

## **SCHEDULE 24**

### **EXIT PLAN AND TERMINATION ASSISTANCE**

#### **1. PURPOSE OF SCHEDULE**

The Contractor shall co-operate with the Authority and ensure the orderly transition of the Services (or any of the Services) from the Contractor to the Authority or a New Contractor in the event of any termination or expiry of this Agreement. This Schedule 24 sets out the principles of the exit arrangements that shall form the basis of the Exit Plan and the Contractor's obligations in relation to the Exit Plan.

#### **2. EXIT PLAN PRINCIPLES**

The Exit Plan shall be in the form set out in the Appendix and shall:

- (a) address each of the issues set out in this Schedule 24 to facilitate the transition of the Services from the Contractor to the Authority or a New Contractor (as the case may be) to ensure that there is no disruption in the supply of the Services and that there is no deterioration in the quality of delivery of the Services during the Exit Period;
- (b) set out the operational and technical details of how the Services (or any of the Services) will transfer to the Authority or a New Contractor including processes, documentation and data transfer, infrastructure transfer (if any), systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Contractor or any Subcontractor (where applicable);
- (c) specify the scope of the Exit Services that may be required by the Authority and detail how those Exit Services will be provided by the Contractor during the Exit Period;
- (d) provide details of the Contractor Personnel and other resources that would be required to provide the Exit Services;
- (e) provide an outline timetable and identify critical issues and risks for carrying out the Exit Services;
- (f) set out the project management structure to be put in place and applied during the Exit Period including governance and review meetings;
- (g) provide a handover plan for all IT security (logical and physical) matters and a security management control procedures manual;
- (h) provide a plan for the migration of any databases of Project Data compiled or used in the provision of the Services to the Authority or a New Contractor;
- (i) provide a list of key responsibilities of the Contractor and the Authority and any key dependencies; and
- (j) include a register of all assets used by the Contractor or any Subcontractor in connection with the provision of the Services, detailing their status as either (i) used exclusively in connection with the provision of the Services or (ii) used in connection with the provision of the Services but also employed by the Contractor or Subcontractor for other purposes, and

both their net book value and their fair market value, and a register of all Subcontracts and other agreements including software licences, equipment rental and lease agreements required to operate and maintain the Services.

### **3. EXIT SERVICES**

#### **Exit Management**

- 3.1 Each of the Contractor and the Authority shall appoint an exit manager and provide written notification of that appointment to the other party no later than 6 months after the Amendment Date.
- 3.2 The Contractor's exit manager will be responsible for ensuring that the Contractor and Contractor Personnel comply with this Schedule 24 and Clause 35. The Contractor shall ensure that its exit manager has the requisite authority and experience to arrange and procure any resources of the Contractor as are reasonably necessary to enable the Contractor to comply with this Schedule 24 and Clause 35. The Contractor may only change its exit manager with the written consent of the Authority, which shall not be unreasonably withheld or delayed.
- 3.3 The parties shall procure that their respective exit managers will liaise with one another in relation to all issues relevant to the termination or expiry of this Agreement and all matters connected with this Schedule 24 and each party's compliance with it. The Authority may call for a meeting of the exit managers by giving the Contractor not less than 5 Business Days' written notice. That meeting shall take place within 10 Business Days after receipt of that notice.

#### **Exit Services**

- 3.4 The Exit Services to be provided by the Contractor during the Exit Period shall, at the Authority's option, include any one or more of the following:
- (a) notifying the Subcontractors of procedures to be followed during the Exit Period and managing the Subcontractors to ensure these procedures are followed;
  - (b) providing assistance and expertise as necessary to identify, and documenting, all material operational procedures and processes used by the Contractor or any Contractor Personnel in the provision of the Services;
  - (c) documenting the current status of any work in progress in relation to the Services and advising on how to ensure continuity of the Services during the Exit Period and after the end of that period;
  - (d) providing assistance and expertise as necessary to examine, identify and analyse all relevant personnel roles and responsibilities in place for the provision of the Services and the Exit Services;
  - (e) co-operating with, and procuring that its Subcontractors co-operate with, the Authority in relation to the transfer of the Assets pursuant to Clause 33.12 required by the Authority or a New Contractor to facilitate the provision of the Services;
  - (f) providing historical performance data in relation to the Services;
  - (g) co-operating in the execution of the handover plan for all IT security (logical and physical) matters;

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- (h) co-operating in the execution of the Exit Plan for the migration of any databases of Project Data compiled or used in the provision of the Services to the Authority or a New Contractor in accordance with Good Industry Practice;
- (i) providing access (including to the Contractor Premises) to the Authority and/or a New Contractor, during the Exit Period and for up to 12 months after the Exit Period, for the purpose of the orderly transition of the Services to the Authority or a New Contractor, to:
  - (i) all information and documentation relating to the Services in the possession or control of the Contractor or any Subcontractor;
  - (ii) the Contractor System; and
  - (iii) all members of Contractor Personnel involved in the design, development, provision or management of the Services and who are still employed or engaged by the Contractor or any Subcontractor;
- (j) transferring all training materials and providing appropriate training to those Authority and/or New Contractor personnel responsible for internal training in connection with the provision of the Services to enable a prompt and effective knowledge transfer;
- (k) explaining to the Authority and/or a New Contractor the operational procedures and processes used to provide the Services and providing all information, records and documents required to clarify those explanations;
- (l) providing any technical advice required by the Authority and/or a New Contractor to ensure the provision of the Services to service levels and standards commensurate to those required by this Agreement (or where higher, to the standards being achieved by the Contractor prior to the date on which the Contractor ceases to provide the Services (for whatever reason)); and
- (m) answering all reasonable questions from the Authority or a New Contractor regarding the nature of the Services.

**Notification of Requirements for Exit Services**

3.5 The Authority may require the provision of Exit Services by written notice to the Contractor (**Exit Services Notice**) in accordance with Clause 35.1. The Exit Services Notice shall specify:

- (a) the Exit Period; and
- (b) the nature and extent of the Exit Services required.

3.6 The Authority may terminate its requirement for Exit Services by giving the Contractor not less than 10 Business Days' written notice to that effect.

**Provision of Exit Services**

3.7 The Contractor shall provide the Exit Services in good faith and in accordance with Good Industry Practice.

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3.8 The Authority and the Contractor acknowledge that the migration of the Services to the Authority or a New Contractor may be phased over a period of time so that certain identified Services are transferred to the Authority or a New Contractor before others.

3.9 The Authority shall, at the Contractor's reasonable request, require the New Contractor to enter into an appropriate and reasonable confidentiality undertaking with the Contractor.

**4. TRANSFER OF EMPLOYEES**

The Contractor shall comply with the relevant provisions of Schedule 22 (Pensions) and Schedule 25 (Employee Matters).

**5. PAYMENT**

5.1 The Authority shall not be required to pay additional Charges to the Contractor for the provision of Exit Services.

**6. APPORTIONMENTS**

6.1 All invoices received for all outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Assets that transfer pursuant to Clause 33.12 shall be apportioned between the Contractor and the Authority or the New Contractor.

6.2 This apportionment will be carried out as follows:

- (a) the payments will be annualised and divided by 365 to arrive at a daily rate;
- (b) the Contractor shall be responsible for or entitled to (as the case may be), an amount equal to the number of complete days during the period of the relevant invoice before the date of transfer multiplied by that daily rate; and
- (c) the New Contractor or the Authority shall be responsible for or entitled to (as the case may be) the rest of the relevant invoice.

6.3 The Contractor and any New Contractor shall pay any amounts due under this paragraph 6 as soon as practicable.

## **SCHEDULE 24**

### **APPENDIX**

#### **OUTLINE EXIT PLAN**

##### **1. BACKGROUND**

This is the Exit Plan referred to in Schedule 24 (Exit Plan and Termination Assistance) (**Exit Schedule**) of the Services Agreement dated [●] 2014 between the Contractor and the Authority (**Agreement**).

*[Describe circumstances giving rise to termination of the Agreement, including nature and timing of notice of termination and specified or agreed transfer date or dates.]*

*[Describe replacement arrangement i.e. whether services are to be transferred back to the Authority, or transferred to a New Contractor.]*

The Contractor is required to ensure the orderly transition of the Services from the Contractor to the Authority or any New Contractor in the event of the termination or expiry of the Agreement, including by ensuring, to the extent possible, that there is no disruption in the supply of Services or deterioration in the quality of delivery of the Services during the Exit Period. The Exit Schedule sets out the Contractor's general obligations to provide termination assistance, including Exit Services. Nothing in this Exit Plan is intended to limit those general obligations.

##### **2. DEFINITIONS**

*[Insert any necessary additional definitions]*

Capitalised terms used in this Exit Plan have the same meaning as are given to them in the Agreement.

##### **3. EXIT MANAGEMENT**

The parties have appointed the following exit managers:

Contractor: *[insert name and contact details]*

Authority: *[insert name and contact details]*

- *Set out arrangements for project management of the exit process, including governance structure, details of work streams and timetable for regular meetings, other involved parties, responsibility for documentation, issues logs etc.*
- *Consider the extent to which personnel of any New Contractor would need to be involved in this process*
- *Agree external and internal communication plan and co-ordinate communications to ensure consistency of message*

**4. RESOURCE ALLOCATION**

- *Set out details of the Contractor Personnel and other resources that will be required to perform Exit Services*
- *Identify dedicated resource over and above personnel generally used to provide the Services (including the exit manager)*
- *Additional resource required by the Authority?*

**5. TRANSFER OF SERVICES**

- *Cover operational and technical detail of the transfer process, including processes, documentation and information, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Contractor*
- *As set out in paragraph 3 of the Exit Schedule, this will need to include a timetable and a log of critical issues, as well as a hand over plan for all IT security matters, a security management control procedures manual, and a plan for the migration of any relevant databases*
- *Also include key responsibilities of the Contractor and the Authority and relevant dependencies*
- *Address timetable and process for vacation of the Authority premises by the Contractor personnel and de-installation of relevant equipment from those premises*
- *Identify any on-going use of the Contractor intellectual property rights/technology in accordance with the terms of the Agreement*

**6. EXIT SERVICES**

- *Include more detail supporting the services that the Authority is entitled to elect under paragraph 3.5 of the Exit Schedule e.g. what procedures are to be followed by Subcontractors and how the Contractor will manage Subcontractors, how any work in progress will be documented, how knowledge transfer will be implemented*

**7. TRANSFERRING EMPLOYEES**

The transfer of people from the Contractor to the Authority (or the New Contractor) will take place pursuant to the provisions set out in Schedule 25 (Employee Matters).

- *Set out list of steps to be taken by each party – there will be a detailed communication and transfer plan which could be created in draft at this stage*
- *Link to Schedule 25 (Employee Matters)*

**8. TRANSFERRING ASSETS AND CONTRACTS**

*As required by paragraph 3 of the Exit Schedule:*

- *Include a register of all assets (including contracts) used by the Contractor and Subcontractors in connection with the provision of the Services, detailing the exclusive or non-exclusive use of*

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*the Assets (including contracts) in the provision of the Services, and both net book value and fair market value*

- *Include a register of all Subcontracts and other agreements (including software licences, maintenance contracts, equipment rental and lease agreements (separately identifying transferable contracts) required to operate and maintain the Services*

**9. APPORTIONMENTS**

- *Identify all relevant payments and calculate apportionments*

**Appendices**

1. Transfer Plan (including timetable)
2. Transferring Employees
3. Transferring Assets
4. Transferring Contracts
6. Apportionments