphs 2.1 and 2.3 of Part C, Part D and Paragraphs 1.4, 2.3 and 2.8 of Part E of Schedule 9.1 (*Staff Transfer*) and the provisions of Paragraph 7.9 of Schedule 8.5 (*Exit Management*); and (ii) the provisions of Clauses 44.5 to 44.14 below, (together “**Third Party Provisions**”) confer benefits on persons named or identified in such provisions other than the Parties (each such person a “**Third Party Beneficiary**”) and are intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.
- 44.2 Subject to Clause 44.1 above and Clause 44.5 to 44.14 below, a person who is not a Party to this Agreement has no right under the CRTPA to enforce any term of this Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 44.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Authority, which may, if given, be given on and subject to such terms as the Authority may determine.
- 44.4 Any amendments or modifications to this Agreement may be made, and any rights created under Clause 44.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

Service Recipients

- 44.5 If the Authority has identified Service Recipients in Paragraph 1.11.1 of Part A to Schedule 2.1 (*Services Description*) at the Effective Date or if Service Recipients are added in accordance with Clause 44.8 below, then unless otherwise expressly stated in Paragraph 1.11.1 of Part A of Schedule 2.1 (*Services Description*), the Supplier shall provide the Goods and Services to the Authority acting for itself as a direct consumer of the Goods and Services and to the Service Recipient for whom the Authority is acting on their behalf under the Agreement.

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- 44.6 In the circumstances described under Clause 44.5 above, unless otherwise expressly stated, any provisions that relate to:
- (a) the Authority receiving the Goods and Services or taking the benefit of the Good and Services; or
 - (b) that relate to any rights or remedies of the Authority in relation to the Goods and Services or the receipt or benefit of the Goods and Services,
- shall apply to both the Authority and/or the Service Recipients, as applicable.
- 44.7 Not Used.
- 44.8 At any time after the Effective Date, where the Authority requires any third party (including any Service Recipient which is expressly listed in Paragraph 1.11.1 of Part A of Schedule 2.1 (Services Description) but which is not consuming Goods and Services from the Effective Date) to begin receiving Goods and Services as Service Recipients under this Agreement the Authority shall, in accordance with Clause 45 (*Notices*) below, by notice add one or more Service Recipients to Paragraph 1.11.2 of Part A to Schedule 2.1 (*Service Description*).
- 44.9 Where the Authority requires any Service Recipients to be removed as recipients of the Goods and Services under this Agreement the Authority shall, in accordance with Clause 45 (*Notices*) below, by notice remove one or more Service Recipients from the Agreement. Such removal of a Service Recipient shall be carried out in accordance with and on the applicable terms of the Agreement. Notwithstanding any other provision of the Agreement, the Supplier shall be required to populate an Exit Plan in respect of any exiting Service Recipient. Any such removal of a Service Recipient shall not be a termination in part (or whole) (whether with cause or otherwise) of the Agreement and for the avoidance of doubt the termination for convenience provisions of 34.1(a) or Clause 34.1(b) (*Termination by the Authority*), as applicable above and Clause 35.4 above shall not apply to any such removal.
- 44.10 The Parties agree that the Service Recipients shall be entitled to enforce the provisions of the Agreement in accordance with Clause 44.1 (*Third Party Rights*) save that such enforcement shall be:
- (a) subject to the consent of the Authority; and
 - (b) undertaken by the Authority on behalf of any or all Service Recipients, as applicable. Where any court directs that the Authority cannot bring such action directly on behalf of the relevant Service Recipients, such relevant Service Recipients shall be permitted to enforce directly against the Supplier.
- 44.11 In relation to Service Recipients, the Supplier shall be liable only to the Authority and shall deal only with the Authority. If any breach is committed by a Service Recipient, any claim by the Supplier shall be brought only against the Authority and not against any Service Recipient.
- 44.12 Save as hereinafter provided, no Service Recipient or other third party may authorise any Changes under the Agreement.
- 44.13 The Authority is entitled to recover all Losses suffered by any Service Recipient as though it had suffered such loss itself, provided that in no event may the Authority or any Service Recipient recover twice in respect of the same loss (so that loss recovered by a Service Recipient may not be recovered by the Authority and vice versa). For the avoidance of doubt, the Service Recipients will not be entitled to recover any Losses directly against the Supplier unless the provisions of Clause 44.10(b) above apply.
- 44.14 The Authority rights under Clause 44.13 above shall not increase the limitations on liability in Clause 26 (*Limitations on Liability*).

45 NOTICES

- 45.1 Any notices sent under this Agreement must be in writing.

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

- 45.2 Subject to Clause 45.4, the following table sets out the method by which notices may be served under this Agreement and the respective deemed time and proof of service:

Manner of Delivery	Deemed time of service	Proof of service
Email	9.00am on the first Working Day after sending, provided the other Party's email system generates a confirmation message to the sending Party's email system that the message has been delivered.	Dispatched as a pdf attachment to an e-mail to the correct e-mail address without any error message.
Personal delivery	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day.	Properly addressed and delivered as evidenced by signature of a delivery receipt
Prepaid, Royal Mail Signed For™ 1st Class or other prepaid, next Working Day service providing proof of delivery.	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm).	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt

- 45.3 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under this Agreement:

	Supplier	Authority	Other Consortium Member
Contact	Company Secretary	[REDACTED]	N/A
Address	Royal Pavilion Wellesley Road Aldershot Hampshire GU1 1PZ	[REDACTED] Head of Technology Services Workplace & DH Transformation Directors Department of Health & Social Care 1W09 Quarry House Leeds West Yorkshire LS2 7UE	N/A
Email	[REDACTED]	[REDACTED]	N/A

- 45.4 The following notices may only be served as an attachment to an email if the original notice is

then sent to the recipient by personal delivery or recorded delivery in the manner set out in the table in Clause 45.2:

- (a) Step-In Notices;
- (b) Force Majeure Notices;
- (c) notices issued by the Supplier pursuant to Clause 34.3 (*Termination by the Supplier*);
- (d) Termination Notices; and
- (e) Dispute Notices.

45.5 This Clause 45 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution (other than the service of a Dispute Notice under Schedule 8.3 (*Dispute Resolution Procedure*)).

46 DISPUTES

46.1 The Parties shall resolve Disputes arising out of or in connection with this Agreement in accordance with the Dispute Resolution Procedure.

46.2 The Supplier shall continue to provide the Goods and Services in accordance with the terms of this Agreement until a Dispute has been resolved.

47 GOVERNING LAW AND JURISDICTION

47.1 This Agreement and any issues, Disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.

47.2 Subject to Clause 46 (*Disputes*) and Schedule 8.3 (*Dispute Resolution Procedure*) (including the Authority's right to refer the Dispute to arbitration), the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any Dispute or claim (whether contractual or non- contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

48 COUNTERPARTS/DUPPLICATES

48.1 This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but which shall together constitute one agreement.

48.2 This Agreement may be executed in duplicate, each of which shall constitute an original.

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

This Agreement has been duly executed by the Parties on the date on which the last Party has signed below.

SIGNED FOR AND ON BEHALF OF ENTSEV UK LIMITED by [REDACTED], a Director

***Supplier's Authorised Signatory:**

DocuSigned by:

[REDACTED]

Full Name:

[REDACTED]

Job Title/Role: PRESIDENT, EMEA

Date: 17/12/21

SIGNED FOR AND ON BEHALF OF THE SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE by [REDACTED], Deputy Director

***Authority's Authorised Signatory:**

DocuSigned by:

[REDACTED]

Full Name:

[REDACTED]

Job Title/Role: Deputy Director, Procurement

Date: 17 December 2021

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

SCHEDULE 1

DEFINITIONS

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

1 DEFINITIONS

Unless otherwise provided or the context otherwise requires the following expressions shall have the meanings set out below.

“Accessibility Services”	has the meaning given in Paragraph 2.2.1(a)(vii) of Part B of Schedule 7.1 (<i>Charges and Invoicing</i>);
“Accessibility Services Charges”	means the Charges more particularly described in Paragraph 2.2.1(c)(vii) of Part B of Schedule 7.1 (<i>Charges and Invoicing</i>);
“Accounting Reference Date”	means in each year the date to which the Supplier prepares its annual audited financial statements;
“Achieve”	(a) in respect of a Test, to successfully pass a Test without any Test Issues; and (b) in respect of a Milestone, the issue of a Milestone Achievement Certificate in respect of that Milestone in accordance with the provisions of Schedule 6.2 (<i>Testing Procedures</i>), and “Achieved” and “Achievement” shall be construed accordingly;
“Acceptance Criteria”	the acceptance criteria for a relevant Milestone, as more particularly described in Paragraph 27 of Part D of Schedule 6.1 (<i>Implementation Plan</i>);
“Acquired Rights Directive”	the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;
“Active End User”	means any End User in Active Directory who has a non-Guest account, that is not suspended or cancelled in Active Directory, and has been accessed by this End User within the last ninety (90) calendar days;
“Additional Milestone”	a Milestone which is additional to the Milestones set out in the Implementation Plan and will apply to the provision of the Goods and Services to a Service Recipient, including as part of a Future Service;
“Additional SOC Software Charges”	means the Charges more particularly described in Paragraph 2.4.1(c)(ii) of Part B of Schedule 7.1 (<i>Charges and Invoicing</i>);
“Affected Party”	the Party seeking to claim relief in respect of a Force Majeure Event;
“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 and includes, as the Supplier’s Affiliates, each Consortium Member other than the Supplier;
“Allowable Price”	in relation to the Retained Deliverables relating to a CPP Milestone, if any, an amount determined in accordance with the formula: $A - B$ where: (a) A is an amount equal to the Costs incurred by the Supplier in providing or developing the relevant Retained Deliverables as

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

	<p>reflected in the Financial Model together with an amount equal to the Anticipated Contract Life Profit Margin thereon; and</p> <p>(b) B is an amount equal to the Allowable Price Adjustment relating to the relevant Retained Deliverables, if any, or if there is no such Allowable Price Adjustment, zero,</p> <p>provided that the Allowable Price for any Retained Deliverables shall in no circumstances exceed the aggregate amount of the Milestone Payments paid to the Supplier in respect of the Milestones (or in the case of Partial Termination, the Milestones for the parts of the Services terminated) relating to that CPP Milestone;</p>
“Allowable Price Adjustment”	has the meaning given in Clause 35.9(c) (<i>Payments by the Supplier</i>);
“Amendment”	has the same meaning as “Change”;
“Annual Contract Report”	has the meaning given in Paragraph 1.1 of Schedule 7.5 (<i>Financial Reports and Audit Rights</i>);
“Annual Revenue”	<p>means, for the purposes of determining whether an entity is a Public Sector Dependent Supplier, the audited consolidated aggregate revenue (including share of revenue of joint ventures and Associates) reported by the Supplier or, as appropriate, the Supplier Group in its most recent published accounts, subject to the following methodology:</p> <p>(a) figures for accounting periods of other than twelve (12) months should be scaled pro rata to produce a proforma figure for a twelve (12) month period; and</p> <p>(b) where the Supplier, the Supplier Group and/or their joint ventures and Associates report in a foreign currency, revenue should be converted to British Pound Sterling at the closing exchange rate on the Accounting Reference Date;</p>
“Anticipated Contract Life Profit Margin”	has the meaning given in Paragraph 1.1 of Schedule 7.1 (<i>Charges and Invoicing</i>);
“Approved Sub-Licensee”	<p>any of the following:</p> <p>(a) a Central Government Body;</p> <p>(b) any third party providing services to a Central Government Body; and/or</p> <p>(c) any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Authority;</p>
“Approver”	means individuals within the Authority who will approve requests for services and access;
“Assets”	all assets and rights used by the Supplier to provide the Goods and Services in accordance with this Agreement but excluding the Authority Assets;
“Associated Person”	has the meaning given to it in Section 44(4) of the Criminal Finances Act 2017;
“Associates”	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

	exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
“Assurance”	means written confirmation from a Relevant Authority to the Supplier that the CRP Information is approved by the Relevant Authority;
“ATP Milestone”	the Milestone linked to Authority to Proceed for the relevant Operational Services set out in the Implementation Plan;
“Audit”	any exercise by the Authority of its Audit Rights pursuant to Clause 12 (<i>Records, Reports, Audit and Open Book Data</i>) and Schedule 7.5 (<i>Financial Reports and Audit Rights</i>);
“Audit Agents”	<ul style="list-style-type: none"> (a) the Authority’s internal and external auditors; (b) the Authority’s statutory or regulatory auditors; (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; (d) HM Treasury or the Cabinet Office; (e) any party formally appointed by the Authority to carry out audit or similar review functions; (f) successors or assigns of any of the above; and (g) a Service Recipient or any person falling within the scope of Paragraphs (a), (b), (e) and/or (f) above, with respect to the Service Recipient;
“Audit Rights”	the audit and access rights referred to in Schedule 7.5 (<i>Financial Reports and Audit Rights</i>);
“Authority Assets”	the Authority Materials, the Authority’s or any Service Recipient’s infrastructure and any other data, software, assets, equipment or other property owned by and/or licensed or leased to the Authority or any Service Recipient and which is or may be used in connection with the provision or receipt of the Goods and Services;
“Authority Background IPRs”	<ul style="list-style-type: none"> (a) IPRs owned by the Authority or any Service Recipient before the Effective Date, including IPRs contained in any of the Authority’s Know-How, documentation, processes and procedures; (b) IPRs created by the Authority or any Service Recipient independently of this Agreement; and/or (c) Crown Copyright which is not available to the Supplier otherwise than under this Agreement; <p>but excluding IPRs owned by the Authority or any Service Recipient subsisting in the Authority Software;</p>
“Authority Cause”	<p>any material breach by the Authority of any of the Authority Responsibilities, except to the extent that such breach is:</p> <ul style="list-style-type: none"> (a) the result of any act or omission by the Authority to which the Supplier has given its prior consent; or (b) caused by the Supplier, any Sub-contractor or any Supplier Personnel;
“Authority Commercial Director”	the Authority’s commercial director as notified from time to time by the Authority to the Supplier;

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

“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 or any Service Recipient; 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 or any Service Recipient is the Data Controller;</p>
“Authority Document Management System”	the Authority’s relevant document management system (owned or licensed by the Authority), including Microsoft Teams, Sharepoint, Exchange, Atamis or any other platform as directed by the Authority to the Supplier from time to time, that the Supplier is required to use to store, manage and maintain all Documentation. Such storage, management and maintenance is more particularly described in Schedule 2.1 (<i>Services Description</i>);
“Authority Executive”	means the Authority executive as notified from time to time by the Authority to the Supplier;
“Authority IT Strategy”	the Authority's IT policy in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Change Control Procedure;
“Authority Materials”	<p>the Authority Data together with any materials, documentation, information, programs and codes supplied by the Authority or any Service Recipient to the Supplier, the IPRs in which:</p> <p>(a) are owned or used by or on behalf of the Authority or a Service Recipient; and</p> <p>(b) are or may be used in connection with the provision or receipt of the Goods and Services,</p> <p>but excluding any Project Specific IPRs, Specially Written Software, Supplier Software, Third Party Software and Documentation relating to Supplier Software or Third Party Software;</p>
“Authority Novated Third Party Contract”	means the third party contracts identified as such in Paragraph 2 of Schedule 4.4 (<i>Third Party Contracts</i>);
“Authority Premises”	premises owned, controlled or occupied by the Authority, any Service Recipient and/or any Central Government Body which are made available for use by the Supplier or its Sub-contractors for provision of the Goods and Services (or any of them);
“Authority Programme Director”	means the Authority programme director as notified from time to time by the Authority to the Supplier;
“Authority Representative”	the representative appointed by the Authority pursuant to Clause 11.4 (<i>Representatives</i>);
“Authority Requirements”	the requirements of the Authority set out in Part A of Schedule 2.1 (<i>Services Description</i>), Schedule 2.2 (<i>Performance Indicators</i>), Schedule 2.3 (<i>Standards</i>), Schedule 2.4 (<i>Security Management</i>), Schedule 2.5 (<i>Insurance Requirements</i>), Schedule 6.1 (<i>Implementation Plan</i>) excluding the Implementation Plan, Schedule 8.4 (<i>Reports and Records Provisions</i>), Schedule 8.5 (<i>Exit Management</i>) and Schedule 8.6 (<i>Service Continuity</i>);

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

	<i>Plan and Corporate Resolution Planning</i>); and any requirements of the Authority expressly set out elsewhere in the Agreement;
“Authority Responsibilities”	has the meaning given in Schedule 3 (<i>Authority Responsibilities</i>);
“Authority Software”	software which is owned by or licensed to the Authority or any Service Recipient (other than under or pursuant to this Agreement) and which is or will be used by the Supplier for the purposes of providing the Goods and Services;
“Authority System”	the Authority's and each Service Recipient's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority, each Service Recipient or the Supplier, as applicable, in connection with this Agreement which is owned by the Authority or any Service Recipient or licensed to the same by a third party and which interfaces with the Supplier System or which is necessary for the Authority or any Service Recipient to receive the Services;
“Authority Service Director”	the Authority's service director as notified from time to time by the Authority to the Supplier;
“Authority to Proceed” or “ATP”	the authorisation to the Supplier to commence the provision of the relevant Operational Services to the Authority, provided by the Authority in the form of a Milestone Achievement Certificate in respect of the ATP Milestone;
“Balanced Scorecard Report”	has the meaning given in Paragraph 1.2(b) of Part B of Schedule 2.2 (<i>Performance Levels</i>);
“Baseline Security Requirements”	the Authority's baseline security requirements, the current copy of which is contained in Annex A 1 of Schedule 2.4 (<i>Security Management</i>), as updated from time to time by the Authority and notified to the Supplier;
“Authority Third Party Contracts”	any third party contracts entered into by the Authority, excluding the Supplier Third Party Contracts, and shall include the Authority Novated Third Party Contracts;
"Beneficiary"	has the meaning given in Paragraph 1.1 of Schedule 8.7 (<i>Conduct of Claims</i>);
“Board”	means the relevant board in Schedule 8.1 (<i>Governance</i>);
“Breach of Security”	has the meaning given to it in Paragraph 1.1 of Schedule 2.4 (<i>Security Management</i>);
“Breakage Costs Payment”	has the meaning given in Paragraph 1.1 of Schedule 7.2 (<i>Payments on Termination</i>);
“Building Telephony Services”	has the meaning given in Paragraph 2.5.1(a)(vi) of Part B of Schedule 7.1 (<i>Charges and Invoicing</i>);
“Building Telephony Services Charges”	means the Charges more particularly described in Paragraph 2.5.1(c)(vi) of Part B of Schedule 7.1 (<i>Charges and Invoicing</i>);
“Cabinet Office Markets and Suppliers Team”	means the UK Government's team responsible for managing the relationship between government and its Strategic Suppliers, or any replacement or successor body carrying out the same function;

CONTRACT FOR THE PROVISION OF
IMS4 SERVICES

“Central Government Body”	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency;
“Certificate of Costs”	has the meaning given in Paragraph 1.1 of Schedule 7.1 (<i>Charges and Invoicing</i>);
“Change”	an Operational Change, any change to this Agreement under a Contract Change or a change under a Work Request, as applicable, as more particularly described in Schedule 8.2 (<i>Change Control Procedure</i>) and references to “Amendment” has the same meaning as “Change”;
“Change Authorisation Note”, “Contract Authorisation Note” or “Contract Change Authorisation Note”	a form setting out an agreed Contract Change which shall be substantially in the form of Annex 1 of Schedule 8.2 (<i>Change Control Procedure</i>);
“Change Control Procedure”	the procedure for changing this Agreement set out in Schedule 8.2 (<i>Change Control Procedure</i>);
“Change in Law”	any change in Law which impacts on the supply of Goods (including taxation or duties of any sort affecting the Supplier) or performance of the Services which comes into force after the Effective Date;
“Charges”	the charges for the provision of the Goods and Services set out in or otherwise calculated in accordance with Schedule 7.1 (<i>Charges and Invoicing</i>), including any Milestone Payment or Operational Service Charges;
“Claim”	has the meaning given in Paragraph 1.2 of Schedule 8.7 (<i>Conduct of Claims</i>);
“Class 1 Transaction”	has the meaning set out in the listing rules issued by the UK Listing Authority;
“Cloud Hosting Support Services”	means the cloud hosting support services as more particularly described in Paragraph 58 of Part A of Schedule 2.1 (<i>Services Description</i>);
“Cloud Hosting Support Services Charges”	means the Charges related to the Cloud Hosting Support Services as more particularly described in Paragraph 2.7 of Part B of Schedule 7.1 (<i>Charges and Invoicing</i>);
“Commercially Sensitive Information”	the information listed in Schedule 4.2 (<i>Commercially Sensitive Information</i>) comprising the information of a commercially sensitive nature relating to: (a) the pricing of the provision of the Goods and Services; (b) details of the Supplier’s IPRs; and (c) the Supplier’s business and investment plans;