

- d) HM Treasury or the Cabinet Office;
- e) any party formally appointed by the Customer to carry out audit or similar review functions; and
- f) successors or assigns of any of the above;

"Authority"	means THE MINISTER FOR THE CABINET OFFICE ("Cabinet Office") as represented by Crown Commercial Service, a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;
"BACS"	means the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
"BCDR Goods and/or Services"	means the Business Continuity Goods and/or Services and Disaster Recovery Goods and/or Services;
"BCDR Plan"	means the plan prepared pursuant to paragraph 2 of Call Off Schedule 8 (Business Continuity and Disaster Recovery), as may be amended from time to time;
"Business Continuity Goods and/or Services"	has the meaning given to it in paragraph 4.2.2 of Call Off Schedule 8 (Business Continuity and Disaster Recovery);
"Call Off Commencement Date"	means the date of commencement of this Call Off Contract set out in the Call Off Order Form;
"Call Off Contract"	means this contract between the Customer and the Supplier (entered into pursuant to the provisions of the Framework Agreement), which consists of the terms set out in the Call Off Order Form and the Call Off Terms;
"Call Off Contract Charges"	means the prices (inclusive of any Milestone Payments and exclusive of any applicable VAT), payable to the Supplier by the Customer under this Call Off Contract, as set out in Annex 1 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing), for the full and proper performance by the Supplier of its obligations under this Call Off Contract less any Deductions;
"Call Off Contract Period"	means the term of this Call Off Contract from the Call Off Commencement Date until the Call Off Expiry Date;
"Call Off Contract Year"	means a consecutive period of twelve (12) Months commencing on the Call Off Commencement Date or each anniversary thereof;
"Call Off Expiry Date"	means: <ul style="list-style-type: none"> (a) the end date of the Call Off Initial Period or any Call Off Extension Period; or (b) if this Call Off Contract is terminated before the date specified in (a) above, the earlier date of termination of this Call Off Contract;
"Call Off Extension"	means such period or periods up to a maximum of the number of years in total as may be specified by the

Period"	Customer, pursuant to Clause 5.2 and in the Call Off Order Form;
"Call Off Guarantee"	means a deed of guarantee that may be required under this Call Off Contract in favour of the Customer in the form set out in Framework Schedule 13 (Guarantee) granted pursuant to Clause 7 (Call Off Guarantee);
"Call Off Guarantor"	means the person acceptable to the Customer to give a Call Off Guarantee;
"Call Off Initial Period"	means the initial term of this Call Off Contract from the Call Off Commencement Date to the end date of the initial term stated in the Call Off Order Form;
"Call Off Order Form"	means the order form applicable to and set out in Part 1 of this Call Off Contract;
"Call Off Procedure"	means the process for awarding a call off contract pursuant to Clause 5 (Call Off Procedure) of the Framework Agreement and Framework Schedule 5 (Call Off Procedure);
"Call Off Schedule"	means a schedule to this Call Off Contract;
"Call Off Tender"	means the tender submitted by the Supplier in response to the Customer's Statement of Requirements following a Further Competition Procedure and set out at Call Off Schedule 15 (Call Off Tender);
"Call Off Terms"	means the terms applicable to and set out in Part 2 of this Call Off Contract;
"Central Government Body"	means 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: <ul style="list-style-type: none"> 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;
"Change of Control"	means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
"Charges"	means the charges raised under or in connection with this Call Off Contract from time to time, which shall be calculated in a manner that is consistent with the Charging Structure;
"Charging Structure"	means the structure to be used in the establishment of the charging model which is applicable to the Call Off Contract, which is set out in Framework Schedule 3 (Framework Prices and Charging Structure);

"Commercially Sensitive Information"	<p>means the Confidential Information listed in the Call Off Order Form (if any) comprising of commercially sensitive information relating to: -</p> <ul style="list-style-type: none"> (a) the pricing of the Services; (b) details of the Supplier's IPR; (c) the Supplier's business and investment plans; and/or (d) the Supplier's trade secrets; <p>which the Supplier has indicated to the Customer that, if disclosed by the Customer, would cause the Supplier significant commercial disadvantage or material financial loss;</p>
"Comparable Supply"	<p>means the supply of Goods and/or Services to another customer of the Supplier that are the same or similar to the Goods and/or Services;</p>
"Compensation for Critical Service Level Failure"	<p>has the meaning given to it in Clause 14.2.2 (Critical Service Level Failure);</p>
"Confidential Information"	<p>means the Customer's Confidential Information and/or the Supplier's Confidential Information, as the context specifies;</p>
"Continuous Improvement Plan"	<p>means a plan for improving the provision of the Goods and/or Services and/or reducing the Charges produced by the Supplier pursuant to Framework Schedule 12 (Continuous Improvement and Benchmarking);</p>
"Contracting Authority"	<p>means the Authority, the Customer and any other bodies listed in the OJEU Notice;</p>
"Control"	<p>means control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and "Controlled" shall be construed accordingly;</p>
"Conviction"	<p>means other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order, or being placed on a list kept pursuant to section 1 of the Protection of Children Act 1999 or being placed on a list kept pursuant to the Safeguarding Vulnerable Groups Act 2006;</p>
"Costs"	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Goods and/or Services:</p> <ul style="list-style-type: none"> a) the cost to the Supplier or the Key Sub-Contractor (as the context requires), calculated per Man Day, of engaging the Supplier Personnel, including:

- i) base salary paid to the Supplier Personnel;
 - ii) employer's national insurance contributions;
 - iii) pension contributions;
 - iv) car allowances;
 - v) any other contractual employment benefits;
 - vi) staff training;
 - vii) work place accommodation;
 - viii) work place IT equipment and tools reasonably necessary to provide the Goods and/or Services (but not including items included within limb (b) below); and
 - ix) reasonable recruitment costs, as agreed with the Customer;
- b) costs incurred in respect of those Supplier Assets which are detailed on the Registers and which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Customer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;
- c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Goods and/or Services;
- d) Reimbursable Expenses to the extent these have been specified as allowable in the Call Off Order Form and are incurred in delivering any Goods and/or Services where the Call Off Contract Charges for those Goods and/or Services are to be calculated on a Fixed Price or Firm Price pricing mechanism (as set out in Framework Schedule 3 (Framework Prices and Charging Structure));
- but excluding:
- a) Overhead;
 - b) financing or similar costs;
 - c) maintenance and support costs to the extent that these relate to maintenance and/or support Goods and/or Services provided beyond the Call Off Contract Period whether in relation to Supplier Assets or otherwise;
 - d) taxation;
 - e) fines and penalties;
 - f) amounts payable under Clause 25

	(Benchmarking); and
	g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);
"Critical Service Level Failure"	means any instance of critical service level failure specified in the Call Off Order Form;
"Crown"	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Crown Body"	means any department, office or executive agency of the Crown;
"CRTPA"	means the Contracts (Rights of Third Parties) Act 1999;
"Customer"	means the customer(s) identified in the Call Off Order Form;
"Customer Assets"	means the Customer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Customer and which is or may be used in connection with the provision of the Goods and/or Services;
"Customer Background IPR"	means: <ul style="list-style-type: none"> a) IPRs owned by the Customer before the Call Off Commencement Date, including IPRs contained in any of the Customer's Know-How, documentation, software, processes and procedures; b) IPRs created by the Customer independently of this Call Off Contract; and/or c) Crown Copyright which is not available to the Supplier otherwise than under this Call Off Contract;
"Customer Cause"	means any breach of the obligations of the Customer or any other default, act, omission, negligence or statement of the Customer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Call Off Contract and in respect of which the Customer is liable to the Supplier;
"Customer Data"	means: <ul style="list-style-type: none"> 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, including any Customer's Confidential Information, and which: <ul style="list-style-type: none"> i) are supplied to the Supplier by or on behalf of the Customer; or

	<ul style="list-style-type: none"> ii) the Supplier is required to generate, process, store or transmit pursuant to this Call Off Contract; or b) any Personal Data for which the Customer is the Data Controller;
"Customer Premises"	means premises owned, controlled or occupied by the Customer which are made available for use by the Supplier or its Sub-Contractors for the provision of the Goods and/or Services (or any of them);
"Customer Property"	means the property, other than real property and IPR, including any equipment issued or made available to the Supplier by the Customer in connection with this Call Off Contract;
"Customer Representative"	means the representative appointed by the Customer from time to time in relation to this Call Off Contract;
"Customer Responsibilities"	means the responsibilities of the Customer set out in Call Off Schedule 4 (Implementation Plan) and any other responsibilities of the Customer in the Call Off Order Form or agreed in writing between the Parties from time to time in connection with this Call Off Contract;
"Customer's Confidential Information"	<p>means:</p> <ul style="list-style-type: none"> a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Customer (including all Customer Background IPR and Project Specific IPR); b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Customer's attention or into the Customer's possession in connection with this Call Off Contract; and c) information derived from any of the above;
"Data Controller"	has the meaning given to it in the Data Protection Act 1998, as amended from time to time;
"Data Processor"	has the meaning given to it in the Data Protection Act 1998, as amended from time to time;
"Data Protection Legislation" or "DPA"	means the Data Protection Act 1998, as amended from time to time and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Data Subject"	has the meaning given to it in the Data Protection Act 1998, as amended from time to time;

"Data Subject Access Request"	means a request made by a Data Subject in accordance with rights granted pursuant to the DPA to access his or her Personal Data;
"Deductions"	means all Service Credits, Delay Payments or any other deduction which the Customer is paid or is payable under this Call Off Contract;
"Default"	means any breach of the obligations of the Supplier (including but not limited to including abandonment of this Call Off Contract in breach of its terms) or any other default (including material Default), act, omission, negligence or statement of the Supplier, of its Sub-Contractors or any Supplier Personnel howsoever arising in connection with or in relation to the subject-matter of this Call Off Contract and in respect of which the Supplier is liable to the Customer;
"Delay"	means: <ul style="list-style-type: none"> a) a delay in the Achievement of a Milestone by its Milestone Date; or b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
"Delay Payments"	means the amounts payable by the Supplier to the Customer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
"Delay Period Limit"	shall be the number of days specified in Call Off Schedule 4 (Implementation Plan) for the purposes of Clause 6.4.1(b)(ii);
"Deliverable"	means an item or feature in the supply of the Goods and/or Services delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan (if any) or at any other stage during the performance of this Call Off Contract;
"Delivery"	means delivery in accordance with the terms of this Call Off Contract as confirmed by the issue by the Customer of a Satisfaction Certificate in respect of the relevant Milestone thereof (if any) or otherwise in accordance with this Call Off Contract and accepted by the Customer and "Deliver" and "Delivered" shall be construed accordingly;
"Disaster"	means the occurrence of one or more events which, either separately or cumulatively, mean that the Goods and/or Services, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Call Off Order Form (for the purposes of this definition the "Disaster Period");
"Disaster Recovery Goods and/or Services"	means the Goods and/or Services embodied in the processes and procedures for restoring the provision of Goods and/or Services following the occurrence of a

	Disaster, as detailed further in Call Off Schedule 8 (Business Continuity and Disaster Recovery);
"Disclosing Party"	means a Party which discloses or makes available directly or indirectly its Confidential Information to the Recipient;
"Dispute"	means any dispute, difference or question of interpretation arising out of or in connection with this Call Off Contract, including any dispute, difference or question of interpretation relating to the Goods and/or Services, failure to agree in accordance with the Variation Procedure or any matter where this Call Off Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
"Dispute Notice"	means a written notice served by one Party on the other stating that the Party serving the notice believes that there is a Dispute;
"Dispute Resolution Procedure"	means the dispute resolution procedure set out in Call Off Schedule 11 (Dispute Resolution Procedure);
"Documentation"	means descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) as: <ul style="list-style-type: none"> a) is required to be supplied by the Supplier to the Customer under this Call Off Contract; b) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Customer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Goods and/or Services; c) is required by the Supplier in order to provide the Goods and/or Services; and/or d) has been or shall be generated for the purpose of providing the Goods and/or Services;
"DOTAS"	means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;
"Due Diligence"	means any information supplied to the Supplier by or on

"Information"	behalf of the Customer prior to the Call Off Commencement Date;
"Employee Liabilities"	<p>means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:</p> <ul style="list-style-type: none"> a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments; b) unfair, wrongful or constructive dismissal compensation; c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay; d) compensation for less favourable treatment of part-time workers or fixed term employees; e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Customer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Sub-Contractor if such payment should have been made prior to the Service Transfer Date; f) claims whether in tort, contract or statute or otherwise; g) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;
"Employment Regulations"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the Acquired Rights Directive;
"Environmental Policy"	means to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Customer;
"Environmental"	means the Environmental Information Regulations 2004

Information Regulations or EIRs"	together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations;
"Estimated Year 1 Call Off Contract Charges"	means the sum in pounds estimated by the Customer to be payable by it to the Supplier as the total aggregate Call Off Contract Charges from the Call Off Commencement Date until the end of the first Call Off Contract Year stipulated in the Call Off Order Form;
"Exit Plan"	means the exit plan described in paragraph 5 of Call Off Schedule 9 (Exit Management);
"Expedited Dispute Timetable"	means the timetable set out in paragraph 5 of Call Off Schedule 11 (Dispute Resolution Procedure);
"FOIA"	means the Freedom of Information Act 2000 as amended from time to time and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure"	<p>means any event, occurrence, circumstance, matter or cause affecting the performance by either the Customer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"> a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under this Call Off Contract; b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; c) acts of the Crown, local government or Regulatory Bodies; d) fire, flood or any disaster; and e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ul style="list-style-type: none"> i) any industrial dispute relating to the Supplier, the Supplier Personnel (including any subsets of them) or any other failure in the Supplier or the Sub-Contractor's supply chain; and ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds;
"Force Majeure Notice"	means a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;

"Former Supplier"	means a supplier supplying the goods and/or Services to the Customer before the Relevant Transfer Date that are the same as or substantially similar to the Goods and/or Services (or any part of the Goods and/or Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);
"Framework Agreement"	means the framework agreement between the Authority and the Supplier referred to in the Call Off Order Form;
"Framework Commencement Date"	means 2 January 2018
"Framework Period"	means the period from the Framework Commencement Date until the expiry or earlier termination of the Framework Agreement;
"Framework Price(s)"	means the price(s) applicable to the provision of the Goods and/or Services set out in Framework Schedule 3 (Framework Prices and Charging Structure);
"Framework Schedule"	means a schedule to the Framework Agreement;
"Fraud"	means any offence under any Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts including acts of forgery;
"Further Competition Procedure"	means the further competition procedure described in paragraph 3 of Framework Schedule 5 (Call Off Procedure);
"General Anti-Abuse Rule"	means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
"General Change in Law"	means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
"Good Industry Practice"	means standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
"Goods"	means the goods to be provided by the Supplier to the Customer as specified in Annex 2 of Call Off Schedule 2 (Goods and and/or Services);
"Government"	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and other bodies, persons,

	commissions or agencies from time to time carrying out functions on its behalf;
"Government Procurement Card"	means the Government's preferred method of purchasing and payment for low value goods or services https://www.gov.uk/government/publications/government-procurement-card--2 ;
"Halifax Abuse Principle"	means the principle explained in the CJEU Case C-255/02 Halifax and others;
"HMRC"	means Her Majesty's Revenue and Customs;
"Holding Company"	has the meaning given to it in section 1159 of the Companies Act 2006;
"ICT Policy"	means the Customer's policy in respect of information and communications technology, referred to in the Call Off Order Form, which is in force as at the Call Off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	has the meaning given to it in Clause 22.1.3 (Variation Procedure);
"Implementation Plan"	means the plan set out in the Call Off Schedule 4 (Implementation Plan);
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000 as amended from time to time;
"Installation Works"	means all works which the Supplier is to carry out at the beginning of the Call Off Contract Period to install the Goods in accordance with the Call Off Order Form;
"Insolvency Event"	means, in respect of the Supplier or Framework Guarantor or Call Off Guarantor (as applicable): <ul style="list-style-type: none"> a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or c) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or

- e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
- f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
- g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- h) where the Supplier or Framework Guarantor or Call Off Guarantor is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or
- i) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;

"Intellectual Property Rights" or "IPR"

means

- a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, designs, Know-How, trade secrets and other rights in Confidential Information;
- b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
- c) all other rights having equivalent or similar effect in any country or jurisdiction;

"IPR Claim"

means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Goods and/or Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Customer (including any claims arising from the publication of the Project Specific IPRs as Open Source) in the fulfilment of its obligations under this Call Off Contract;

"Key Performance Indicators" or "KPIs"

means the performance measurements and targets in respect of the Supplier's performance of the Framework Agreement set out in Part B of Framework Schedule 2 (Goods and/or Services and Key Performance Indicators);

"Key Personnel"

means the individuals (if any) identified as such in the

	Call Off Order Form;
"Key Role(s) "	has the meaning given to it in Clause 26.1 (Key Personnel);
"Key Sub-Contract"	means each Sub-Contract with a Key Sub-Contractor;
"Key Sub-Contractor"	means any Sub-Contractor: <ul style="list-style-type: none"> a) listed in Framework Schedule 7 (Key Sub-Contractors); b) which, in the opinion of the Authority and the Customer, performs (or would perform if appointed) a critical role in the provision of all or any part of the Goods and/or Services; and/or c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Call Off Contract Charges forecast to be payable under this Call Off Contract;
"Know-How"	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Goods and/or Services but excluding know-how already in the other Party's possession before the Call Off Commencement Date;
"Law"	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;
"Losses"	means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" shall be interpreted accordingly;
Malicious Software	means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
"Man Day"	means 7.5 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
"Man Hours"	means the hours spent by the Supplier Personnel properly working on the provision of the Goods and/or Services including time spent travelling (other than to

	and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
"Milestone"	means an event or task described in the Implementation Plan which, if applicable, must be completed by the relevant Milestone Date;
"Milestone Date"	means the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Milestone Payment"	means a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone;
"Month"	means a calendar month and "Monthly" shall be interpreted accordingly;
"Occasion of Tax Non-Compliance"	means: <ul style="list-style-type: none"> a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of: <ul style="list-style-type: none"> i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under DOTAS or any equivalent or similar regime in any jurisdiction; and/or b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Call Off Commencement Date or to a civil penalty for fraud or evasion;
"Open Book Data "	means complete and accurate financial and non-financial information which is sufficient to enable the Customer to verify the Call Off Contract Charges already paid or payable and Call Off Contract Charges forecast to be paid during the remainder of this Call Off Contract, including details and all assumptions relating to: <ul style="list-style-type: none"> a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all goods and/or services;

- b) operating expenditure relating to the provision of the Goods and/or Services including an analysis showing:
 - i) the unit costs and quantity of Goods and any other consumables and bought-in goods and/or services;
 - ii) manpower resources broken down into the number and grade/role of all Supplier Personnel (free of any contingency) together with a list of agreed rates against each manpower grade;
 - iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier's Profit Margin; and
 - iv) Reimbursable Expenses, if allowed under the Call Off Order Form;
- c) Overheads;
- d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Goods and/or Services;
- e) the Supplier Profit achieved over the Call Off Contract Period and on an annual basis;
- f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;
- g) an explanation of the type and value of risk and contingencies associated with the provision of the Goods and/or Services, including the amount of money attributed to each risk and/or contingency; and
- h) the actual Costs profile for each Service Period.

"Open Source"	means computer software, computer program, and any other material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open source licence;
"Open Standards"	means the open standards principles as described by Government and further detailed at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles (as may be updated from time to time);
"Order"	means the order for the provision of the Goods and/or Services placed by the Customer with the Supplier in accordance with the Framework Agreement and under the terms of this Call Off Contract;
"Other Supplier"	means any supplier to the Customer (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been

	aware;
"Over-Delivered Goods"	has the meaning given to it in Clause 9.5.1 (Over-Delivered Goods);
"Overhead"	means those amounts which are intended to recover a proportion of the Supplier's or the Key Sub-Contractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Personnel and accordingly included within limb (a) of the definition of "Costs";
"Parent Company"	means any company which is the ultimate Holding Company of the Supplier and which is either responsible directly or indirectly for the business activities of the Supplier or which is engaged by the same or similar business to the Supplier. The term "Holding or Parent Company" shall have the meaning ascribed by the Companies Act 2006 or any statutory re-enactment or amendment thereto;
"Party"	means the Customer or the Supplier and "Parties" shall mean both of them;
"Performance Monitoring System"	has the meaning given to it in paragraph 1.1.2 in Part B of Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Performance Monitoring Reports"	has the meaning given to it in paragraph 3.1 of Part B of Schedule 6 (Service Level, Service Credit and Performance Monitoring);
"Personal Data"	has the meaning given to it in the Data Protection Act 1998 as amended from time to time;
"Processing"	has the meaning given to it in the Data Protection Legislation but, for the purposes of this Call Off Contract, it shall include both manual and automatic processing and "Process" and "Processed" shall be interpreted accordingly;
"Prohibited Act"	means any of the following: <ul style="list-style-type: none"> a) to directly or indirectly offer, promise or give any person working for or engaged by the Customer and/or the Authority or other Contracting Authority or any other public body a financial or other advantage to: <ul style="list-style-type: none"> i) induce that person to perform improperly a relevant function or activity; or ii) reward that person for improper performance of a relevant function or activity; b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance

of a relevant function or activity in connection with this Agreement;

- c) committing any offence:
 - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or
 - ii) under legislation or common law concerning fraudulent acts; or
 - iii) defrauding, attempting to defraud or conspiring to defraud the Customer, a Contracting Authority or other public body; or
 - iv) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK.

"Project Specific IPR"	means: <ul style="list-style-type: none">a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call Off Contract and updates and amendments of these items including (but not limited to) database schema; and/orb) IPR in or arising as a result of the performance of the Supplier's obligations under this Call Off Contract and all updates and amendments to the same; but shall not include the Supplier Background IPR;
"Project Specific IPR Items"	means the items in which the Project Specific IPRs subsist;
"Recipient"	mean the Party which receives or obtains directly or indirectly Confidential Information from the Disclosing Party;);
"Rectification Plan"	means the rectification plan pursuant to the Rectification Plan Process;
"Rectification Plan Process"	means the process set out in Clause 38.2 (Rectification Plan Process);
"Registers"	has the meaning given to in Call Off Schedule 9 (Exit Management);
"Regulations"	means the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2012 (as the context requires) as amended from time to time;
"Reimbursable Expenses"	has the meaning given to it in Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing);
"Related Supplier"	means any person who provides goods and/or services to the Customer which are related to the Goods and/or

	Services from time to time;
"Relevant Conviction"	means a Conviction that is relevant to the nature of the Goods and/or Services to be provided or as specified in the Call Off Order Form;
"Relevant Requirements"	means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
"Relevant Transfer"	means a transfer of employment to which the Employment Regulations applies;
"Relevant Transfer Date"	means, in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
"Relief Notice"	has the meaning given to it in Clause 39.2.2 (Supplier Relief Due to Customer Cause);
"Replacement Goods"	means any goods which are substantially similar to any of the Goods and which the Customer receives in substitution for any of the Goods following the Call Off Expiry Date, whether those goods are provided by the Customer internally and/or by any third party;
"Replacement Services"	means any services which are substantially similar to any of the Services and which the Customer receives in substitution for any of the Services following the Call Off Expiry Date, whether those services are provided by the Customer internally and/or by any third party;
"Replacement Sub-Contractor"	means a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
"Replacement Supplier"	means any third party provider of Replacement Goods and/or Services appointed by or at the direction of the Customer from time to time or where the Customer is providing Replacement Goods and/or Services for its own account, shall also include the Customer;
"Request for Information"	means a request for information or an apparent request relating to this Call Off Contract or the provision of the Goods and/or Services or an apparent request for such information under the FOIA or the EIRs;
"Restricted Countries"	means a country outside the European Economic Area or any country which is not determined to be adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC;
"Satisfaction Certificate"	means the certificate materially in the form of the document contained in Call Off Schedule 5 (Testing) granted by the Customer when the Supplier has

	Achieved a Milestone or a Test;
"Security Management Plan"	means the Supplier's security management plan prepared pursuant to paragraph Error! Reference source not found. of Call Off Schedule 7 (Security) a draft of which has been provided by the Supplier to the Customer in accordance with paragraph Error! Reference source not found. of Call Off Schedule 7 (Security) and as updated from time to time;
"Security Policy"	means the Customer's security policy, referred to in the Call Off Order Form, in force as at the Call Off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
"Security Policy Framework"	the current HMG Security Policy Framework that can be found at https://www.gov.uk/government/publications/security-policy-framework ;
"Service Credit Cap"	has the meaning given to it in the Call Off Order Form;
"Service Credits"	means any service credits specified in Annex 1 to Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) being payable by the Supplier to the Customer in respect of any failure by the Supplier to meet one or more Service Levels;
"Service Failure"	means an unplanned failure and interruption to the provision of the Goods and/or Services, reduction in the quality of the provision of the Goods and/or Services or event which could affect the provision of the Goods and/or Services in the future;
"Service Level Failure"	means a failure to meet the Service Level Performance Measure in respect of a Service Level Performance Criterion;
"Service Level Performance Criteria"	has the meaning given to it in paragraph 4.2 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Level Performance Measure"	shall be as set out against the relevant Service Level Performance Criterion in Annex 1 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Level Threshold"	shall be as set out against the relevant Service Level Performance Criterion in Annex 1 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Levels"	means any service levels applicable to the provision of the Goods and/or Services under this Call Off Contract specified in Annex 1 to Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Period"	has the meaning given to in paragraph 5.1 of Call Off Schedule 6 (Service Levels, Service Credits and

	Performance Monitoring);
"Service Transfer"	means any transfer of the Goods and/or Services (or any part of the Goods and/or Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;
"Service Transfer Date"	means the date of a Service Transfer;
"Services"	means the services to be provided by the Supplier to the Customer as referred to in Annex 1 of Call Off Schedule 2 (Goods and Services);
"Sites"	means any premises (including the Customer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none"> a) the Goods and/or Services are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Goods and/or Services.
"Specific Change in Law"	means a Change in Law that relates specifically to the business of the Customer and which would not affect a Comparable Supply;
"Staffing Information"	has the meaning give to it in Call Off Schedule 10 (Staff Transfer);
"Standards"	means any: <ul style="list-style-type: none"> a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; b) standards detailed in the specification in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators); c) standards detailed by the Customer in the Call Off Order Form or agreed between the Parties from time to time; d) relevant Government codes of practice and guidance applicable from time to time.
"Statement of Requirements"	means a statement issued by the Customer detailing its requirements in respect of Goods and/or Services issued in accordance with the Call Off Procedure;
"Sub-Contract"	means any contract or agreement (or proposed contract or agreement) pursuant to which a third party: <ul style="list-style-type: none"> a) provides the Goods and/or Services (or any part of

them);

- b) provides facilities or services necessary for the provision of the Goods and/or Services (or any part of them); and/or
- c) is responsible for the management, direction or control of the provision of the Goods and/or Services (or any part of them);

"Sub-Contractor"	means any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
"Supplier"	means the person, firm or company with whom the Customer enters into this Call Off Contract as identified in the Call Off Order Form;
"Supplier Assets"	means all assets and rights used by the Supplier to provide the Goods and/or Services in accordance with this Call Off Contract but excluding the Customer Assets;
"Supplier Background IPR"	means <ul style="list-style-type: none">a) Intellectual Property Rights owned by the Supplier before the Call Off Commencement Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/orb) Intellectual Property Rights created by the Supplier independently of this Call Off Contract,
"Supplier Equipment"	means the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Customer) in the performance of its obligations under this Call Off Contract;
"Supplier Non-Performance"	has the meaning given to it in Clause 39.1 (Supplier Relief Due to Customer Cause);
"Supplier Personnel"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-Contractor engaged in the performance of the Supplier's obligations under this Call Off Contract;
"Supplier Profit"	means, in relation to a period or a Milestone (as the context requires), the difference between the total Call Off Charges (in nominal cash flow terms but excluding any Deductions) and total Costs (in nominal cash flow terms) for the relevant period or in relation to the relevant Milestone;
"Supplier Profit Margin"	means, in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by

	the total Call Off Contract Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
"Supplier Representative"	means the representative appointed by the Supplier named in the Call Off Order Form;
"Supplier's Confidential Information"	means <ul style="list-style-type: none"> a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Background IPR) trade secrets, Know-How, and/or personnel of the Supplier; b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Call Off Contract; c) information derived from any of the above.
"Template Call Off Order Form"	means the template Call Off Order Form in Annex 1 of Framework Schedule 4 (Template Call Off Order Form and Template Call Off Terms);
"Template Call Off Terms"	means the template terms and conditions in Annex 2 of Framework Schedule 4 (Template Call Off Order Form and Template Call Off Terms);
"Tender"	means the tender submitted by the Supplier to the Authority, a copy of which is annexed or referred to in Framework Schedule 21;
"Termination Notice"	means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Call Off Contract on a specified date and setting out the grounds for termination;
"Test Issue"	means any variance or non-conformity of the Goods and/or Services or Deliverables from their requirements as set out in the Call Off Contract;
"Test Plan"	means a plan: <ul style="list-style-type: none"> a) for the Testing of the Deliverables; and b) setting out other agreed criteria related to the achievement of Milestones, as described further in paragraph 4 of Call of Schedule 5 (Testing);
"Test Strategy"	means a strategy for the conduct of Testing as described further in paragraph 3 of Call Off Schedule 5 (Testing);
"Tests and Testing"	means any tests required to be carried out pursuant to this Call Off Contract as set out in the Test Plan or elsewhere in this Call Off Contract and "Tested" shall be

	construed accordingly;
"Third Party IPR"	means Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Goods and/or Services;
"Transferring Customer Employees"	those employees of the Customer to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Former Supplier Employees"	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Supplier Employees"	means those employees of the Supplier and/or the Supplier's Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date.
"Transparency Reports"	means the information relating to the Services and performance of this Call Off Contract which the Supplier is required to provide to the Customer in accordance with the reporting requirements in Schedule 13;
"Undelivered Goods"	has the meaning given to it in Clause 9.4.1 (Goods);
"Undelivered Goods and/or Services"	has the meaning given to it in Clause 8.4.1 (Goods and/or Services);
"Undisputed Sums Time Period"	has the meaning given to it Clause 42.1.1 (Termination of Customer Cause for Failure to Pay);
"Valid Invoice"	means an invoice issued by the Supplier to the Customer that complies with the invoicing procedure in paragraph 7 (Invoicing Procedure) of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing);
"Variation"	has the meaning given to it in Clause 22.1 (Variation Procedure);
"Variation Form"	means the form set out in Call Off Schedule 12 (Variation Form);
"Variation Procedure"	means the procedure set out in Clause 22.1 (Variation Procedure);
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"Warranty Period"	means, in relation to any Goods, the warranty period specified in the Call Off Order Form;
"Worker"	means any one of the Supplier Personnel which the Customer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees applies in respect of the Goods and/or Services.
"Working Day"	means any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by Parties in this Call Off Contract.

CALL OFF SCHEDULE 2: SERVICES

1. INTRODUCTION

- 1.1 This Call Off Schedule 2 specifies the:
 - 1.1.1 Services to be provided under this Call Off Contract, in Annex 1; and
 - 1.1.2 NOT USED

ANNEX 1: THE SERVICES

Display Screen Equipment Eyesight Tests

- 1.1.1 The Supplier shall carry out an eyesight test for VDU Users, which meets the Health and Safety (Display Screen Equipment) Regulations 1992 (and as amended in 2002) and adherence to any relevant future regulations (amendments or new).
- 1.1.2 The Supplier shall update all their Contracting Authorities Personnel patient prescription records with the results of the eyesight test and the prescription shall be securely and confidentially stored by the Supplier. A copy of the prescription shall additionally be provided to the Contracting Authorities Personnel.
- 1.1.3 The Supplier shall book and execute eyesight tests in accordance with agreed Contracting Authorities authorisation procedures. Only bookings and tests made in accordance with such authorisation processes shall be binding. The Supplier shall agree such authorisation processes during the Call Off Procedure.
- 1.1.4 The Supplier shall offer each Contracting Authorities Personnel an eyesight test every 2 (two) years.
- 1.1.5 The Supplier shall notify Contracting Authorities Personnel to whom they have previously provided an eyesight test in the past two years, or other such time frame as agreed between the Parties, that they are due for a repeat eyesight test. Such notifications shall be at least three (3) month's in advance of such eyesight test being due.
- 1.1.6 The Supplier shall provide an eyesight test to any Contracting Authorities Personnel when approved by an authorised representative(s) of the Contracting Authorities, even if such tests are not normally due.

Lenses

- 1.1.7 The Supplier shall dispense the following lenses to all Contracting Authorities Personnel who are given a prescription for such lenses as part of an eye test performed by the supplier:
- single lenses;
 - bifocal lenses;
 - progressive lenses.
- 1.1.8 The Supplier shall ensure that all lenses conform to CR39.

Provision of Prescription Spectacles (Frames and Lenses)

- 1.1.9 The Supplier shall provide to each prescribed Contracting Authorities Personnel, one pair of spectacles (this is to include single vision, bi-focal and/or progressive lenses for Display Screen Equipment (DSE)).
- 1.1.10 The Supplier shall be responsible for the correct fitting of the prescription spectacles provided to Contracting Authorities Personnel.
- 1.1.11 The Supplier shall provide a standard range of spectacle frames, which consists of a minimum choice of ten (10) spectacle frames for men and ten (10) spectacle frames for women.
- 1.1.12 The Supplier shall provide each Contracting Authorities Personnel who work in containment laboratory facilities with one pair of prescription spectacles per facility (this is to include single vision, bi-focal and/or progressive lenses as prescribed by the Supplier), as requested and approved by the Contracting Authorities.
- 1.1.13 The Supplier shall agree specific procedures with Contracting Authorities where a risk assessment by Contracting Authorities highlights the need for the issuance of additional prescribed spectacles for Contracting Authorities Personnel which shall include single vision, bi-focal and/or progressive lenses as prescribed by the Supplier.
- 1.1.14 The Supplier shall provide the prescription spectacles within seven (7) working days of an order being placed by the Contracting Authorities Personnel.

Safety Lenses

- 1.1.15 The Supplier shall dispense the following lenses to all Contracting Authorities Personnel who are given a prescription for such lenses as part of an eyesight test performed by the supplier:
- single lenses;
 - bifocal lenses; and
 - progressive lenses.
- 1.1.16 The Supplier shall ensure that safety eye wear lenses conform to CR39 and BSEN 166 1S.
- 1.1.17 The Supplier shall ensure that safety eye wear lenses which are polycarbonate or toughened glass conform to safety standard BSEN 166F.

Prescription Safety Spectacles and Eye Shields

- 1.1.18 The Supplier shall provide an eyesight test and one pair of safety spectacles and/or eye shields for each Contracting Authorities Personnel who is deemed to require this Service by the Contracting Authorities.
- 1.1.19 The Supplier shall carry out an eyesight test and shall provide one pair of safety spectacles and/or eye shields when authorised by the Contracting Authorities. This

shall include single vision, bi-focal and/or progressive lenses as prescribed by the Supplier to the Contracting Authorities Personnel, for each facility that they work at.

- 1.1.20 The Supplier shall provide further additional safety spectacles and/or eye shields fitted with single vision, bi-focal and/or progressive lenses as prescribed by the Supplier in accordance with the Contracting Authorities approval processes.
- 1.1.21 The Supplier shall be responsible for the correct fitting of all the safety spectacles and/or eye shields for the Contracting Authorities Personnel.
- 1.1.22 The Supplier shall provide the fitted safety spectacles and/or eye shields with the required lenses within seven (7) working days of an order being placed.

Prescription Polarised Spectacles

- 1.1.23 The Supplier shall carry out an eyesight test for each Contracting Authorities Personnel and shall provide them with one pair of prescription polarised spectacles to polarised standards (this to include single vision, bi-focal and/or progressive lenses as prescribed by the Supplier) as authorised by the Contracting Authorities.
- 1.1.24 The Supplier shall be responsible for the correct fitting of all prescription polarised spectacles provided to Contracting Authorities Personnel.
- 1.1.25 The Supplier shall provide a minimum choice of ten (10) spectacle frames for men and ten (10) spectacle frames for women.
- 1.1.26 The Supplier shall provide the fitted polarised spectacles with required lenses within seven (7) working days of an order being placed by the Contracting Authorities Personnel.

Prescription Sunglasses

- 1.1.27 The Supplier shall carry out an eyesight test on each Contracting Authorities Personnel and shall provide one pair of prescription sunglasses to them, with ABS G15 tint, (this to include single vision, bi-focal and/or progressive lenses as prescribed by the Supplier) as authorised by the Contracting Authorities.
- 1.1.28 The Supplier shall be responsible for the correct fitting of all prescription sunglasses provided to Contracting Authorities Personnel.
- 1.1.29 The Supplier shall provide a minimum choice of ten (10) spectacle frames for men and ten (10) spectacle frames for women.
- 1.1.30 The Supplier shall provide the fitted prescription sunglasses with required lenses within seven (7) working days of an order being placed by the Contracting Authorities Personnel

Prescription Reaction Spectacles

- 1.1.31 The Supplier shall carry out an eyesight test on each Contracting Authorities Personnel and shall provide them with one pair of prescription reaction spectacles, with photochromic lenses brown or grey, (this to include single vision, bi-focal and/or progressive lenses as prescribed by the Supplier) as authorised by the Contracting Authority.
- 1.1.32 The Supplier shall be responsible for the correct fitting of all prescription reaction spectacles provided to Contracting Authorities Personnel.
- 1.1.33 The Supplier shall provide a minimum choice of ten (10) spectacle frames for men and ten (10) spectacle frames for women.
- 1.1.34 The Supplier shall provide the fitted prescription reaction sunglasses spectacles with required lenses within seven (7) working days of an order being placed by the Contracting Authorities Personnel.

Occupational Lenses

- 1.1.35 The Supplier shall carry out an eyesight test on each Contracting Authorities Personnel and shall provide them with one pair of spectacles with occupational lenses as prescribed by the Supplier.
- 1.1.36 The Supplier shall provide fitted spectacles with the prescribed occupational lenses within ten (10) working days of an order being placed by the Contracting Authorities Personnel

Prescription Lens Inserts

- 1.1.37 The Supplier shall carry out an eyesight test for on each Contracting Authorities Personnel and shall dispense prescription lens inserts (this is to include single vision, bi-focal and progressive lenses as prescribed by the Supplier).
- 1.1.38 The Supplier shall fit the prescription lenses to equipment provided by the Contracting Authorities, including at a minimum General Service Respirators (GSR) and FM12 Respirators, self- contained breathing apparatus and/or laser safety goggles/UV goggles. The Supplier shall fit the prescription lense insert within ten (10) working days of an order being placed.
- 1.1.39 The Supplier shall be responsible for the correct fitting of all prescription lens inserts in all equipment as requested by the Contracting Authorities.

- 1.1.40 The Supplier shall be responsible for replacement of any equipment damaged during prescription lenses insert fitting.

Medical Fitness Eyesight Tests – provision of evidence of eyesight fitness standards

- 1.1.41 The Supplier shall be required to provide medical fitness eyesight tests for certain job roles which will be defined during the Call Off stage by Contracting Authorities.

- 1.1.42 The Supplier shall ensure that Contracting Authorities Personnel can book an appointment for medical fitness testing within ten (10) working days of the request for an appointment by Authorised Contracting Authorities Personnel.
- 1.1.43 The Supplier shall perform the required medical fitness eyesight test for each Contracting Authorities Personnel in accordance with applicable optometry standards and latest medical fitness eyesight testing standards.
- 1.1.44 The Supplier shall provide Contracting Authorities Personnel with documented evidence of the tests, including the test report and the standard that the test was executed against.
- 1.1.45 The Supplier shall provide the results of the medical fitness eyesight tests to each Authorised Contracting Authorities Personnel within two (2) working days of such test having been carried out.
- 1.1.46 The Suppliers shall report to the Contracting Authorities within two (2) working days of the test results being reported to the Contracting Authorities Personnel. If any Contracting Authorities Personnel has requested that the Supplier not release the test report to the Contracting Authorities then 3.11.7 below applies.
- 1.1.47 The Supplier shall, in such circumstances not release the test report until the Contracting Authorities Personnel's consent has been obtained by the Contracting Authorities. This process shall be agreed at Call Off contract stage.

Colour Vision Tests

- 1.1.48 The Supplier shall carry out colour vision tests on Contracting Authorities Personnel as authorised by the Contracting Authorities to assess for any deficiency in Contracting Authorities Personnel's personal colour vision.
- 1.1.49 The Supplier shall ensure that Contracting Authorities Personnel can book an appointment for colour vision testing within ten (10) working days of the request for an appointment.
- 1.1.50 The Supplier shall ensure such tests comply with latest City University or Ishihara tests.
- 1.1.51 The Supplier shall provide the report of the colour vision tests to Authorised Contracting Authorities Personnel within two (2) working days of such tests having been carried out.
- 1.1.52 The Suppliers shall report to the Contracting Authorities within two (2) working days of the test results being reported to the Contracting Authorities Personnel. If any Contracting Authorities Personnel has requested that the Supplier not release the test report to the Contracting Authorities then 3.12.6 below applies.
- 1.1.53 The Supplier shall, in such circumstances not release the test report until the Contracting Authorities Personnel's consent has been obtained by the Contracting Authorities. This process shall be agreed at Call Off stage.

Mobile Services

- 1.1.54 The Supplier shall, provide on-site mobile facilities for both DSE and safety eye care Services. The Supplier shall ensure that all required equipment is provided for such tests and, if requested to do so, shall provide mobile facilities where such tests shall be undertaken.
- 1.1.55 The Supplier shall agree the procedures for booking mobile facilities at Call Off stage.
- 1.1.56 The Supplier shall provide mobile facilities within fifteen (15) working days of a request by the Contracting Authorities for such Services.
- 1.1.57 Contracting Authorities shall ensure that Supplier Personnel have access to the appropriate premises necessary for the provision of mobile Services. The Supplier shall ensure that access to premises is requested in advance of Services being performed so as to allow for any additional security clearance which may be required.
- 1.1.58 The Contracting Authorities and Supplier shall agree in advance if any cancellation charges shall apply to the provision of mobile Services.

Cancellation of Tests and Voucher Redemption

- 1.1.59 The Supplier shall ensure that no charge is applied to the Contracting Authorities should the Contracting Authorities or Contracting Authorities Personnel cancel eyesight tests.
- 1.1.60 The Supplier shall ensure that no charge is applied to the Contracting Authorities should Contracting Authorities Personnel fail to attend an eyesight test.
- 1.1.61 The Supplier shall issue vouchers with an expiry date no less than six (6) months and no greater than twelve (12) months after the date of issue. This shall be agreed during the Call Off Procedure.
- 1.1.62 The Supplier shall reimburse the Contracting Authorities for any charges which have been paid in advance for any vouchers that have expired and have not been redeemed. This process shall be agreed at Call Off stage.

Equipment

- 1.1.63 The Supplier shall ensure that all necessary medical equipment is made available to its network of opticians involved in the delivery of the Services.
- 1.1.64 The Supplier shall ensure that such medical equipment necessary for the provision of the Services shall be adequately maintained and calibrated with maintenance records being available to the Contracting Authorities on request. This applies to all equipment used in the provision of the Services, including those used by Sub-Contractors and in mobile facilities.

Coverage

- 1.1.65 The Supplier shall ensure that that it has access to a wide range of geographically spread opticians, including remote locations. Contracting Authorities Personnel are based throughout the UK (ranging from sites with large numbers of Contracting

Authorities Personnel to singleton posts along the coast and in specific regions). As detailed in list below.

UK REGIONS
Greater London
South West England
South Central England
South East England
East of England
East Midlands
West Midlands
Yorkshire & Humberside
North West England
North East England (excluding Yorkshire and Humberside)
Northern Ireland
Scotland
Wales

1.1.66 The Supplier shall provide Contracting Authorities Personnel with access to an optician within one (1) hour travelling time from their home or office address, unless otherwise agreed with the Contracting Authorities or where mobile Services are provided.

1.1.67 The Supplier shall ensure that the optician Services shall be available Monday to Saturday between 09.00 and 17.00. The availability of mobile Services shall be agreed in the Call Off contract between the Supplier and the Contracting Authorities.

1.1.68 The Supplier shall provide appointments for all eye tests for Contracting Authorities Personnel within ten (10) working days of when Contracting Authorities Personnel or Contracting Authorities request an appointment.

After Sales Service and Warranties

1.1.69 The Supplier shall provide after sales Services to Contracting Authorities Personnel for all lenses and eye wear provided as part of the Service including but not limited to:

- provision of replacement lenses, spectacles and/or safety wear if such equipment is still within its standard manufacturer or Supplier warranty, whichever is the longest;

- provision of replacement parts, where such equipment can be repaired; and
- adjustment of equipment as required for the comfort of the user;

this will be at no additional Charge to the Contracting Authorities.

1.1.70 The Supplier shall provide an appointment for the Contracting Authorities Personnel within five (5) working days of a request for after sales Services and shall carry out the after sales Services within five (5) days of Contracting Authorities Personnel booking such appointment.

Service Implementation

1.1.71 The Supplier shall on award of any Call Off Contract:

- Provide a detailed implementation plan including the online portal which details the key activities including a draft timeline, resources, promotional activity, risks, mitigations, responsibilities priorities and dependencies.
- Provide the Contracting Authorities with a list of data required by the Supplier prior to Service commencement.
- Work with the Contracting Authorities to set up systems and processes to support the delivery of the Services.
- Work with the Contracting Authorities to agree all policies and procedures which are relevant to the Services and develop and execute a training plan for relevant Supplier Personnel; and

1.1.72 The Supplier shall appoint a project manager who shall lead the implementation and report to the Contracting Authorities on all aspects of implementation. This project manager must have experience of having implemented a project of similar size and complexity.

Diversity and Inclusion

1.1.73 The Supplier shall ensure Services comply with all discrimination legislation, including the Equality Act 2010 and Gender Recognition Act 2004.

1.1.74 The Supplier shall ensure Supplier Personnel are trained in such legislation as necessary for the provision of the Services. The delivery of Services shall be accessible to users, and shall include as a minimum:

- Should meet or be working towards meeting, the content accessibility standards WCAG 2.0 AA, in line with central Government standards. For further information see:

[Web Content Accessibility Guidelines \(WCAG\) 2.0.](#)

- Provision of written reports in alternative formats where required or upon request of the Contracting Authorities Personnel.

- Telephone services to support Contracting Authorities Personnel with hearing or speech difficulties.
- Services for Contracting Authorities Personnel whose first language is not English and who may request or require language support.
- Access to Supplier premises for face-to-face appointments shall be disability friendly, where required. Where this is not possible alternative arrangements shall be made in advance of any appointments; and
- Provision of disabled parking at Supplier premises, where required.

Online Portal

1.1.75 The supplier shall provide an online portal (hosted externally) which shall be available Monday to Friday from 08:00 – 18:00 which shall:

- Provide user registration and a secure password protected login;
- Brand the online portal home page in accordance with Contracting Authorities departmental branding standards;
- Allow Contracting Authorities Personnel to request a DSE eye sight test and/or safety eye care Services where self-service is approved by the Contracting Authorities;
- Provide an electronic confirmation and a voucher to Contracting Authorities Personnel within one (1) working day of their request for Services. This should include full details of where the Contracting Authorities Personnel can access the Services, instructions for making appointments, redeeming the electronic voucher and any other relevant details of the Services;
- Provide Contracting Authorities Personnel who self-serve, a list of opticians with whom they can book an appointment within one hour's travelling distance from their workplace or their home base;
- Provide Contracting Authorities Personnel with sufficient details of opticians in the Supplier's network to enable them to book an appointment;
- Publish details of the Supplier's e-mail and telephone support Services, which Contracting Authorities Personnel can access should they have queries regarding the Services or require additional assistance; and
- Allow Authorised Contracting Authorities to administer and approve Services, including uploading requests and receiving approvals for groups of Contracting Authorities Personnel (i.e. bulk requests and approvals). The Authorised Contracting Authorities Personnel will also receive vouchers and/or plans which they can distribute to Contracting Authorities Personnel or approve such distribution directly to Contracting Authorities Personnel.

1.1.76 The Supplier shall ensure that the online portal will allow Authorised Contracting Authorities Personnel to bulk book appointments to use any of the Services.

Telephone and Email Support Services

1.1.77 The Supplier shall provide a dedicated customer telephone helpline, open between Monday – Friday 08.30 and 17.30 through which all enquiries from Contracting

Authorities Personnel and the Contracting Authorities' representative(s) can be channelled. The Supplier shall use this Service to assist Contracting Authorities Personnel and/or the Contracting Authorities to book appointments for Contracting Authorities Personnel where additional assistance may be required (e.g. disabled colleagues).

- 1.1.78 The Supplier shall provide the Contracting Authorities with a freephone number. The Supplier's telephone service shall provide a dedicated non premium rate and/or a 01, 02, 03 prefix telephone number which must be accessible from UK landlines, mobile telephones and overseas, via a UK dialling code and be able to accept calls from outside the UK.
- 1.1.79 The Supplier shall provide an email support service to Contracting Authorities and Contracting Authorities Personnel to raise queries regarding any aspect of the Services.
- 1.1.80 The Supplier shall provide a response to all queries raised to the email support service within one (1) working day.
- 1.1.81 The Supplier shall ensure all queries raised to the email support service will be logged and maintained.
- 1.1.82 The Supplier shall ensure their network of opticians will have the facility to be able to accept electronic vouchers or paper versions.

ANNEX 2: NOT USED

CALL OFF SCHEDULE 3: CALL OFF CONTRACT CHARGES, PAYMENT AND INVOICING

1. DEFINITIONS

1.1 The following terms used in this Call Off Schedule 3 shall have the following meaning:

"Indexation"	means the adjustment of an amount or sum in accordance with paragraph 11 of this Call Off Schedule 3;
"Indexation Adjustment Date"	has the meaning given to it in paragraph 11.1.1(a) of this Call Off Schedule 3;
"Reimbursable Expenses"	means the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Customer's expenses policy current from time to time, but not including: <ul style="list-style-type: none">a) travel expenses incurred as a result of Supplier Personnel travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Customer otherwise agrees in advance in writing; andb) subsistence expenses incurred by Supplier Personnel whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
"Review Adjustment Date"	has the meaning given to it in paragraph 10.1.2 of this Call Off Schedule 3;
"CPI"	means the Consumer Prices Index as published by the Office of National Statistics (http://www.statistics.gov.uk/instantfigures.asp); and
"Supporting Documentation"	means sufficient information in writing to enable the Customer to reasonably to assess whether the Call Off Contract Charges, Reimbursable Expenses and other sums due from the Customer under this Call Off Contract detailed in the information are properly payable.

2. GENERAL PROVISIONS

2.1 This Call Off Schedule 3 details:

2.1.1 the Call Off Contract Charges for the Goods and/or the Services under this Call Off Contract; and

- 2.1.2 the payment terms/profile for the Call Off Contract Charges;
- 2.1.3 the invoicing procedure; and
- 2.1.4 the procedure applicable to any adjustments of the Call Off Contract Charges.

3. CALL OFF CONTRACT CHARGES

- 3.1 The Call Off Contract Charges which are applicable to this Call Off Contract are set out in Annex 1 of this Call Off Schedule 3.
- 3.2 The Supplier acknowledges and agrees that:
 - 3.2.1 in accordance with paragraph 2 (General Provisions) of Framework Schedule 3 (Framework Prices and Charging Structure), the Call Off Contract Charges can in no event exceed the Framework Prices set out in Annex 3 to Framework Schedule 3 (Framework Prices and Charging Structure); and
 - 3.2.2 subject to paragraph 8 of this Call Off Schedule 3 (Adjustment of Call Off Contract Charges), the Call Off Contract Charges cannot be increased during the Call Off Contract Period.

4. COSTS AND EXPENSES

- 4.1 Except as expressly set out in paragraph 5 of this Call Off Schedule 3 (Reimbursable Expenses),] the Call Off Contract Charges include all costs and expenses relating to the Goods and/or Services and/or the Supplier's performance of its obligations under this Call Off Contract and no further amounts shall be payable by the Customer to the Supplier in respect of such performance, including in respect of matters such as:
 - 4.1.1 any incidental expenses that the Supplier incurs, including travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs required by the Supplier Personnel, network or data interchange costs or other telecommunications charges; or
 - 4.1.2 any amount for any services provided or costs incurred by the Supplier prior to the Call Off Commencement Date.

5. REIMBURSEABLE EXPENSES

- 5.1 If the Customer has so specified in the Call Off Order Form, the Supplier shall be entitled to be reimbursed by the Customer for Reimbursable Expenses (in addition to being paid the relevant Call Off Contract Charges under this Call Off Contract), provided that such Reimbursable Expenses are supported by Supporting Documentation. The Customer shall provide a copy of their current expenses policy to the Supplier upon request.

6. PAYMENT TERMS/PAYMENT PROFILE

- 6.1 The payment terms/profile which are applicable to this Call Off Contract are set out in Annex 2 of this Call Off Schedule 3.

7. INVOICING PROCEDURE

- 7.1 The Customer shall pay all sums properly due and payable to the Supplier in cleared funds within thirty (30) days of receipt of a Valid Invoice, submitted to the address specified by the Customer in paragraph 7.6 of this Call Off Schedule 3 and in accordance with the provisions of this Call Off Contract.
- 7.2 The Supplier shall ensure that each invoice (whether submitted electronically through a purchase-to-pay (P2P) automated system (or similar) or in a paper form, as the Customer may specify (but, in respect of paper form, subject to paragraph 7.3 below)):
- 7.2.1 contains:
 - (a) all appropriate references, including the unique order reference number set out in the Call Off Order Form; and
 - (b) a detailed breakdown of the Delivered Goods and/or Services, including the Milestone(s) (if any) and Deliverable(s) within this Call Off Contract to which the Delivered Goods and/or Services relate, against the applicable due and payable Call Off Contract Charges; and
 - 7.2.2 shows separately:
 - (a) any Service Credits due to the Customer; and
 - (b) the VAT added to the due and payable Call Off Contract Charges in accordance with Clause 23.2.1 of this Call Off Contract (VAT) and the tax point date relating to the rate of VAT shown; and
 - 7.2.3 is exclusive of any Management Charge (and the Supplier shall not attempt to increase the Call Off Contract Charges or otherwise recover from the Customer as a surcharge the Management Charge levied on it by the Authority); and
 - 7.2.4 it is supported by any other documentation reasonably required by the Customer to substantiate that the invoice is a Valid Invoice.
- 7.3 If the Customer is a Central Government Body, the Customer's right to request paper form invoicing shall be subject to procurement policy note 11/15 (available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/437471/PPN_e-invoicing.pdf), which sets out the policy in respect of unstructured electronic invoices submitted by the Supplier to the Customer (as may be amended from time to time).
- 7.4 The Supplier shall accept the Government Procurement Card as a means of payment for the Goods and/or Services where such card is agreed with the Customer to be a suitable means of payment. The Supplier shall be solely liable to pay any merchant fee levied for using the Government Procurement Card and shall not be entitled to recover this charge from the Customer.
- 7.5 All payments due by one Party to the other shall be made within thirty (30) days of receipt of a Valid Invoice unless otherwise specified in this Call Off Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.
- 7.6 The Supplier shall submit invoices directly to the Customer's billing address set out in the Call Off Order Form

8. ADJUSTMENT OF CALL OFF CONTRACT CHARGES

- 8.1 The Call Off Contract Charges shall only be varied:
- 8.1.1 due to a Specific Change in Law in relation to which the Parties agree that a change is required to all or part of the Call Off Contract Charges in accordance with Clause 22.2 of this Call Off Contract (Legislative Change);
 - 8.1.2 in accordance with Clause 23.1.4 of this Call Off Contract (Call Off Contract Charges and Payment) where all or part of the Call Off Contract Charges are reduced as a result of a reduction in the Framework Prices;
 - 8.1.3 where all or part of the Call Off Contract Charges are reduced as a result of a review of the Call Off Contract Charges in accordance with Clause 18 of this Call Off Contract (Continuous Improvement);
 - 8.1.4 where all or part of the Call Off Contract Charges are reduced as a result of a review of Call Off Contract Charges in accordance with Clause 25 of this Call Off Contract (Benchmarking);
 - 8.1.5 where all or part of the Call Off Contract Charges are reviewed and reduced in accordance with paragraph 9 of this Call Off Schedule 3;
 - 8.1.6 where a review and increase of Call Off Contract Charges is requested by the Supplier and Approved, in accordance with the provisions of paragraph 10 of this Call Off Schedule 3; or
 - 8.1.7 where Call Off Contract Charges or any component amounts or sums thereof are expressed in this Call Off Schedule 3 as "subject to increase by way of Indexation", in accordance with the provisions in paragraph 11 of this Call Off Schedule 3.
 - 8.1.8 where the Framework Prices for immunisations, vaccinations and inoculations are amended in accordance with section 6 paragraph 6.1.6 (Adjustment Of The Framework Prices) of Framework Schedule 3 (Framework Prices and Charging Structure).
- 8.2 Subject to paragraphs 8.1.1 to 8.1.5 and 8.1.8 of this Call Off Schedule 3, the Call Off Contract Charges will remain fixed for the number of Contract Years specified in the Call Off Order Form.

9. SUPPLIER PERIODIC ASSESSMENT OF CALL OFF CONTRACT CHARGES

- 9.1 Every six (6) Months during the Call Off Contract Period, the Supplier shall assess the level of the Call Off Contract Charges to consider whether it is able to reduce them.
- 9.2 Such assessments by the Supplier under paragraph 9 of this Call Off Schedule 3 shall be carried out on the dates specified in the Call Off Order Form in each Contract Year (or in the event that such dates do not, in any Contract Year, fall on a Working Day, on the next Working Day following such dates). To the extent that the Supplier is able to decrease all or part of the Call Off Contract Charges it shall promptly notify the Customer in writing and such reduction shall be implemented in accordance with paragraph 12.1.5 of this Call Off Schedule 3 below.

10. SUPPLIER REQUEST FOR INCREASE OR DECREASE OF THE CALL OFF CONTRACT CHARGES

- 10.1 If the Customer has so specified in the Call Off Order Form, the Supplier may request an increase in all or part of the Call Off Contract Charges in accordance with the remaining provisions of this paragraph 10 subject always to:
- 10.1.1 paragraph 3.2 of this Call Off Schedule 3;
 - 10.1.2 the Supplier's request being submitted in writing at least three (3) Months before the effective date for the proposed increase in the relevant Call Off Contract Charges ("**Review Adjustment Date**") which shall be subject to paragraph 10.2 of this Call Off Schedule 3; and
 - 10.1.3 the Approval of the Customer which shall be granted in the Customer's sole discretion.
- 10.2 The earliest Review Adjustment Date were the Supplier requests an increase of the Call Off contract charges will be the first (1st) Working Day following the anniversary of the Call Off Commencement Date after the expiry of the period specified in paragraph 8.2 of this Schedule 3 during which the Contract Charges shall remain fixed (and no review under this paragraph 10 is permitted). Thereafter any subsequent increase to any of the Call Off Contract Charges in accordance with this paragraph 10 of this Call Off Schedule 3 shall not occur before the anniversary of the previous Review Adjustment Date during the Call Off Contract Period.
- 10.3 To make a request for an increase of some or all of the Call Off Contract Charges in accordance with this paragraph 10, the Supplier shall provide the Customer with:
- 10.3.1 a list of the Call Off Contract Charges it wishes to review;
 - 10.3.2 for each of the Call Off Contract Charges under review, written evidence of the justification for the requested increase including:
 - (a) a breakdown of the profit and cost components that comprise the relevant Call Off Contract Charge;
 - (b) details of the movement in the different identified cost components of the relevant Call Off Contract Charge;
 - (c) reasons for the movement in the different identified cost components of the relevant Call Off Contract Charge;
 - (d) evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
 - (e) evidence that the Supplier's profit component of the relevant Call Off Contract Charge is no greater than that applying to Call Off Contract Charges using the same pricing mechanism as at the Call Off Commencement Date.
- 10.4 Where the Supplier has agreed an increase or decrease in the Framework Prices for immunisations, vaccinations and inoculations pursuant to Schedule 3 of the Framework Agreement the Parties agree to vary the Contract Charges in this Call Off Contract to reflect the revised Framework Prices.

11. INDEXATION

11.1 Where the Call Off Contract Charges or any component amounts or sums thereof are expressed in this Call Off Schedule 3 as "subject to increase by way of Indexation" the following provisions shall apply:

11.1.1 the relevant adjustment shall:

- (a) be applied on the effective date of the increase in the relevant Call Off Contract Charges by way of Indexation ("**Indexation Adjustment Date**") which shall be subject to paragraph 11.1.2 of this Call Off Schedule 3;
- (b) be determined by multiplying the relevant amount or sum by the percentage increase or changes in the Consumer Price Index published for the twelve (12) Months ended on the 31st of January immediately preceding the relevant Indexation Adjustment Date;
- (c) where the published CPI figure at the relevant Indexation Adjustment Date is stated to be a provisional figure or is subsequently amended, that figure shall apply as ultimately confirmed or amended unless the Customer and the Supplier shall agree otherwise;
- (d) if the CPI is no longer published, the Customer and the Supplier shall agree a fair and reasonable adjustment to that index or, if appropriate, shall agree a revised formula that in either event will have substantially the same effect as that specified in this Call Off Schedule 3.

11.1.2 The earliest Indexation Adjustment Date will be the (1st) Working Day following the expiry of the period specified in paragraph 8.2 of this Call Off Schedule 3 during which the Contract Charges shall remain fixed (and no review under this paragraph 11 is permitted). Thereafter any subsequent increase by way of Indexation shall not occur before the anniversary of the previous Indexation Adjustment Date during the Call Off Contract Period;

11.1.3 Except as set out in this paragraph 11 of this Call Off Schedule 3, neither the Call Off Contract Charges nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier or Sub-Contractors of the performance of their obligations under this Call Off Contract.

12. IMPLEMENTATION OF ADJUSTED CALL OFF CONTRACT CHARGES

12.1 Variations in accordance with the provisions of this Call Off Schedule 3 to all or part the Call Off Contract Charges (as the case may be) shall be made by the Customer to take effect:

12.1.1 in accordance with Clause 22.2 of this Call Off Contract (Legislative Change) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.1 of this Call Off Schedule 3;

12.1.2 in accordance with Clause 23.1.4 of this Call Off Contract (Call Off Contract Charges and Payment) where an adjustment to the Call Off

Contract Charges is made in accordance with paragraph 8.1.2 of this Call Off Schedule 3;

- 12.1.3 in accordance with Clause 18 of this Call Off Contract (Continuous Improvement) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.3 of this Call Off Schedule 3;
- 12.1.4 in accordance with Clause 25 of this Call Off Contract (Benchmarking) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.4 of this Call Off Schedule 3;
- 12.1.5 on the dates specified in the Call Off Order Form where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.5 of this Call Off Schedule 3;
- 12.1.6 on the Review Adjustment Date where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.6 of this Call Off Schedule 3;
- 12.1.7 on the Indexation Adjustment Date where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.7 of this Call Off Schedule 3;
- 12.1.8 on 1st September and 1st March where an adjustment is made in accordance with paragraph 8.1.8 of this Call Off Schedule 3.

and the Parties shall amend the Call Off Contract Charges shown in Annex 1 to this Call Off Schedule 3 to reflect such variations.

ANNEX 1: CALL OFF CONTRACT CHARGES

LOT 4: Eye Care Services (B) Safety Eye Care Services

B) Safety Eye Care Services

Line Reference	Item Name	DIT & UKEF	DEXEU	Estimated Annual Volume	
EC5	Safety Specs/ Eye Shields (Single Vision Lenses)	3	3	6	£42
EC6	Safety Specs/ Eye Shields (Bifocal Vision Lenses)	3	3	6	£78
EC7	Safety Specs/ Eye Shields (Progressive Lenses)	3	3	6	£78
EC8	Prescription Polarised Specs (Single Vision Lenses)	3	3	6	£45
EC9	Prescription Polarised Specs (Bifocal Lenses)	3	3	6	£75
EC10	Prescription Polarised Specs (Progressive Lenses)	3	3	6	£75
EC11	Prescription Sunglasses (Single Vision Lenses)	3	3	6	£35
EC12	Prescription Sunglasses (Bifocal Lenses)	3	3	6	£65
EC13	Prescription Sunglasses (Progressive Lenses)	3	3	6	£65
EC14	Prescription Reaction Specs (Single Vision Lenses)	3	3	6	£50
EC15	Prescription Reaction Specs (Bifocal Lenses)	3	3	6	£80
EC16	Prescription Reaction Specs (Progressive Lenses)	3	3	6	£80
				Total	

Line Reference	Item Name	DIT & UKEF	DEXEU	Estimated Annual Volume	
EC17	Additional Charge if Safety Lenses Upgraded to Polycarbonate Lenses	N/A	N/A	N/A	£18
EC18	Additional Charge if Safety Lenses Upgraded to Toughened Glass	N/A	N/A	N/A	£24
EC19	Colour Vision Test	N/A	N/A	N/A	£19
EC20	Medical Fitness Eye Test	N/A	N/A	N/A	£19
EC21	Dispensing Fee	N/A	N/A	N/A	£19

127

Total Basket Price for Safety Eye Care

Total Weighted Basket Price (%) for Safety Eye Care

**LOT 4: Eye Care Services
(C) Mobile Services**

C) Mobile Services

Line Reference	Item Name	DIT & UKEF	DEXEU	Estimated Annual Volumes
EC22	Mobile Unit	0	0	0

£50

Total Basket Price for Mobile Services

Total Weighted Basket Price (%) for Mobile Services

**LOT 4: Eye Care Services
(D) Blended Prices**

D) Blended Prices for Eyewear

Line Reference	Item Name	DIT & UKEF	DEXEU	Estimated Annual Volumes	
EC23	DSE: 1 pair of frames (any lense)	350	350	700	£19
EC24	Safety Specs/ Eye Shields	3	3	6	£54
EC25	Prescription Sunglasses	5	5	10	£55
EC26	Prescription Reaction Specs	3	3	6	£70
EC27	Occupational Lenses	3	3	6	£54
EC28	Precription Lens Inserts	3	3	6	£19
				Total	

Total Basket Price for Blended Prices

Total Weighted Basket Price (%) for Blended Prices

**LOT 4 - Eye Care Services
(E) Discounts**

E) Discounts

Line Reference	Item Name	DIT & UKEF	DEXEU	Estimated Annual Volume
EC29	Discount on retail price of frames and lenses	N/A	N/A	N/A
EC30	Discount on retail price of frames	N/A	N/A	N/A
EC31	Discount on retail price of lenses	N/A	N/A	N/A

£25

£25

£25

Total Basket Price for Discounts
Total Weighted Basket Price (%) for Discounts

ANNEX 2: PAYMENT TERMS/PROFILE

1. The Supplier will submit invoices in arrears to the Customer on a quarterly basis via email.
- 1.2 Each invoice will quote the Contract Number, correct Purchase Order Number, the Customer contact and a description of the work provided.
- 1.3 Call Off Contract Charges are listed in Annex 1 above.
- 1.3 Invoices will be clearly itemised and exclude VAT
- 1.4 The Customer will review each invoice, and once approved by the Customer, the Supplier will submit the approved invoice to the address set out in the Call Off Order Form

CALL OFF SCHEDULE 4: IMPLEMENTATION PLAN

1. INTRODUCTION

- 1.1 This Call Off Schedule 4 specifies the Implementation Plan in accordance with which the Supplier shall provide the Goods and/or Services.

2. IMPLEMENTATION PLAN

- 2.1 The Supplier shall provide the Customer with a draft Implementation Plan for Approval before the Call Off Commencement Date.

CALL OFF SCHEDULE 5: TESTING

1. INTRODUCTION

- 1.1 This Call Off Schedule 5 (Testing) sets out the approach to Testing and the different Testing activities to be undertaken, including the preparation and agreement of the Test Strategy and Test Plans.

2. TESTING OVERVIEW

- 2.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy and the Test Plans.
- 2.2 Any Disputes between the Supplier and the Customer regarding this Testing shall be referred to the Dispute Resolution Procedure.

3. TEST STRATEGY

- 3.1 The Supplier shall develop the final Test Strategy as soon as practicable but in any case no later than sixty (60) Working Days (or such other period as the Parties may agree) after the Call Off Commencement Date.
- 3.2 The final Test Strategy shall include:
- 3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
 - 3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
 - 3.2.3 the procedure to be followed should a Deliverable fail a Test or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
 - 3.2.4 the procedure to be followed to sign off each Test; and
 - 3.2.5 the process for the production and maintenance of reports relating to Tests.

4. TEST PLANS

- 4.1 The Supplier shall develop Test Plans for the approval of the Customer as soon as practicable but in any case no later than sixty (60) Working Days (or such other period as the Parties may agree in the Test Strategy or otherwise) prior to the start date for the relevant Testing as specified in the Implementation Plan.
- 4.2 Each Test Plan shall include as a minimum:
- 4.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested;
 - 4.2.2 a detailed procedure for the Tests to be carried out, including:
 - (a) the timetable for the Tests including start and end dates;
 - (b) the Testing mechanism;
 - (c) dates and methods by which the Customer can inspect Test results;
 - (d) the mechanism for ensuring the quality, completeness and relevance of the Tests;

- (e) the process with which the Customer will review Test Issues and progress on a timely basis; and
- (f) the re-Test procedure, the timetable and the resources which would be required for re-Testing.

4.3 The Customer shall not unreasonably withhold or delay its approval of the Test Plans and the Supplier shall implement any reasonable requirements of the Customer in the Test Plans.

5. TESTING

5.1 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.

5.2 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Customer shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.

5.3 If the Supplier successfully completes the requisite Tests, the Customer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Goods and/or Services are implemented in accordance with this Call Off Contract.

6. TEST ISSUES

6.1 Where a Test Issue is identified by the Supplier, the Parties shall agree how such Test Issue shall be dealt with and any failure to agree by the Parties shall be resolved in accordance with the Dispute Resolution Procedure.

7. TEST QUALITY AUDIT

7.1 Without prejudice to its rights pursuant to Clause 21 (Records, Audit Access and Open Book Data), the Customer or an agent or contractor appointed by the Customer may perform on-going quality audits in respect of any part of the Testing.

7.2 If the Customer has any concerns following an audit in accordance with paragraph 7.1 above the Customer will discuss such concerns with the Supplier, giving the Supplier the opportunity to provide feedback in relation to specific activities, and subsequently prepare a written report for the Supplier detailing the same to which the Supplier shall, within a reasonable timeframe, respond in writing.

7.3 In the event of an inadequate response to the written report from the Supplier, the Customer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Customer.

8. OUTCOME OF TESTING

8.1 The Customer will issue a Satisfaction Certificate when it is satisfied that a Milestone has been Achieved.

8.2 If any Milestones (or any relevant part thereof) do not pass the Test in respect thereof then:

- 8.2.1 the Supplier shall rectify the cause of the failure and re-submit the Deliverables (or the relevant part) to Testing, provided that the Parties

agree that there is sufficient time for that action prior to the relevant Milestone Date; or

8.2.2 the Parties shall treat the failure as a Supplier Default.

ANNEX 1: SATISFACTION CERTIFICATE

To: [insert name of Supplier]

FROM: [insert name of Customer]

[insert Date: dd/mm/yyyy]

Dear Sirs,

SATISFACTION CERTIFICATE

[Deliverable(s)/Milestone(s)]: *[Insert relevant description of the agreed Deliverables/Milestones]*

We refer to the agreement ("**Call Off Contract**") [insert Call Off Contract reference number] relating to the provision of the [insert description of the Goods and/or Services] between the [insert Customer name] ("**Customer**") and [insert Supplier name] ("**Supplier**") dated [insert Call Off Commencement Date dd/mm/yyyy].

The definitions for any capitalised terms in this certificate are as set out in the Call Off Contract.

We confirm that all the [Deliverables/Milestones] relating to [] *[insert relevant description of agreed Deliverables/Milestones and/or reference numbers(s) from the Implementation Plan]* have been completed.

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Customer]

CALL OFF SCHEDULE 6: SERVICE LEVELS, SERVICE CREDITS AND PERFORMANCE MONITORING

1. SCOPE

1.1 This Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) sets out the Service Levels which the Supplier is required to achieve when providing the Goods and/or Services, the mechanism by which Service Level Failures and Critical Service Level Failures will be managed and the method by which the Supplier's performance in the provision by it of the Goods and/or Services will be monitored.

1.2 This Call Off Schedule 6 comprises:

- 1.2.1 Part A: Service Levels and Service Credits;
- 1.2.2 Annex 1 to Part A - Service Levels and Service Credits Table; and
- 1.2.3 Annex 1 to Part B: Performance Monitoring.

PART A: SERVICE LEVELS AND SERVICE CREDITS

2. GENERAL PROVISIONS

- 2.1 The Supplier shall provide a proactive Call Off Contract manager to ensure that all Service Levels in this Call Off Contract and Key Performance Indicators in the Framework Agreement are achieved to the highest standard throughout, respectively, the Call Off Contract Period and the Framework Period.
- 2.2 The Supplier shall provide a managed service through the provision of a dedicated Call Off Contract manager where required on matters relating to:
- 2.2.1 Supply performance;
 - 2.2.2 Quality of [Goods and/or Services];
 - 2.2.3 Customer support;
 - 2.2.4 Complaints handling; and
 - 2.2.5 Accurate and timely invoices.
- 2.3 The Supplier accepts and acknowledges that failure to meet the Service Level Performance Measures set out in the table in Annex 1 to this Part A of this Call Off Schedule 6 will result in Service Credits being issued to Customers.

3. PRINCIPAL POINTS

- 3.1 The objectives of the Service Levels and Service Credits are to:
- 3.1.1 ensure that the Goods and/or Services are of a consistently high quality and meet the requirements of the Customer;
 - 3.1.2 provide a mechanism whereby the Customer can attain meaningful recognition of inconvenience and/or loss resulting from the Supplier's failure to deliver the level of service for which it has contracted to deliver; and
 - 3.1.3 incentivise the Supplier to comply with and to expeditiously remedy any failure to comply with the Service Levels.

4. SERVICE LEVELS

- 4.1 Annex 1 to this Part A of this Call Off Schedule 6 sets out the Service Levels the performance of which the Parties have agreed to measure.
- 4.2 The Supplier shall monitor its performance of this Call Off Contract by reference to the relevant performance criteria for achieving the Service Levels shown in Annex 1 to this Part A of this Call Off Schedule 6 (the "**Service Level Performance Criteria**") and shall send the Customer a Performance Monitoring Report detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Call Off Schedule 6.
- 4.3 The Supplier shall, at all times, provide the Goods and/or Services in such a manner that the Service Levels Performance Measures are achieved.
- 4.4 If the level of performance of the Supplier of any element of the provision by it of the Goods and/or Services during the Call Off Contract Period:
- 4.4.1 is likely to or fails to meet any Service Level Performance Measure or
 - 4.4.2 is likely to cause or causes a Critical Service Failure to occur,

- 4.4.3 the Supplier shall immediately notify the Customer in writing and the Customer, in its absolute discretion and without prejudice to any other of its rights howsoever arising including under Clause 13 of this Call Off Contract (Service Levels and Service Credits), may:
- (a) require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Customer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring; and
 - (b) if the action taken under paragraph (a) above has not already prevented or remedied the Service Level Failure or Critical Service Level Failure, the Customer shall be entitled to instruct the Supplier to comply with the Rectification Plan Process; or
 - (c) if a Service Level Failure has occurred, deduct from the Call Off Contract Charges the applicable Service Level Credits payable by the Supplier to the Customer in accordance with the calculation formula set out in Annex 1 of this Part A of this Call Off Schedule 6; or
 - (d) if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure in accordance with Clause 14 of this Call Off Contract (Critical Service Level Failure) (including subject, for the avoidance of doubt, the proviso in Clause 14.2.2 of this Call Off Contract in relation to Material Breach).

4.5 Approval and implementation by the Customer of any Rectification Plan shall not relieve the Supplier of any continuing responsibility to achieve the Service Levels, or remedy any failure to do so, and no estoppels or waiver shall arise from any such Approval and/or implementation by the Customer.

5. SERVICE CREDITS

- 5.1 Annex 1 to this Part A of this Call Off Schedule 6 sets out the formula used to calculate a Service Credit payable to the Customer as a result of a Service Level Failure in a given service period which, for the purpose of this Call Off Schedule 6, shall be a recurrent period of one Month during the Call Off Contract Period (the "**Service Period**").
- 5.2 Annex 1 to this Part A of this Call Off Schedule 6 includes details of each Service Credit available to each Service Level Performance Criterion if the applicable Service Level Performance Measure is not met by the Supplier.
- 5.3 The Customer shall use the Performance Monitoring Reports supplied by the Supplier under Part B (Performance Monitoring) of this Call Off Schedule 6 to verify the calculation and accuracy of the Service Credits, if any, applicable to each relevant Service Period.
- 5.4 Service Credits are a reduction of the amounts payable in respect of the Goods and/or Services and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in Annex 1 of Part A of this Call Off Schedule 6.

6. NATURE OF SERVICE CREDITS

- 6.1 The Supplier confirms that it has modelled the Service Credits and has taken them into account in setting the level of the Call Off Contract Charges. Both Parties

agree that the Service Credits are a reasonable method of price adjustment to reflect poor performance.

ANNEX 1 TO PART A: SERVICE LEVELS AND SERVICE CREDITS TABLE

Service Levels				Service Credit for each Service Period
Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Service Level Threshold	
Accurate and timely billing of Customer	Accuracy /Timelines	at least 98% at all times	[]	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure
Access to Customer support	Availability	at least 98% at all times	[]	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure
Complaints Handling	Availability/ Timelines	At least 98% at all times	[]	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure
provision of specific Goods and/or Services	Quality	at least 98% at all times	[]	2% Service Credit gained for each percentage under the specified Service Level Performance Measure
Timely provision of the Goods and/or Services [** hours a day, ** days a week.]	Goods and/or Services Availability	at least 98% at all times	[]	2% Service Credit gained for each percentage under the specified Service Level Performance Measure]

The Service Credits shall be calculated on the basis of the following formula:

[Example:

Formula: $x\% (\text{Service Level Performance Measure}) - x\% (\text{actual}) = x\% \text{ of the Call Off Contract Charges payable to the Customer as Service}$

Service Level performance)

Credits to be deducted from the next Valid Invoice payable by the Customer

Worked example: 98% (e.g. Service Level Performance Measure requirement for Service Level Performance Criterion of accurate and timely billing to Customer) - 75% (e.g. actual performance achieved against this Service Level Performance Criterion in a Service Period)

=

23% of the Call Off Contract Charges payable to the Customer as Service Credits to be deducted from the next Valid Invoice payable by the Customer]

ANNEX 1 TO PART B: PERFORMANCE MONITORING

1. PRINCIPAL POINTS

- 1.1 Part B to this Call Off Schedule 6 provides the methodology for monitoring the provision of the Goods and/or Services:
 - 1.1.1 to ensure that the Supplier is complying with the Service Levels; and
 - 1.1.2 for identifying any failures to achieve Service Levels in the performance of the Supplier and/or provision of the Goods and/or Services ("**Performance Monitoring System**").
- 1.2 Within twenty (20) Working Days of the Call Off Commencement Date the Supplier shall provide the Customer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.

2. REPORTING OF SERVICE FAILURES

- 2.1 The Supplier shall report all failures to achieve Service Levels and any Critical Service Level Failure to the Customer in accordance with the processes agreed in paragraph 1.2 of Part B of this Call Off Schedule 6 above.

3. PERFORMANCE MONITORING AND PERFORMANCE REVIEW

- 3.1 The Supplier shall provide the Customer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph 1.2 of Part B of this Call Off Schedule 6 above which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
 - 3.1.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 3.1.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 3.1.3 any Critical Service Level Failures and details in relation thereto;
 - 3.1.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 3.1.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
 - 3.1.6 such other details as the Customer may reasonably require from time to time.
- 3.2 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a quarterly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Customer of the Performance Monitoring Reports. The Performance Review Meetings shall (unless otherwise agreed):
 - 3.2.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier;

- 3.2.2 take place at such location and time (within normal business hours) as the Customer shall reasonably require unless otherwise agreed in advance;
 - 3.2.3 be attended by the Supplier's Representative and the Customer's Representative; and
 - 3.2.4 be fully minuted by the Supplier. The prepared minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Customer's Representative and any other recipients agreed at the relevant meeting. The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Customer's Representative at each meeting.
- 3.3 The Customer shall be entitled to raise any additional questions and/or request any further information regarding any failure to achieve Service Levels.
- 3.4 The Supplier shall provide to the Customer such supporting documentation as the Customer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

4. SATISFACTION SURVEYS

- 4.1 In order to assess the level of performance of the Supplier, the Customer may undertake satisfaction surveys in respect of the Supplier's provision of the Goods and/or Services.
- 4.2 The Customer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Goods and/or Services which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Call Off Contract.
- 4.3 All other suggestions for improvements to the provision of Goods and/or Services shall be dealt with as part of the continuous improvement programme pursuant to Clause 18 of this Call Off Contract (Continuous Improvement).

CALL OFF SCHEDULE 7: SECURITY

1. DEFINITIONS

1.1 In this Call Off Schedule 7, the following definitions shall apply:

"Breach of Security" means the occurrence of:

- a) any unauthorised access to or use of the Goods and/or Services, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Customer Data) used by the Customer and/or the Supplier in connection with this Call Off Contract; and/or
- b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Customer Data), including any copies of such information or data, used by the Customer and/or the Supplier in connection with this Call Off Contract,

in either case as more particularly set out in the Security Policy;

2. INTRODUCTION

2.1 The purpose of this Call Off Schedule 7 is to ensure a good organisational approach to security under which the specific requirements of this Call Off Contract will be met;

2.2 This Call Off Schedule 7 covers:

- 2.2.1 principles of protective security to be applied in delivering the Goods and/or Services;
- 2.2.2 the creation and maintenance of the Security Management Plan; and
- 2.2.3 obligations in the event of actual or attempted Breaches of Security.

3. PRINCIPLES OF SECURITY

3.1 The Supplier acknowledges that the Customer places great emphasis on the reliability of the performance of the Goods and/or Services, confidentiality, integrity and availability of information and consequently on security.

3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:

- 3.2.1 is in accordance with the Law and this Call Off Contract;
- 3.2.2 as a minimum demonstrates Good Industry Practice;
- 3.2.3 complies with the Security Policy;
- 3.2.4 meets any specific security threats of immediate relevance to the Goods and/or Services and/or the Customer Data; and
- 3.2.5 complies with the Customer's ICT Policy.

- 3.3 Subject to Clause 34 of this Call Off Contract (Security and Protection of Information) the references to standards, guidance and policies contained or set out in paragraph 3.2 of this Call Off Schedule 7 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Customer's Representative of such inconsistency immediately upon becoming aware of the same, and the Customer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

4. SECURITY MANAGEMENT PLAN

4.1 Introduction

- 4.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Call Off Schedule 7. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

4.2 Content of the Security Management Plan

4.2.1 The Security Management Plan shall:

- (a) comply with the principles of security set out in paragraph 3 of this Call Off Schedule 7 and any other provisions of this Call Off Contract relevant to security;
- (b) identify the necessary delegated organisational roles defined for those responsible for ensuring it is complied with by the Supplier;
- (c) detail the process for managing any security risks from Sub-Contractors and third parties authorised by the Customer with access to the Goods and/or Services, processes associated with the provision of the Goods and/or Services, the Customer Premises, the Sites and any ICT, Information and data (including the Customer's Confidential Information and the Customer Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Goods and/or Services;
- (d) unless otherwise specified by the Customer in writing, be developed to protect all aspects of the Goods and/or Services and all processes associated with the provision of the Goods and/or Services, including the Customer Premises, the Sites, and any ICT, Information and data (including the Customer's Confidential Information and the Customer Data) to the extent used by the Customer or the Supplier in connection with this Call Off Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Goods and/or Services;
- (e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Goods and/or Services and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures

which are sufficient to ensure that the Goods and/or Services comply with the provisions of this Call Off Contract;

- (f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Call Off Contract and the Security Policy; and
- (g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Customer engaged in the provision of the Goods and/or Services and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Call Off Schedule 7.

4.3 Development of the Security Management Plan

4.3.1 Within twenty (20) Working Days after the Call Off Commencement Date (or such other period agreed by the Parties in writing) and in accordance with paragraph 4.4 (Amendment and Revision of the Security Management Plan), the Supplier shall prepare and deliver to the Customer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.

4.3.2 If the Security Management Plan submitted to the Customer in accordance with paragraph 4.3.1, or any subsequent revision to it in accordance with paragraph 4.4 (Amendment and Revision of the Security Management Plan), is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Call Off Schedule 7. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days or such other period as the Parties may agree in writing of a notice of non-approval from the Customer and re-submit to the Customer for Approval. The parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days (or such other period as the parties may agree in writing) from the date of its first submission to the Customer. If the Customer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.

4.3.3 The Customer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to paragraph 4.3.2. However a refusal by the Customer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in paragraph 4.2 shall be deemed to be reasonable.

4.3.4 Approval by the Customer of the Security Management Plan pursuant to paragraph 4.3.2 of this Call Off Schedule 7 or of any change to the Security Management Plan in accordance with paragraph 4.4 shall not relieve the Supplier of its obligations under this Call Off Schedule 7.

4.4 Amendment and Revision of the Security Management Plan

4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:

- (a) emerging changes in Good Industry Practice;
 - (b) any change or proposed change to the Goods and/or Services and/or associated processes;
 - (c) any change to the Security Policy;
 - (d) any new perceived or changed security threats; and
 - (e) any reasonable change in requirements requested by the Customer.
- 4.4.2 The Supplier shall provide the Customer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Customer. The results of the review shall include, without limitation:
- (a) suggested improvements to the effectiveness of the Security Management Plan;
 - (b) updates to the risk assessments; and
 - (c) suggested improvements in measuring the effectiveness of controls.
- 4.4.3 Subject to paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with paragraph 4.4.1, a request by the Customer or otherwise) shall be subject to the Variation Procedure and shall not be implemented until Approved by the Customer.
- 4.4.4 The Customer may, where it is reasonable to do so, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment for the purposes of this Call Off Contract.

5. BREACH OF SECURITY

- 5.1 Either party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan if one exists) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 5.1, the Supplier shall:
- 5.2.1 immediately take all reasonable steps(which shall include any action or changes reasonably required by the Customer) necessary to:
 - (a) minimise the extent of actual or potential harm caused by any Breach of Security;
 - (b) remedy such Breach of Security to the extent possible and protect the integrity of the Customer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;

- (c) prevent an equivalent breach in the future exploiting the same root cause failure; and
- (d) as soon as reasonably practicable provide to the Customer, where the Customer so requests, full details (using the reporting mechanism defined by the Security Management Plan if one exists) of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Customer.

5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security policy or the requirements of this Call Off Schedule 7, then any required change to the Security Management Plan shall be at no cost to the Customer.

ANNEX 1: SECURITY POLICY

ANNEX 2: SECURITY MANAGEMENT PLAN

CALL OFF SCHEDULE 8: BUSINESS CONTINUITY AND DISASTER RECOVERY

1. DEFINITIONS

1.1 In this Call Off Schedule 8, the following definitions shall apply:

"Business Continuity Plan"	has the meaning given to it in paragraph 2.2.1(b) of this Call Off Schedule 8;
"Disaster Recovery Plan"	has the meaning given to it in 2.2.1(c) of this Call Off Schedule 8;
"Disaster Recovery System"	means the system embodied in the processes and procedures for restoring the provision of Goods and/or Services following the occurrence of a disaster;
"Review Report"	has the meaning given to it in paragraph 6.2 of this Call Off Schedule 8;
"Supplier's Proposals"	has the meaning given to it in paragraph 6.2.3 of this Call Off Schedule 8;

2. BCDR PLAN

2.1 Within thirty (30) Working Days from the Call Off Commencement Date the Supplier shall prepare and deliver to the Customer for the Customer's written approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Goods and/or Services; and

2.1.2 the recovery of the Goods and/or Services in the event of a Disaster.

2.2 The BCDR Plan shall:

2.2.1 be divided into three parts:

(a) Part A which shall set out general principles applicable to the BCDR Plan;

(b) Part B which shall relate to business continuity (the "**Business Continuity Plan**"); and

(c) Part C which shall relate to disaster recovery (the "**Disaster Recovery Plan**"); and

2.2.2 unless otherwise required by the Customer in writing, be based upon and be consistent with the provisions of paragraphs 3, 4 and 5.

2.3 Following receipt of the draft BCDR Plan from the Supplier, the Customer shall:

2.3.1 review and comment on the draft BCDR Plan as soon as reasonably practicable; and

2.3.2 notify the Supplier in writing that it approves or rejects the draft BCDR Plan no later than twenty (20) Working Days after the date on which the draft BCDR Plan is first delivered to the Customer.

- 2.4 If the Customer rejects the draft BCDR Plan:
- 2.4.1 the Customer shall inform the Supplier in writing of its reasons for its rejection; and
 - 2.4.2 the Supplier shall then revise the draft BCDR Plan (taking reasonable account of the Customer's comments) and shall re-submit a revised draft BCDR Plan to the Customer for the Customer's approval within twenty (20) Working Days of the date of the Customer's notice of rejection. The provisions of paragraphs 2.3 and 2.4 of this Call Off Schedule 8 shall apply again to any resubmitted draft BCDR Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3. PART A OF THE BCDR PLAN AND GENERAL PRINCIPLES AND REQUIREMENTS

- 3.1 Part A of the BCDR Plan shall:
- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
 - 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the operation of the provision of the Goods and/or Services and any goods and/or services provided to the Customer by a Related Supplier;
 - 3.1.3 contain an obligation upon the Supplier to liaise with the Customer and (at the Customer's request) any Related Suppliers with respect to issues concerning business continuity and disaster recovery where applicable;
 - 3.1.4 detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Customer and any of its other Related Supplier in each case as notified to the Supplier by the Customer from time to time;
 - 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Customer;
 - 3.1.6 contain a risk analysis, including:
 - (a) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
 - (b) identification of any single points of failure within the provision of Goods and/or Services and processes for managing the risks arising therefrom;
 - (c) identification of risks arising from the interaction of the provision of Goods and/or Services and with the goods and/or services provided by a Related Supplier; and
 - (d) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;

- 3.1.7 provide for documentation of processes, including business processes, and procedures;
 - 3.1.8 set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-Contractors) and for the Customer;
 - 3.1.9 identify the procedures for reverting to "normal service";
 - 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;
 - 3.1.11 identify the responsibilities (if any) that the Customer has agreed it will assume in the event of the invocation of the BCDR Plan; and
 - 3.1.12 provide for the provision of technical advice and assistance to key contacts at the Customer as notified by the Customer from time to time to inform decisions in support of the Customer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
- 3.2.1 the Goods and/or Services are provided in accordance with this Call Off Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster, service failure, or disruption on the operations of the Customer is minimal as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/EC 27002 and all other industry standards from time to time in force; and
 - 3.2.4 there is a process for the management of disaster recovery testing detailed in the BCDR Plan.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Goods and/or Services or to the business processes facilitated by and the business operations supported by the provision of Goods and/or Services.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Call Off Contract.

4. BUSINESS CONTINUITY PLAN - PRINCIPLES AND CONTENTS

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the provision of Goods and/or Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Customer expressly states otherwise in writing:
- 4.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Goods and/or Services; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Goods and/or Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 4.2 The Business Continuity Plan shall:

- 4.2.1 address the various possible levels of failures of or disruptions to the provision of Goods and/or Services;
- 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Goods and/or Services (such goods and/or services and steps, the **"Business Continuity Goods and/or Services"**);
- 4.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Goods and/or Services during any period of invocation of the Business Continuity Plan; and
- 4.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

5. DISASTER RECOVERY PLAN - PRINCIPLES AND CONTENTS

- 5.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Customer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 5.3 The Disaster Recovery Plan shall include the following:
 - 5.3.1 the technical design and build specification of the Disaster Recovery System;
 - 5.3.2 details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:
 - (a) data centre and disaster recovery site audits;
 - (b) backup methodology and details of the Supplier's approach to data back-up and data verification;
 - (c) identification of all potential disaster scenarios;
 - (d) risk analysis;
 - (e) documentation of processes and procedures;
 - (f) hardware configuration details;
 - (g) network planning including details of all relevant data networks and communication links;
 - (h) invocation rules;
 - (i) Service recovery procedures; and
 - (j) steps to be taken upon resumption of the provision of Goods and/or Services to address any prevailing effect of the failure or disruption of the provision of Goods and/or Services;]
 - 5.3.3 any applicable Service Levels with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the

- Service Levels in respect of the provision of other Goods and/or Services during any period of invocation of the Disaster Recovery Plan;
- 5.3.4 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 5.3.5 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule 8; and
- 5.3.6 testing and management arrangements.

6. REVIEW AND AMENDMENT OF THE BCDR PLAN

- 6.1 The Supplier shall review the BCDR Plan (and the risk analysis on which it is based):
 - 6.1.1 on a regular basis and as a minimum once every six (6) months;
 - 6.1.2 within three calendar months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 7; and
 - 6.1.3 where the Customer requests any additional reviews (over and above those provided for in paragraphs 6.1.1 and 6.1.2 of this Call Off Schedule 8) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Customer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Customer for the Customer's approval. The costs of both Parties of any such additional reviews shall be met by the Customer except that the Supplier shall not be entitled to charge the Customer for any costs that it may incur above any estimate without the Customer's prior written approval.
- 6.2 Each review of the BCDR Plan pursuant to paragraph 6.1 of this Call off Schedule 8 shall be a review of the procedures and methodologies set out in the BCDR Plan and shall assess their suitability having regard to any change to the Goods and/or Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within the period required by the BCDR Plan or, if no such period is required, within such period as the Customer shall reasonably require. The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Customer a report (a "**Review Report**") setting out:
 - 6.2.1 the findings of the review;
 - 6.2.2 any changes in the risk profile associated with the provision of Goods and/or Services; and
 - 6.2.3 the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any goods, services or systems provided by a third party.

- 6.3 Following receipt of the Review Report and the Supplier's Proposals, the Customer shall:
- 6.3.1 review and comment on the Review Report and the Supplier's Proposals as soon as reasonably practicable; and
 - 6.3.2 notify the Supplier in writing that it approves or rejects the Review Report and the Supplier's Proposals no later than twenty (20) Working Days after the date on which they are first delivered to the Customer.
- 6.4 If the Customer rejects the Review Report and/or the Supplier's Proposals:
- 6.4.1 the Customer shall inform the Supplier in writing of its reasons for its rejection; and
 - 6.4.2 the Supplier shall then revise the Review Report and/or the Supplier's Proposals as the case may be (taking reasonable account of the Customer's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Supplier's Proposals to the Customer for the Customer's approval within twenty (20) Working Days of the date of the Customer's notice of rejection. The provisions of paragraphs 6.3 and 6.4 of this Call Off Schedule 8 shall apply again to any resubmitted Review Report and Supplier's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the Customer's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Goods and/or Services.

7. TESTING OF THE BCDR PLAN

- 7.1 The Supplier shall test the BCDR Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to paragraph 7.2 of this Call Off Schedule 8, the Customer may require the Supplier to conduct additional tests of some or all aspects of the BCDR Plan at any time where the Customer considers it necessary, including where there has been any change to the Goods and/or Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the BCDR Plan.
- 7.2 If the Customer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Customer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Customer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with the Customer and shall liaise with the Customer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Customer in this regard. Each test shall be carried out under the supervision of the Customer or its nominee.

- 7.4 The Supplier shall ensure that any use by it or any Sub-Contractor of "live" data in such testing is first approved with the Customer. Copies of live test data used in any such testing shall be (if so required by the Customer) destroyed or returned to the Customer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Customer a report setting out:
- 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Customer, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Customer, by the date reasonably required by the Customer and set out in such notice.
- 7.7 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Supplier of any of its obligations under this Call Off Contract.
- 7.8 The Supplier shall also perform a test of the BCDR Plan in the event of any major reconfiguration of the Goods and/or Services or as otherwise reasonably requested by the Customer.

8. INVOCATION OF THE BCDR PLAN

- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Customer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Customer.

CALL OFF SCHEDULE 9: EXIT MANAGEMENT

1. DEFINITIONS

1.1 In this Call Off Schedule 9, the following definitions shall apply:

"Exclusive Assets"	means those Supplier Assets used by the Supplier or a Key Sub-Contractor which are used exclusively in the provision of the Goods and/or Services;
"Exit Information"	has the meaning given to it in paragraph 4.1 of this Call Off Schedule 9;
"Exit Manager"	means the person appointed by each Party pursuant to paragraph 3.4 of this Call Off Schedule 9 for managing the Parties' respective obligations under this Call Off Schedule 9;
"Net Book Value"	means the net book value of the relevant Supplier Asset(s) calculated in accordance with the depreciation policy of the Supplier set out in the letter in the agreed form from the Supplier to the Customer of even date with this Call Off Contract;
"Non-Exclusive Assets"	means those Supplier Assets (if any) which are used by the Supplier or a Key Sub-Contractor in connection with the Goods and/or Services but which are also used by the Supplier or Key Sub-Contractor for other purposes;
"Registers"	means the register and configuration database referred to in paragraphs 3.1.1 and 3.1.2 of this Call Off Schedule 9;
"Termination Assistance"	means the activities to be performed by the Supplier pursuant to the Exit Plan, and any other assistance required by the Customer pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	has the meaning given to it in paragraph 6.1 of this Call Off Schedule 9;
"Termination Assistance Period"	means in relation to a Termination Assistance Notice, the period specified in the Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to paragraph 6.2 of this Call Off Schedule 9;
"Transferable Assets"	means those of the Exclusive Assets which are capable of legal transfer to the Customer;
"Transferable Contracts"	means the Sub-Contracts, licences for

Supplier Background IPR, Project Specific IPR, licences for Third Party IPR or other agreements which are necessary to enable the Customer or any Replacement Supplier to provide the Goods and/or Services or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;

"Transferring Assets" has the meaning given to it in paragraph 9.2.1 of this Call Off Schedule 9;

"Transferring Contracts" has the meaning given to it in paragraph 9.2.3 of this Call Off Schedule 9.

2. INTRODUCTION

- 2.1 This Call Off Schedule 9 describes provisions that should be included in the Exit Plan, the duties and responsibilities of the Supplier to the Customer leading up to and covering the Call Off Expiry Date and the transfer of service provision to the Customer and/or a Replacement Supplier.
- 2.2 The objectives of the exit planning and service transfer arrangements are to ensure a smooth transition of the availability of the Goods and/or Services from the Supplier to the Customer and/or a Replacement Supplier at the Call Off Expiry Date.

3. OBLIGATIONS DURING THE CALL OFF CONTRACT PERIOD TO FACILITATE EXIT

- 3.1 During the Call Off Contract Period, the Supplier shall:
- 3.1.1 create and maintain a Register of all:
- (a) Supplier Assets, detailing their:
 - (i) make, model and asset number;
 - (ii) ownership and status as either Exclusive Assets or Non-Exclusive Assets;
 - (iii) Net Book Value;
 - (iv) condition and physical location; and
 - (v) use (including technical specifications); and
 - (b) Sub-Contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Goods and/or Services;
- 3.1.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Goods and/or Services, which shall contain sufficient detail to permit the Customer and/or Replacement Supplier to understand how the Supplier provides the Goods and/or Services and to enable the smooth transition of the Goods and/or Services with the minimum of disruption;
- 3.1.3 agree the format of the Registers with the Customer as part of the process of agreeing the Exit Plan; and

- 3.1.4 at all times keep the Registers up to date, in particular in the event that Assets, Sub-Contracts or other relevant agreements are added to or removed from the Goods and/or Services.
- 3.2 The Supplier shall:
 - 3.2.1 procure that all Exclusive Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the Goods and/or Goods and/or Services under this Call Off Contract; and
 - 3.2.2 (unless otherwise agreed by the Customer in writing) procure that all licences for Third Party IPR and all Sub-Contracts shall be assignable and/or capable of novation at the request of the Customer to the Customer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Goods and/or Services (or part of them) without restriction (including any need to obtain any consent or approval) or payment by the Customer.
- 3.3 Where the Supplier is unable to procure that any Sub-Contract or other agreement referred to in paragraph 3.2.2 of this Call Off Schedule 9 which the Supplier proposes to enter into after the Call Off Commencement Date is assignable and/or capable of novation to the Customer (and/or its nominee) and/or any Replacement Supplier without restriction or payment, the Supplier shall promptly notify the Customer of this and the Parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which, where the Customer so directs, may include the Supplier seeking an alternative Sub-Contractor or provider of goods and/or services to which the relevant agreement relates.
- 3.4 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Call Off Schedule 9 and provide written notification of such appointment to the other Party within three (3) months of the Call Off Commencement Date. The Supplier's Exit Manager shall be responsible for ensuring that the Supplier and its employees, agents and Sub-Contractors comply with this Call Off Schedule 9. The Supplier shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are reasonably necessary to enable the Supplier to comply with the requirements set out in this Call Off Schedule 9. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Call Off Contract and all matters connected with this Call Off Schedule 9 and each Party's compliance with it.

4. OBLIGATIONS TO ASSIST ON RE-TENDERING OF GOODS AND/OR SERVICES

- 4.1 On reasonable notice at any point during the Call Off Contract Period, the Supplier shall provide to the Customer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Customer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence:
 - 4.1.1 details of the Service(s);
 - 4.1.2 a copy of the Registers, updated by the Supplier up to the date of delivery of such Registers;
 - 4.1.3 an inventory of Customer Data in the Supplier's possession or control;
 - 4.1.4 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;

- 4.1.5 a list of on-going and/or threatened disputes in relation to the provision of the Goods and/or Services;
- 4.1.6 all information relating to Transferring Supplier Employees or those who may be Transferring Supplier Employees' required to be provided by the Supplier under this Call Off Contract such information to include the Staffing Information as defined in Schedule 10 (Staff Transfer); and
- 4.1.7 such other material and information as the Customer shall reasonably require,

(together, the "**Exit Information**").

4.2 The Supplier acknowledges that the Customer may disclose the Supplier's Confidential Information to an actual or prospective Replacement Supplier or any third party whom the Customer is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Customer may not under this paragraph 4.2 of this Call Off Schedule 9 disclose any Supplier's Confidential Information which is information relating to the Supplier's or its Sub-Contractors' prices or costs).

4.3 The Supplier shall:

- 4.3.1 notify the Customer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Goods and/or Services and shall consult with the Customer regarding such proposed material changes; and
- 4.3.2 provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within ten (10) Working Days of a request in writing from the Customer.

4.4 The Supplier may charge the Customer for its reasonable additional costs to the extent the Customer requests more than four (4) updates in any six (6) month period.

4.5 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Supplier shall be such as would be reasonably necessary to enable a third party to:

- 4.5.1 prepare an informed offer for those Goods and/or Services; and
- 4.5.2 not be disadvantaged in any subsequent procurement process compared to the Supplier (if the Supplier is invited to participate).

5. EXIT PLAN

5.1 The Supplier shall, within three (3) months after the Call Off Commencement Date, deliver to the Customer an Exit Plan which:

- 5.1.1 sets out the Supplier's proposed methodology for achieving an orderly transition of the Goods and/or Services from the Supplier to the Customer and/or its Replacement Supplier on the expiry or termination of this Call Off Contract;
- 5.1.2 complies with the requirements set out in paragraph 5.3 of this Call Off Schedule 9;
- 5.1.3 is otherwise reasonably satisfactory to the Customer.

5.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty

(20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

5.3 Unless otherwise specified by the Customer or Approved, the Exit Plan shall set out, as a minimum:

- 5.3.1 how the Exit Information is obtained;
- 5.3.2 the management structure to be employed during both transfer and cessation of the Goods and/or Services;
- 5.3.3 the management structure to be employed during the Termination Assistance Period;
- 5.3.4 a detailed description of both the transfer and cessation processes, including a timetable;
- 5.3.5 how the Goods and/or Services will transfer to the Replacement Supplier and/or the Customer, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Customer's technology components from any technology components operated by the Supplier or its Sub-Contractors (where applicable);
- 5.3.6 details of contracts (if any) which will be available for transfer to the Customer and/or the Replacement Supplier upon the Call Off Expiry Date together with any reasonable costs required to effect such transfer (and the Supplier agrees that all assets and contracts used by the Supplier in connection with the provision of the Goods and/or Services will be available for such transfer);
- 5.3.7 proposals for the training of key members of the Replacement Supplier's personnel in connection with the continuation of the provision of the Goods and/or Services following the Call Off Expiry Date charged at rates agreed between the Parties at that time;
- 5.3.8 proposals for providing the Customer or a Replacement Supplier copies of all documentation:
 - (a) used in the provision of the Goods and/or Services and necessarily required for the continued use thereof, in which the Intellectual Property Rights are owned by the Supplier; and
 - (b) relating to the use and operation of the Goods and/or Services;
- 5.3.9 proposals for the assignment or novation of the provision of all services, leases, maintenance agreements and support agreements utilised by the Supplier in connection with the performance of the supply of the Goods and/or Services;
- 5.3.10 proposals for the identification and return of all Customer Property in the possession of and/or control of the Supplier or any third party (including any Sub-Contractor);
- 5.3.11 proposals for the disposal of any redundant Goods and/or Services and materials;
- 5.3.12 procedures to:
 - (a) deal with requests made by the Customer and/or a Replacement Supplier for Staffing Information pursuant to Call Off Schedule 10 (Staff Transfer);

- (b) determine which Supplier Personnel are or are likely to become Transferring Supplier Employees; and
 - (c) identify or develop any measures for the purpose of the Employment Regulations envisaged in respect of Transferring Supplier Employees;
- 5.3.13 how each of the issues set out in this Call Off Schedule 9 will be addressed to facilitate the transition of the Goods and/or Services from the Supplier to the Replacement Supplier and/or the Customer with the aim of ensuring that there is no disruption to or degradation of the Goods and/or Services during the Termination Assistance Period; and
- 5.3.14 proposals for the supply of any other information or assistance reasonably required by the Customer or a Replacement Supplier in order to effect an orderly handover of the provision of the Goods and/or Services.

6. TERMINATION ASSISTANCE

6.1 The Customer shall be entitled to require the provision of Termination Assistance at any time during the Call Off Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) months prior to the Call Off Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

- 6.1.1 the date from which Termination Assistance is required;
- 6.1.2 the nature of the Termination Assistance required; and
- 6.1.3 the period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) months after the date that the Supplier ceases to provide the Goods and/or Services.

6.2 The Customer shall have an option to extend the Termination Assistance Period beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than six (6) months after the date the Supplier ceases to provide the Goods and/or Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier to such effect no later than twenty (20) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Customer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier to such effect.

7. TERMINATION ASSISTANCE PERIOD

7.1 Throughout the Termination Assistance Period, or such shorter period as the Customer may require, the Supplier shall:

- 7.1.1 continue to provide the Goods and/or Services (as applicable) and, if required by the Customer pursuant to paragraph 6.1 of this Call Off Schedule 9, provide the Termination Assistance;
- 7.1.2 in addition to providing the Goods and/or Services and the Termination Assistance, provide to the Customer any reasonable assistance requested by the Customer to allow the Goods and/or Services to continue without interruption following the termination or expiry of this

Call Off Contract and to facilitate the orderly transfer of responsibility for and conduct of the Goods and/or Services to the Customer and/or its Replacement Supplier;

- 7.1.3 use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in paragraph 7.1.2 of this Call Off Schedule 9 without additional costs to the Customer;
 - 7.1.4 provide the Goods and/or Services and the Termination Assistance at no detriment to the Service Level Performance Measures, save to the extent that the Parties agree otherwise in accordance with paragraph 7.3; and
 - 7.1.5 at the Customer's request and on reasonable notice, deliver up-to-date Registers to the Customer.
- 7.2 Without prejudice to the Supplier's obligations under paragraph 7.1.3 of this Call Off Schedule 9, if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in paragraph 7.1.2 of this Call Off Schedule 9 without additional costs to the Customer, any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Assistance or the Exit Plan shall be subject to the Variation Procedure.
- 7.3 If the Supplier demonstrates to the Customer's reasonable satisfaction that transition of the Goods and/or Services and provision of the Termination Assist during the Termination Assistance Period will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Level Performance Measure(s), the Parties shall vary the relevant Service Level Performance Measure(s) and/or the applicable Service Credits to take account of such adverse effect.

8. TERMINATION OBLIGATIONS

- 8.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 8.2 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Goods and/or Services and the Termination Assistance and its compliance with the other provisions of this Call Off Schedule 9), the Supplier shall:
 - 8.2.1 cease to use the Customer Data;
 - 8.2.2 provide the Customer and/or the Replacement Supplier with a complete and uncorrupted version of the Customer Data in electronic form (or such other format as reasonably required by the Customer);
 - 8.2.3 erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period all Customer Data and promptly certify to the Customer that it has completed such deletion;
 - 8.2.4 return to the Customer such of the following as is in the Supplier's possession or control:
 - (a) all materials created by the Supplier under this Call Off Contract in which the IPRs are owned by the Customer;
 - (b) any equipment which belongs to the Customer;

- (c) any items that have been on-charged to the Customer, such as consumables; and
- (d) all Customer Property issued to the Supplier under Clause 31 of this Call Off Contract (Customer Property). Such Customer Property shall be handed back to the Customer in good working order (allowance shall be made only for reasonable wear and tear);
- (e) any sums prepaid by the Customer in respect of Goods and/or Services not Delivered by the Call Off Expiry Date;

8.2.5 vacate any Customer Premises;

8.2.6 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Goods and/or Services and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier and/or any Supplier Personnel;

8.2.7 provide access during normal working hours to the Customer and/or the Replacement Supplier for up to twelve (12) months after expiry or termination to:

- (a) such information relating to the Goods and/or Services as remains in the possession or control of the Supplier; and
- (b) such members of the Supplier Personnel as have been involved in the design, development and provision of the Goods and/or Services and who are still employed by the Supplier, provided that the Customer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to requests for access under this paragraph.

8.3 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Goods and/or Services and the Termination Assistance and its compliance with the other provisions of this Call Off Schedule 9), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Goods and/or Services or termination services or for statutory compliance purposes.

8.4 Except where this Call Off Contract provides otherwise, all licences, leases and authorisations granted by the Customer to the Supplier in relation to the Goods and/or Services shall be terminated with effect from the end of the Termination Assistance Period.

9. ASSETS AND SUB-CONTRACTS

9.1 Following notice of termination of this Call Off Contract and during the Termination Assistance Period, the Supplier shall not, without the Customer's prior written consent:

- 9.1.1 terminate, enter into or vary any Sub-Contract;

- 9.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets; or
 - 9.1.3 terminate, enter into or vary any licence for software in connection with the provision of Goods and/or Services.
- 9.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier pursuant to paragraph 7.1.5 of this Call Off Schedule 9, the Customer shall provide written notice to the Supplier setting out:
- 9.2.1 which, if any, of the Transferable Assets the Customer requires to be transferred to the Customer and/or the Replacement Supplier ("**Transferring Assets**");
 - 9.2.2 which, if any, of:
 - (a) the Exclusive Assets that are not Transferable Assets; and
 - (b) the Non-Exclusive Assets,the Customer and/or the Replacement Supplier requires the continued use of; and
 - 9.2.3 which, if any, of Transferable Contracts the Customer requires to be assigned or novated to the Customer and/or the Replacement Supplier (the "**Transferring Contracts**"),
- in order for the Customer and/or its Replacement Supplier to provide the Goods and/or Services from the expiry of the Termination Assistance Period. Where requested by the Customer and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Customer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts the Customer and/or its Replacement Supplier requires to provide the Goods and/or Services or the Replacement Goods and/or Replacement Services.
- 9.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Customer and/or its nominated Replacement Supplier for a consideration equal to their Net Book Value, except where the cost of the Transferring Asset has been partially or fully paid for through the Call Off Contract Charges at the Call Off expiry Date, in which case the Customer shall pay the Supplier the Net Book Value of the Transferring Asset less the amount already paid through the Call Off Contract Charges.
- 9.4 Risk in the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) on payment for the same.
- 9.5 Where the Supplier is notified in accordance with paragraph 9.2.2 of this Call Off Schedule 9 that the Customer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 9.5.1 procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Customer) for the Customer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which

- 9.5.2 procure a suitable alternative to such assets and the Customer or the Replacement Supplier shall bear the reasonable proven costs of procuring the same.
- 9.6 The Supplier shall as soon as reasonably practicable assign or procure the novation to the Customer and/or the Replacement Supplier of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as the Customer reasonably requires to effect this novation or assignment.
- 9.7 The Customer shall:
 - 9.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
 - 9.7.2 once a Transferring Contract is novated or assigned to the Customer and/or the Replacement Supplier, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 9.8 The Supplier shall hold any Transferring Contracts on trust for the Customer until such time as the transfer of the relevant Transferring Contract to the Customer and/or the Replacement Supplier has been effected.
- 9.9 The Supplier shall indemnify the Customer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Customer (and/or Replacement Supplier) pursuant to paragraph 9.6 of this Call Off Schedule 9 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract.

10. SUPPLIER PERSONNEL

- 10.1 The Customer and Supplier agree and acknowledge that in the event of the Supplier ceasing to provide the Goods and/or Services or part of them for any reason, Call Off Schedule 10 (Staff Transfer) shall apply.
- 10.2 The Supplier shall not and shall procure that any relevant Sub-Contractor shall not take any step (expressly or implicitly and directly or indirectly by itself or through any other person) without the prior written consent of the Customer to dissuade or discourage any employees engaged in the provision of the Goods and/or Services from transferring their employment to the Customer and/or the Replacement Supplier and/or Replacement Sub-Contractor.
- 10.3 During the Termination Assistance Period, the Supplier shall and shall procure that any relevant Sub-Contractor shall:
 - 10.3.1 give the Customer and/or the Replacement Supplier and/or Replacement Sub-Contractor reasonable access to the Supplier's personnel and/or their consultation representatives to present the case for transferring their employment to the Customer and/or the Replacement Supplier and/or to discuss or consult on any measures envisaged by the Customer, Replacement Supplier and/or Replacement Sub-Contractor in respect of persons expected to be Transferring Supplier Employees;
 - 10.3.2 co-operate with the Customer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of

Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services.

10.4 The Supplier shall immediately notify the Customer or, at the direction of the Customer, the Replacement Supplier of any period of notice given by the Supplier or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.

10.5 The Supplier shall not for a period of twelve (12) months from the date of transfer re-employ or re-engage or entice any employees, suppliers or Sub-Contractors whose employment or engagement is transferred to the Customer and/or the Replacement Supplier except that this paragraph 10.5 shall not apply where an offer is made pursuant to an express right to make such offer under Call Off Schedule 10.1 (Staff Transfer) in respect of a Transferring Supplier Employee not identified in the Supplier's Final Supplier Personnel List.

11. CHARGES

11.1 Except as otherwise expressly specified in this Call Off Contract, the Supplier shall not make any charges for the services provided by the Supplier pursuant to, and the Customer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with, this Call Off Schedule 9 including the preparation and implementation of the Exit Plan, the Termination Assistance and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

12. APPORTIONMENTS

12.1 All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Customer and the Supplier and/or the Replacement Supplier and the Supplier (as applicable) as follows:

12.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;

12.1.2 the Customer shall be responsible for (or shall procure that the Replacement Supplier shall be responsible for) or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

12.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

12.2 Each Party shall pay (and/or the Customer shall procure that the Replacement Supplier shall pay) any monies due under paragraph 12.1 of this Call Off Schedule 9 as soon as reasonably practicable.

CALL OFF SCHEDULE 10: STAFF TRANSFER – NOT USED

1. DEFINITIONS

In this Call Off Schedule 10, the following definitions shall apply:

“Admission Agreement”	An admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into by the Supplier where it agrees to participate in the Schemes in respect of the Services;
“Eligible Employee”	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the Admission Agreement;
“Fair Deal Employees”	those Transferring Customer Employees who are on the Relevant Transfer Date entitled to the protection of New Fair Deal (and, in the event that Part B of this Call Off Schedule 10 applies, any Transferring Former Supplier Employees who originally transferred pursuant to a Relevant Transfer under the Employment Regulations (or the predecessor legislation to the Employment Regulations), from employment with a public sector employer and who were once eligible to participate in the Schemes and who at the Relevant Transfer Date become entitled to the protection of New Fair Deal);
“Former Supplier”	a supplier supplying services to the Customer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);
“New Fair Deal”	the revised Fair Deal position set out in the HM Treasury guidance: <i>“Fair Deal for staff pensions: staff transfer from central government”</i> issued in October 2013 including any amendments to that document immediately prior to the Relevant Transfer Date;
“Notified Sub-Contractor”	a Sub-Contractor identified in the Annex to this Call Off Schedule 10 to whom Transferring Customer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
“Replacement Sub-Contractor”	a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
“Relevant Transfer”	a transfer of employment to which the Employment Regulations applies;

“Relevant Transfer Date”	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
“Schemes”	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Scheme and (ii) Death Benefits Scheme; the Civil Service Additional Voluntary Contribution Scheme; and the Designated Stakeholder Pension Scheme and “alpha” introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014;
“Service Transfer”	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;
“Service Transfer Date”	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
“Staffing Information”	<p>in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Customer may reasonably request (subject to all applicable provisions of the DPA), but including in an anonymised format:</p> <ul style="list-style-type: none"> (a) their ages, dates of commencement of employment or engagement, gender and place of work; (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise; (c) the identity of the employer or relevant contracting party; (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments; (e) their wages, salaries, bonuses and profit sharing arrangements as applicable; (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them; (g) any outstanding or potential contractual, statutory or

other liabilities in respect of such individuals (including in respect of personal injury claims);

(h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;

(i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and

(j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;

"Supplier's Final Supplier Personnel List"

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

"Supplier's Provisional Supplier Personnel List"

a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;

"Transferring Customer Employees"

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

"Transferring Former Supplier Employees"

in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and

"Transferring Supplier Employees"

those employees of the Supplier and/or the Supplier's Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date.

2. INTERPRETATION

Where a provision in this Call Off Schedule 10 imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Customer, Former Supplier, Replacement Supplier or Replacement Sub-Contractor, as the case may be.

PART A

TRANSFERRING CUSTOMER EMPLOYEES AT COMMENCEMENT OF SERVICES

1. RELEVANT TRANSFERS

- 1.1 The Customer and the Supplier agree that:
- 1.1.1 the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Customer Employees; and
 - 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between the Customer and the Transferring Customer Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Notified Sub-Contractor and each such Transferring Customer Employee.
- 1.2 The Customer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Customer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Customer; and (ii) the Supplier and/or any Notified Sub-Contractor (as appropriate).

2. CUSTOMER INDEMNITIES

- 2.1 Subject to Paragraph 2.2, the Customer shall indemnify the Supplier and any Notified Sub-Contractor against any Employee Liabilities arising from or as a result of:
- 2.1.1 any act or omission by the Customer in respect of any Transferring Customer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Customer Employee occurring before the Relevant Transfer Date;
 - 2.1.2 the breach or non-observance by the Customer before the Relevant Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Customer Employees; and/or
 - (b) any custom or practice in respect of any Transferring Customer Employees which the Customer is contractually bound to honour;
 - 2.1.3 any claim by any trade union or other body or person representing the Transferring Customer Employees arising from or connected with any failure by the Customer to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;

- 2.1.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Customer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Customer Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Customer to the Supplier and/or any Notified Sub-Contractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
- 2.1.5 a failure of the Customer to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Customer Employees arising before the Relevant Transfer Date;
- 2.1.6 any claim made by or in respect of any person employed or formerly employed by the Customer other than a Transferring Customer Employee for whom it is alleged the Supplier and/or any Notified Sub-Contractor as appropriate may be liable by virtue of the Employment Regulations and/or the Acquired Rights Directive; and
- 2.1.7 any claim made by or in respect of a Transferring Customer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Customer Employee relating to any act or omission of the Customer in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-Contractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-Contractor (whether or not a Notified Sub-Contractor) whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:
- 2.2.1 arising out of the resignation of any Transferring Customer Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier and/or any Sub-Contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - 2.2.2 arising from the failure by the Supplier or any Sub-Contractor to comply with its obligations under the Employment Regulations.
- 2.3 If any person who is not identified by the Customer as a Transferring Customer Employee claims, or it is determined in relation to any person who is not identified by the Customer as a Transferring Customer Employee, that his/her contract of employment has been transferred from the Customer to the Supplier and/or any Notified Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

- 2.3.1 the Supplier shall, or shall procure that the Notified Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Customer; and
- 2.3.2 the Customer may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of receipt of the notification by the Supplier and/or any Notified Sub-Contractor, or take such other reasonable steps as the Customer considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Customer, the Supplier shall, or shall procure that the Notified Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5 If by the end of the 15 Working Day period specified in Paragraph 2.3.2:
- 2.5.1 no such offer of employment has been made;
- 2.5.2 such offer has been made but not accepted; or
- 2.5.3 the situation has not otherwise been resolved,
- the Supplier and/or any Notified Sub-Contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6 Subject to the Supplier and/or any Notified Sub-Contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in applicable Law, the Customer shall indemnify the Supplier and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or procures that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7 The indemnity in Paragraph 2.6:
- 2.7.1 shall not apply to:
- (a) any claim for:
- (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
- in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
- (b) any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-Contractor neglected to follow a fair dismissal procedure; and
- 2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Notified Sub-Contractor (as appropriate) to the Customer within 6 months of the Call Off Commencement Date.

- 2.8 If any such person as is referred to in Paragraph 2.3 is neither re-employed by the Customer nor dismissed by the Supplier and/or any Notified Sub-Contractor within the time scales set out in Paragraph 2.5 such person shall be treated as having transferred to the Supplier and/or any Notified Sub-Contractor and the Supplier shall, or shall procure that the Notified Sub-Contractor shall, comply with such obligations as may be imposed upon it under applicable Law.

3. SUPPLIER INDEMNITIES AND OBLIGATIONS

- 3.1 Subject to Paragraph 3.2 the Supplier shall indemnify the Customer against any Employee Liabilities arising from or as a result of:
- 3.1.1 any act or omission by the Supplier or any Sub-Contractor in respect of any Transferring Customer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Customer Employee whether occurring before, on or after the Relevant Transfer Date;
 - 3.1.2 the breach or non-observance by the Supplier or any Sub-Contractor on or after the Relevant Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Customer Employees; and/or
 - (b) any custom or practice in respect of any Transferring Customer Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 3.1.3 any claim by any trade union or other body or person representing any Transferring Customer Employees arising from or connected with any failure by the Supplier or any Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 3.1.4 any proposal by the Supplier or a Sub-contractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Customer Employees to their material detriment on or after their transfer to the Supplier or the relevant Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Customer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - 3.1.5 any statement communicated to or action undertaken by the Supplier or any Sub-Contractor to, or in respect of, any Transferring Customer Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Customer in writing;
 - 3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Customer Employee, to the extent that the proceeding, claim or demand by HMRC or other

statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and

(b) in relation to any employee who is not a Transferring Customer Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Customer to the Supplier or a Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

3.1.7 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Customer Employees in respect of the period from (and including) the Relevant Transfer Date;

3.1.8 any claim made by or in respect of a Transferring Customer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Customer Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Customer's failure to comply with its obligations under regulation 13 of the Employment Regulations; and

3.1.9 a failure by the Supplier or any Sub-Contractor to comply with its obligations under Paragraph 2.8 above.

3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Customer whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Customer's failure to comply with its obligations under the Employment Regulations.

3.3 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of the Transferring Customer Employees, from (and including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Customer and the Supplier.

4. INFORMATION

The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer in writing such information as is necessary to enable the Customer to carry out its duties under regulation 13 of the Employment Regulations. The Customer shall promptly provide to the Supplier and each Notified Sub-Contractor in writing such

information as is necessary to enable the Supplier and each Notified Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

- 5.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.
- 5.2 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by the Customer relating to pensions in respect of any Transferring Customer Employee as set down in:
- 5.2.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
 - 5.2.2 HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
 - 5.2.3 HM Treasury's guidance "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
 - 5.2.4 the New Fair Deal.
- 5.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Variation Procedure.

6. PENSIONS

The Supplier shall, and/or shall procure that each of its Sub-Contractors shall, comply with the pensions provisions in the following Annex.

ANNEX TO PART A: PENSIONS

1. PARTICIPATION

- 1.1 The Supplier undertakes to enter into the Admission Agreement.
- 1.2 The Supplier and the Customer:
 - 1.2.1 undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Supplier to participate in the Schemes in respect of the Fair Deal Employees;
 - 1.2.2 agree that the arrangements under paragraph 1.1 of this Annex include the body responsible for the Schemes notifying the Customer if the Supplier breaches any obligations it has under the Admission Agreement;
 - 1.2.3 agree, notwithstanding Paragraph 1.2.2 of this Annex, the Supplier shall notify the Customer in the event that it breaches any obligations it has under the Admission Agreement and when it intends to remedy such breaches; and
 - 1.2.4 agree that the Customer may terminate this Call Off Contract in the event that the Supplier breaches the Admission Agreement:
 - (a) and that breach is not capable of being remedied; or
 - (b) where such breach is capable of being remedied, the Supplier fails to remedy such breach within a reasonable time and in any event within 28 days of a notice from the Customer giving particulars of the breach and requiring the Supplier to remedy it.
- 1.3 The Supplier shall bear its own costs and all costs that the Customer reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Supplier participating in the Schemes including without limitation current civil service pensions administrator on-boarding costs.

2. FUTURE SERVICE BENEFITS

- 2.1 The Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of Schemes for service from (and including) the Relevant Transfer Date.
- 2.2 The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Customer, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by the Customer in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes on the date the Eligible Employees ceased to participate in the Schemes.
- 2.3 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

3. FUNDING

- 3.1 The Supplier undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 3.2 The Supplier shall indemnify and keep indemnified the Customer on demand against any claim by, payment to, or loss incurred by, the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Supplier to or in respect of the Schemes.

4. PROVISION OF INFORMATION

The Supplier and the Customer respectively undertake to each other:

- 4.1 to provide all information which the other Party may reasonably request concerning matters referred to in this Annex and set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- 4.2 not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

5. INDEMNITY

The Supplier undertakes to the Customer to indemnify and keep indemnified the Customer on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

6. EMPLOYER OBLIGATION

The Supplier shall comply with the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff.

7. SUBSEQUENT TRANSFERS

The Supplier shall:

- 7.1 not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the Service Transfer Date;
- 7.2 provide all such co-operation and assistance as the Schemes and the Replacement Supplier and/or the Customer may reasonably require to enable the Replacement Supplier to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal; and
- 7.3 for the applicable period either:
 - 7.3.1 after notice (for whatever reason) is given, in accordance with the other provisions of this Call Off Contract, to terminate the Agreement or any part of the Services; or

7.3.2 after the date which is two (2) years prior to the date of expiry of this Call Off Contract,

ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Supplier or the Customer, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of the Customer (such approval not to be unreasonably withheld). Save that this subparagraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

8. BULK TRANSFER

8.1 Where the Supplier has set up a broadly comparable pension scheme in accordance with the provisions of paragraph 2.2 above of this Annex, the Supplier agrees to:

8.1.1 fully fund any such broadly comparable pension scheme in accordance with the funding requirements set by that broadly comparable pension scheme's actuary or by the Government Actuary's Department;

8.1.2 instruct any such broadly comparable pension scheme's actuary to, and to provide all such co-operation and assistance in respect of any such broadly comparable pension scheme as the Replacement Supplier and/or the Customer may reasonably require, to enable the Replacement Supplier to participate in the Schemes in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;

8.1.3 allow, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such broadly comparable pension scheme into the Schemes on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal, for the avoidance of doubt should the amount offered by the broadly comparable pension scheme be less than the amount required by the Schemes to fund day for day service ("the Shortfall"), the Supplier agrees to pay the Shortfall to the Schemes; and

8.1.4 indemnify the Customer on demand for any failure to pay the Shortfall as required under Paragraph 8.1.3 above.

PART B

TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES

1. RELEVANT TRANSFERS

- 1.1 The Customer and the Supplier agree that:
- 1.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and
 - 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disappplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or Notified Sub-Contractor and each such Transferring Former Supplier Employee.
- 1.2 Subject to Paragraph 6, the Customer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Customer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

2. FORMER SUPPLIER INDEMNITIES

- 2.1 Subject to Paragraphs 2.2 and 6, the Customer shall procure that each Former Supplier shall indemnify the Supplier and any Notified Sub-Contractor against any Employee Liabilities arising from or as a result of:
- 2.1.1 any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;
 - 2.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or

- (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;
 - 2.1.3 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Sub-Contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
 - 2.1.4 a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
 - 2.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Sub-Contractor as appropriate may be liable by virtue of this Call Off Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
 - 2.1.6 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-Contractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-Contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:
- 2.2.1 arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Sub-Contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - 2.2.2 arising from the failure by the Supplier and/or any Sub-Contractor to comply with its obligations under the Employment Regulations.

- 2.3 If any person who is not identified by the Customer as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by the Customer as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
- 2.3.1 the Supplier shall, or shall procure that the Notified Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Customer and, where required by the Customer, to the Former Supplier; and
 - 2.3.2 the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Supplier and/or the Notified Sub-Contractor or take such other reasonable steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Customer, the Supplier shall, or shall procure that the Notified Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5 If by the end of the 15 Working Day period specified in Paragraph 2.3.2:
- 2.5.1 no such offer of employment has been made;
 - 2.5.2 such offer has been made but not accepted; or
 - 2.5.3 the situation has not otherwise been resolved,
- the Supplier and/or any Notified Sub-Contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6 Subject to the Supplier and/or any Notified Sub-Contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, the Customer shall procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7 The indemnity in Paragraph 2.6:
- 2.7.1 shall not apply to:
 - (a) any claim for:
 - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
- in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or

- (b) any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-Contractor neglected to follow a fair dismissal procedure; and
- 2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Notified Sub-Contractor (as appropriate) to the Customer and, if applicable, the Former Supplier, within 6 months of the Call Off Commencement Date.
- 2.8 If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Notified Sub-Contractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier or Notified Sub-Contractor and the Supplier shall, or shall procure that the Notified Sub-Contractor shall, comply with such obligations as may be imposed upon it under the Law.

3. SUPPLIER INDEMNITIES AND OBLIGATIONS

- 3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Customer and/or the Former Supplier against any Employee Liabilities arising from or as a result of:
 - 3.1.1 any act or omission by the Supplier or any Sub-Contractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date;
 - 3.1.2 the breach or non-observance by the Supplier or any Sub-Contractor on or after the Relevant Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Former Supplier Employee; and/or
 - (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 3.1.3 any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 3.1.4 any proposal by the Supplier or a Sub-Contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - 3.1.5 any statement communicated to or action undertaken by the Supplier or a Sub-Contractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the

- Relevant Transfer which has not been agreed in advance with the Customer and/or the Former Supplier in writing;
- 3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Sub-Contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;
- 3.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
- 3.1.9 a failure by the Supplier or any Sub-Contractor to comply with its obligations under Paragraph 2.8 above.
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

4. INFORMATION

The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer and/or at the Customer's direction, the Former Supplier, in writing such information as is necessary to enable the Customer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. Subject to Paragraph 6, the Customer shall procure that the Former Supplier shall promptly provide to the Supplier and each Notified Sub-Contractor in writing such information as is necessary to enable the Supplier and each Notified Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

5.1 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by the Customer relating to pensions in respect of any Transferring Former Supplier Employee as set down in:

5.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;

5.1.2 HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;

5.1.3 HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or

5.1.4 the New Fair Deal.

5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Variation Procedure.

6. PROCUREMENT OBLIGATIONS

Notwithstanding any other provisions of this Part B, where in this Part B the Customer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Customer's contract with the Former Supplier contains a contractual right in that regard which the Customer may enforce, or otherwise so that it requires only that the Customer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

7. PENSIONS

The Supplier shall, and shall procure that each Sub-Contractor shall, comply with the pensions provisions in the following Annex.

ANNEX TO PART B: PENSIONS

1. PARTICIPATION

- 1.1 The Supplier undertakes to enter into the Admission Agreement.
- 1.2 The Supplier and the Customer:
 - 1.2.1 undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Supplier to participate in the Schemes in respect of the Fair Deal Employees;
 - 1.2.2 agree that the arrangements under paragraph 1.1 of this Annex include the body responsible for the Schemes notifying the Customer if the Supplier breaches any obligations it has under the Admission Agreement;
 - 1.2.3 agree, notwithstanding Paragraph 1.2.2 of this Annex, the Supplier shall notify the Customer in the event that it breaches any obligations it has under the Admission Agreement and when it intends to remedy such breaches; and
 - 1.2.4 agree that the Customer may terminate this Call Off Contract for material default in the event that the Supplier breaches the Admission Agreement:
 - (a) and that breach is not capable of being remedied; or
 - (b) where such breach is capable of being remedied, the Supplier fails to remedy such breach within a reasonable time and in any event within 28 days of a notice from the Customer giving particulars of the breach and requiring the Supplier to remedy it.
- 1.3 The Supplier shall bear its own costs and all costs that the Customer reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Supplier participating in the Schemes including without limitation current civil service pensions administrator on-boarding costs.

2. FUTURE SERVICE BENEFITS

- 2.1 If the Supplier is rejoining the Schemes for the first time, the Supplier shall procure that the Fair Deal Employees shall be either admitted to or offered continued membership of the relevant section of the Schemes that they became eligible to join on the Relevant Transfer Date and shall continue to accrue or accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.2 If staff have already been readmitted to the Schemes, the Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.3 The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Customer, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational

pension scheme certified by the Government Actuary's Department or any actuary nominated by the Customer in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes on the date the Eligible Employees ceased to participate in the Schemes.

- 2.4 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

3. FUNDING

- 3.1 The Supplier undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 3.2 The Supplier shall indemnify and keep indemnified the Customer on demand against any claim by, payment to, or loss incurred by the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Supplier to or in respect of the Schemes.

4. PROVISION OF INFORMATION

The Supplier and the Customer respectively undertake to each other:

- 4.1 to provide all information which the other Party may reasonably request concerning matters (i) referred to in this Annex and (ii) set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- 4.2 not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

5. INDEMNITY

The Supplier undertakes to the Customer to indemnify and keep indemnified the Customer on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

6. EMPLOYER OBLIGATION

The Supplier shall comply with the requirements of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff.

7. SUBSEQUENT TRANSFERS

The Supplier shall:

- 7.1 not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the Service Transfer Date;
- 7.2 provide all such co-operation and assistance as the Schemes and the Replacement Supplier and/or the Customer may reasonably require to enable the

Replacement Supplier to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under the New Fair Deal; and

7.3 for the applicable period either

7.3.1 after notice (for whatever reason) is given, in accordance with the other provisions of this Call Off Contract, to terminate the Agreement or any part of the Services; or

7.3.2 after the date which is two (2) years prior to the date of expiry of this Call Off Contract,

ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Supplier or the Customer, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of the Customer (such approval not to be unreasonably withheld). Save that this subparagraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

8. BULK TRANSFER

8.1 Where the Supplier has set up a broadly comparable pension scheme in accordance with the provisions of paragraph 2.2 above of this Annex, the Supplier agrees to:

8.1.1 fully fund any such broadly comparable pension scheme in accordance with the funding requirements set by that broadly comparable pension scheme's actuary or by the Government Actuary's Department;

8.1.2 instruct any such broadly comparable pension scheme's actuary to, and to provide all such co-operation and assistance in respect of any such broadly comparable pension scheme as the Replacement Supplier and/or the Customer may reasonably require, to enable the Replacement Supplier to participate in the Schemes in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;

8.1.3 allow, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such broadly comparable pension scheme into the Schemes on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal, for the avoidance of doubt should the amount offered by the broadly comparable pension scheme be less than the amount required by the Schemes to fund day for day service ("the Shortfall"), the Supplier agrees to pay the Shortfall to the Schemes; and

8.1.4 indemnify the Customer on demand for any failure to pay the Shortfall as required under Paragraph 8.1.3 above.

PART C

NO TRANSFER OF EMPLOYEES AT COMMENCEMENT OF SERVICES

1. PROCEDURE IN THE EVENT OF TRANSFER

- 1.1 The Customer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Customer and/or any Former Supplier.
- 1.2 If any employee of the Customer and/or a Former Supplier claims, or it is determined in relation to any employee of the Customer and/or a Former Supplier, that his/her contract of employment has been transferred from the Customer and/or the Former Supplier to the Supplier and/or any Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
 - 1.2.1 the Supplier shall, and shall procure that the relevant Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Customer and, where required by the Customer, give notice to the Former Supplier; and
 - 1.2.2 the Customer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of the notification by the Supplier or the Sub-Contractor (as appropriate) or take such other reasonable steps as the Customer or Former Supplier (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 1.3 If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by the Customer and/or the Former Supplier), the Supplier shall, or shall procure that the Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 1.4 If by the end of the fifteen (15) Working Day period specified in Paragraph 1.2.2:
 - 1.4.1 no such offer of employment has been made;
 - 1.4.2 such offer has been made but not accepted; or
 - 1.4.3 the situation has not otherwise been resolved,the Supplier and/or the Sub-Contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2. INDEMNITIES

- 2.1 Subject to the Supplier and/or the relevant Sub-Contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 2.4, the Customer shall:
 - 2.1.1 indemnify the Supplier and/or the relevant Sub-Contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Customer referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities; and

- 2.1.2 subject to paragraph 3, procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-Contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the relevant Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.2 If any such person as is described in Paragraph 1.2 is neither re-employed by the Customer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Sub-Contractor within the fifteen (15) Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Supplier and/or the Sub-Contractor (as appropriate) and the Supplier shall, or shall procure that the Sub-Contractor shall, comply with such obligations as may be imposed upon it under Law.
- 2.3 Where any person remains employed by the Supplier and/or any Sub-Contractor pursuant to Paragraph 2.2, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Sub-Contractor and the Supplier shall indemnify the Customer and any Former Supplier, and shall procure that the Sub-Contractor shall indemnify the Customer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-Contractor.
- 2.4 The indemnities in Paragraph 2.1:
- 2.4.1 shall not apply to:
- (a) any claim for:
- (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
- in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
- (b) any claim that the termination of employment was unfair because the Supplier and/or any Sub-Contractor neglected to follow a fair dismissal procedure; and
- 2.4.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any Sub-Contractor to the Customer and, if applicable, Former Supplier within 6 months of the Call Off Commencement Date.

3. PROCUREMENT OBLIGATIONS

Where in this Part C the Customer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Customer's contract with the Former Supplier contains a contractual right in that regard which the Customer may enforce, or otherwise so that it requires only that the Customer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

PART D

EMPLOYMENT EXIT PROVISIONS

1. PRE-SERVICE TRANSFER OBLIGATIONS

- 1.1 The Supplier agrees that within twenty (20) Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Customer of a Service Transfer or intended Service Transfer;
 - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of this Call Off Contract;
 - 1.1.3 the date which is twelve (12) months before the end of the Term; and
 - 1.1.4 receipt of a written request of the Customer at any time (provided that the Customer shall only be entitled to make one such request in any six (6) month period),

it shall provide in a suitably anonymised format so as to comply with the DPA, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Customer.

- 1.2 At least thirty (30) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Customer or at the direction of the Customer to any Replacement Supplier and/or any Replacement Sub-Contractor:
- 1.2.1 the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
 - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 The Customer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-Contractor.
- 1.4 The Supplier warrants, for the benefit of the Customer, any Replacement Supplier, and any Replacement Sub-Contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1, the Supplier agrees, that it shall not, and agrees to procure that each Sub-Contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Customer (not to be unreasonably withheld or delayed):
- 1.5.1 replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
 - 1.5.2 make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Personnel

(including any payments connected with the termination of employment);

- 1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
- 1.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- 1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-Contractor shall promptly notify, the Customer or, at the direction of the Customer, any Replacement Supplier and any Replacement Sub-Contractor of any notice to terminate employment given by the Supplier or relevant Sub-Contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

- 1.6 During the Term, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Customer any information the Customer may reasonably require relating to the manner in which Services are organised, which shall include:

- 1.6.1 the numbers of employees engaged in providing the Services;
- 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
- 1.6.3 the extent to which each employee qualifies for membership of any of the Schemes or any broadly comparable scheme set up pursuant to the provisions of paragraph 2.2 of the Annex (Pensions) to Part A of this Call Off Schedule 10 or paragraph 2.3 of the Annex (Pensions) to Part B of this Call Off Schedule 10 (as appropriate); and
- 1.6.4 a description of the nature of the work undertaken by each employee by location.

- 1.7 The Supplier shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to the Customer, any Replacement Supplier and/or any Replacement Sub-Contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Customer or, at the direction of the Customer, to any Replacement Supplier and/or any Replacement Sub-Contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

- 1.7.1 the most recent month's copy pay slip data;

- 1.7.2 details of cumulative pay for tax and pension purposes;
- 1.7.3 details of cumulative tax paid;
- 1.7.4 tax code;
- 1.7.5 details of any voluntary deductions from pay; and
- 1.7.6 bank/building society account details for payroll purposes.

2. EMPLOYMENT REGULATIONS EXIT PROVISIONS

- 2.1 The Customer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Call Off Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-Contractor. Such change in the identity of the Supplier of such Services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Customer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-Contractor (as the case may be) and each such Transferring Supplier Employee.
- 2.2 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but not including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub-Contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-Contractor.
- 2.3 Subject to Paragraph 2.4, where a Relevant Transfer occurs the Supplier shall indemnify the Customer and/or the Replacement Supplier and/or any Replacement Sub-Contractor against any Employee Liabilities arising from or as a result of:
- 2.3.1 any act or omission of the Supplier or any Sub-Contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;
 - 2.3.2 the breach or non-observance by the Supplier or any Sub-Contractor occurring on or before the Service Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Supplier Employees; and/or

- (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
 - 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
 - (b) in relation to any employee who is not identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Customer and/or Replacement Supplier and/or any Replacement Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
 - 2.3.5 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
 - 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-Contractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Customer and/or the Replacement Supplier and/or any Replacement Sub-Contractor may be liable by virtue of this Call Off Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
 - 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Customer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-Contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-Contractor to occur in the period on or after the Service Transfer Date; or
 - 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Sub-Contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 If any person who is not identified in the Supplier's Final Supplier Personnel List claims, or it is determined in relation to any person who is not identified in the Supplier's Final Supplier Personnel List that his/her contract of employment has been transferred from the Supplier or any Sub-Contractor to the Replacement Supplier and/or Replacement Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- 2.5.1 the Customer shall procure that the Replacement Supplier shall, or any Replacement Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
 - 2.5.2 the Supplier may offer (or may procure that a Sub-Contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-Contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-Contractor, the Customer shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-Contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.7 If after the fifteen (15) Working Day period specified in Paragraph 2.5.2 has elapsed:
- 2.7.1 no such offer of employment has been made;
 - 2.7.2 such offer has been made but not accepted; or
 - 2.7.3 the situation has not otherwise been resolved
- the Replacement Supplier and/or Replacement Sub-Contractor, as appropriate may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.
- 2.8 Subject to the Replacement Supplier and/or Replacement Sub-Contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-Contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.9 The indemnity in Paragraph 2.8:
- 2.9.1 shall not apply to:
 - (a) any claim for:

(i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

(ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-Contractor;
or

(b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-Contractor neglected to follow a fair dismissal procedure; and

2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Sub-Contractor to the Supplier within six (6) months of the Service Transfer Date.

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Sub-Contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-Contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee.

2.11 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Personnel List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

2.11.1 the Supplier and/or any Sub-Contractor; and

2.11.2 the Replacement Supplier and/or the Replacement Sub-Contractor.

2.12 The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer and any Replacement Supplier and/or Replacement Sub-Contractor, in writing such information as is necessary to enable the Customer, the Replacement Supplier and/or Replacement Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Customer shall procure that the Replacement Supplier and/or Replacement Sub-Contractor, shall promptly provide to the Supplier and each Sub-Contractor in writing such information as is necessary to enable the Supplier and each Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

2.13 Subject to Paragraph 2.14, where a Relevant Transfer occurs the Customer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-Contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:

- 2.13.1 any act or omission of the Replacement Supplier and/or Replacement Sub-Contractor in respect of any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;
- 2.13.2 the breach or non-observance by the Replacement Supplier and/or Replacement Sub-Contractor on or after the Service Transfer Date of:
- (a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or
 - (b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List which the Replacement Supplier and/or Replacement Sub-Contractor is contractually bound to honour;
- 2.13.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- 2.13.4 any proposal by the Replacement Supplier and/or Replacement Sub-Contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Sub-Contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- 2.13.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-Contractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- 2.13.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer

his/her employment from the Supplier or Sub-Contractor, to the Replacement Supplier or Replacement Sub-Contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;

2.13.7 a failure of the Replacement Supplier or Replacement Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and

2.13.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations.

2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-Contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-Contractor (as applicable) to comply with its obligations under the Employment Regulations.

ANNEX TO SCHEDULE 10: LIST OF NOTIFIED SUB-CONTRACTORS

CALL OFF SCHEDULE 11: DISPUTE RESOLUTION PROCEDURE

1. DEFINITIONS

1.1 In this Call Off Schedule 11, the following definitions shall apply:

"CEDR"	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;
"Counter Notice"	has the meaning given to it in paragraph 6.2 of this Call Off Schedule 11;
"Exception"	a deviation of project tolerances in accordance with PRINCE2 methodology in respect of this Call Off Contract or in the supply of the Goods and/or Services;
"Expert"	the person appointed by the Parties in accordance with paragraph 5.2 of this Call Off Schedule 11;
"Extraordinary Meeting"	a meeting, attended in person or over a conference call, held by the Parties in an attempt to resolve the Dispute in good faith in accordance with paragraphs 2.5 and 2.6 of this Call Off Schedule 11;
"Mediator"	the independent third party appointed in accordance with paragraph 4.2 of this Call Off Schedule 11; and
"Senior Officers"	are senior officials of the Customer and Supplier that have been instructed by the Customer Representative and Supplier Representative respectively to resolve the Dispute by commercial negotiation.

2. INTRODUCTION

2.1 The Parties shall seek to resolve a Dispute:

- 2.1.1 first in good faith (as prescribed in paragraphs 2.4 to 2.8 of this Call Off Schedule 11);
- 2.1.2 where the Dispute has not been resolved by good faith, the Parties shall attempt to resolve the Dispute by commercial negotiation (as prescribed in paragraph 3 of this Call Off Schedule 11);
- 2.1.3 where the Dispute has not been resolved in good faith and commercial negotiation has been unsuccessful in resolving the Dispute, then either Party may serve a Dispute Notice and shall attempt to resolve the Dispute through mediation (as prescribed in paragraph 4 of this Call Off Schedule 11); and
- 2.1.4 if mediation is not agreed by the Parties, the Parties may proceed to arbitration (as prescribed in paragraph 6 of this Call Off Schedule 11) or litigation (in accordance with Clause 57 of this Call Off Contract (Governing Law and Jurisdiction)).

- 2.2 Specific issues may be referred to Expert Determination (as prescribed in paragraph 5 of this Call Off Schedule 11) where specified under the provisions of this Call Off Contract and may also be referred to Expert Determination where otherwise appropriate as specified in paragraph 5 of this Call Off Schedule 11.
- 2.3 Save in relation to paragraph 4.5, the Parties shall bear their own legal costs in resolving Disputes under this Call Off Schedule 11.

Good faith discussions

- 2.4 Pursuant to paragraph 2.1.1 of this Call Off Schedule 11, if any Dispute arises the Customer Representative and the Supplier Representative shall attempt first to resolve the Dispute in good faith, which may include (without limitation) either Party holding an Extraordinary Meeting.
- 2.5 Either Party may hold an Extraordinary Meeting by serving written notice. The written notice must give the receiving party at least five (5) Working Days notice of when the Extraordinary Meeting is to take place.
- 2.6 The Customer Representative and Supplier Representative shall attend the Extraordinary Meeting. The key personnel of the Parties may also attend the Extraordinary Meeting.
- 2.7 The representatives of the Parties attending the Extraordinary Meeting shall use their best endeavours to resolve the Dispute.
- 2.8 If the Dispute is not resolved at the Extraordinary Meeting then the Parties may attempt to hold additional Extraordinary Meetings in an attempt to resolve the Dispute. If the Extraordinary Meetings are unsuccessful in resolving the Dispute or the Dispute has not been resolved through good faith discussions thirty (30) Working Days from when they first started, the Parties shall attempt to resolve the Dispute by commercial negotiation.

3. COMMERCIAL NEGOTIATIONS

- 3.1 Where the Parties have been unable to resolve the Dispute in good faith under paragraphs 2.4 to 2.8 of this Call Off Schedule 11, pursuant to paragraph 2.1.2 the Customer and the Supplier shall use reasonable endeavours to resolve the Dispute by discussion between Senior Officers.
- 3.2 Senior Officers shall resolve the Dispute as soon as possible and in any event thirty (30) Working Days from the date Parties agree good faith discussions were deemed unsuccessful.
- 3.3 If Senior Officers:
- 3.3.1 are of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiations, will not result in an appropriate solution; or
 - 3.3.2 fail to resolve the Dispute in the timelines under paragraph 3.2 of this Call Off Schedule 11,
- commercial negotiations shall be deemed unsuccessful and either Party may serve a Dispute Notice in accordance with paragraphs 3.4 and 3.5 of this Call Off Schedule 11.

Dispute Notice

- 3.4 The Dispute Notice shall set out:
- 3.4.1 the material particulars of the Dispute;
 - 3.4.2 the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and
 - 3.4.3 if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable as set out in paragraph 7 of this Call Off Schedule 11, the reason why.
- 3.5 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Call Off Contract regardless of the nature of the Dispute and notwithstanding the referral of the Dispute to the Dispute Resolution Procedure.

4. MEDIATION

- 4.1 Pursuant to paragraph 2.1.3 of this Call Off Schedule 11, if a Dispute Notice is served, the Parties shall attempt to resolve the Dispute by way of mediation. The Parties may follow the CEDR's Model Mediation Procedure which is current at the time the Dispute Notice is served (or such other version as the Parties may agree) or a mediation procedure that is agreed between the Parties.
- 4.2 If the Parties are unable to agree on the joint appointment of a Mediator within thirty (30) Working Days from service of the Dispute Notice then either Party may apply to CEDR to nominate the Mediator.
- 4.3 If neither Party applies to CEDR to nominate the Mediator or an application to CEDR is unsuccessful under paragraph 4.2 of this Call Off Schedule 11, either Party may proceed to:
- 4.3.1 hold further discussions between Senior Officers; or
 - 4.3.2 an Expert determination, as prescribed in paragraph 5 of this Call Off Schedule 11; or
 - 4.3.3 arbitration, as prescribed in paragraph 6 of this Call Off Schedule 11; or
 - 4.3.4 litigation in accordance with Clause 57 of this Call Off Contract (Governing Law and Jurisdiction).
- 4.4 If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if the Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.
- 4.5 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties (in accordance with the Variation Procedure where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.
- 4.6 The costs of any mediation procedure used to resolve the Dispute under this paragraph 4 of this Call Off Schedule 11 shall be shared equally between the Parties.

5. EXPERT DETERMINATION

- 5.1 If a Dispute relates to any aspect of the technology underlying the provision of the Goods and/or Services or otherwise relates to a technical matter of an accounting or financing nature (as the Parties may agree), either Party may request (such request shall not be unreasonably withheld or delayed by the Parties) by written notice to the other that the Dispute is referred to an Expert for determination.
- 5.2 The Expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within ten (10) Working Days, or if the person appointed is unable or unwilling to act, the Expert shall be appointed on the instructions of the relevant professional body.
- 5.3 The Expert shall act on the following basis:
- 5.3.1 he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;
 - 5.3.2 the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
 - 5.3.3 the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within thirty (30) Working Days of his appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;
 - 5.3.4 any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within twenty (20) Working Days of the Expert's determination being notified to the Parties;
 - 5.3.5 the process shall be conducted in private and shall be confidential; and
 - 5.3.6 the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

6. ARBITRATION

- 6.1 Either of the Parties may, at any time before court proceedings are commenced and after the Parties have attempted to resolve the Dispute in good faith, by commercial negotiation, mediation and Expert determination (if applicable), refer the Dispute to arbitration in accordance with the provisions of paragraph 6.4 of this Call Off Schedule 11.
- 6.2 Before the Supplier commences court proceedings or arbitration, it shall serve written notice on the Customer of its intentions and the Customer shall have fifteen (15) Working Days following receipt of such notice to serve a reply (a "**Counter Notice**") on the Supplier requiring the Dispute to be referred to and resolved by arbitration in accordance with paragraph 6.4 of this Call Off Schedule 11 or be subject to the jurisdiction of the courts in accordance with Clause 57 of this Call Off Contract (Governing Law and Jurisdiction). The Supplier shall not commence any court proceedings or arbitration until the expiry of such fifteen (15) Working Day period.
- 6.3 If:
- 6.3.1 the Counter Notice requires the Dispute to be referred to arbitration, the provisions of paragraph 6.4 of this Call Off Schedule 11 shall apply;

- 6.3.2 the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts in accordance with Clause 61 of this Call Off Contract (Governing Law and Jurisdiction), the Dispute shall be so referred to the courts and the Supplier shall not commence arbitration proceedings;
 - 6.3.3 the Customer does not serve a Counter Notice within the fifteen (15) Working Days period referred to in paragraph 6.2 of this Call Off Schedule 11, the Supplier may either commence arbitration proceedings in accordance with paragraph 6.4 of this Call Off Schedule 11 or commence court proceedings in the courts in accordance with Clause 57 of this Call Off Contract (Governing Law and Jurisdiction) which shall (in those circumstances) have exclusive jurisdiction.
- 6.4 In the event that any arbitration proceedings are commenced pursuant to paragraphs 6.1 to 6.3 of this Call Off Schedule 11, the Parties hereby confirm that:
- 6.4.1 all disputes, issues or claims arising out of or in connection with this Call Off Contract (including as to its existence, validity or performance) shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (“**LCIA**”) (subject to paragraphs and 6.4.6 of this Call Off Schedule 11);
 - 6.4.2 the arbitration shall be administered by the LCIA;
 - 6.4.3 the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Call Off Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
 - 6.4.4 if the Parties fail to agree the appointment of the arbitrator within ten (10) days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
 - 6.4.5 the arbitration proceedings shall take place in London and in the English language; and
 - 6.4.6 the seat of the arbitration shall be London.

7. EXPEDITED DISPUTE TIMETABLE

- 7.1 In exceptional circumstances where the use of the times in this Call Off Schedule 11 would be considered unreasonable by the Parties, including (by way of example) where one Party would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use of the Expedited Dispute Timetable within five (5) Working Days of the issue of the Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Customer.
- 7.2 If the use of the Expedited Dispute Timetable is determined in accordance with paragraph 7.1 of this Call Off Schedule 11 or is otherwise specified under the provisions of this Call Off Contract, then the following periods of time shall apply in lieu of the time periods specified in the applicable paragraphs of this Call Off Schedule 11:

- 7.2.1 in paragraph 2.8, fourteen (14) Working Days;
 - 7.2.2 in paragraph 3.2, ten (10) Working Days;
 - 7.2.3 in paragraph 4.2, ten (10) Working Days;
 - 7.2.4 in paragraph 5.2, five (5) Working Days; and
 - 7.2.5 in paragraph 6.2, ten (10) Working Days.
- 7.3 If at any point it becomes clear that an applicable deadline under paragraph 7.2 of this Call Off Schedule 11 cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the relevant deadline.
- 7.4 If, pursuant to paragraph 7.2 of this Call Off Schedule 11, the Parties fail to agree within two (2) Working Days after the relevant deadline has passed, the Customer may set a revised deadline provided that it is no less than five (5) Working Days before the end of the period of time specified in the applicable paragraphs under paragraph 7.2 (or no less than two (2) Working Days in the case of Paragraph 5.2 of this Call Off Schedule 11).
- 7.5 Any agreed extension under paragraph 7.2 of this Call Off Schedule 11 shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension. If the Customer fails to set such a revised deadline then the use of the Expedited Dispute Timetable shall cease and the normal time periods shall apply from that point onwards.

8. URGENT RELIEF

- 8.1 Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:
- 8.1.1 for interim or interlocutory remedies in relation to this Call Off Contract or infringement by the other Party of that Party's Intellectual Property Rights; or
 - 8.1.2 where compliance with paragraph [2.1] of this Call Off Schedule 11 and/or referring the Dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period; or
 - 8.1.3 if the Parties fail to resolve the Dispute following good faith discussions and commercial negotiations and mediation (where applicable) is unsuccessful within 60 working days or such period as may be agreed by the Parties then any Dispute between the Parties may be referred to the Courts.

CALL OFF SCHEDULE 12: VARIATION FORM

No of Call Off Order Form being varied:

.....

Variation Form No:

.....

BETWEEN:

[insert name of Customer] ("the Customer")

and

[insert name of Supplier] ("the Supplier")

1. This Call Off Contract is varied as follows:

[Refer to Clause 22.1 and insert details of the Variation]

- 2.

3. Words and expressions in this Variation shall have the meanings given to them in this Call Off Contract.

4. This Call Off Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Customer

Signature

Date

Name (in
Capitals)

Address

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in
Capitals)

Address

CALL OFF SCHEDULE 13: TRANSPARENCY REPORTS

- 1.1 Within three (3) months from the Call Off Commencement Date or the date so specified by the Customer in the Call Off Order Form the Supplier shall provide to the Customer for Approval (the Customer's decision to approve or not shall not be unreasonably withheld or delayed) draft Transparency Reports consistent with the content and format requirements in Annex 1 below.
- 1.2 If the Customer rejects any proposed Transparency Report, the Supplier shall submit a revised version of the relevant report for further Approval by the Customer within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Customer. If the Parties fail to agree on a draft Transparency Report the Customer shall determine what should be included.
- 1.3 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Customer at the frequency referred to in Annex 1 of this Call Off Schedule 13 below.
- 1.4 Any disagreement in connection with the preparation and/or approval of Transparency Reports, other than under paragraph 1.2 above in relation to the contents of a Transparency Report, shall be treated as a Dispute.
- 1.5 The requirements in this Call Off Schedule 13 are in addition to any other reporting requirements in this Call Off Contract.

ANNEX 1: LIST OF TRANSPARENCY REPORTS

TITLE	CONTENT	FORMAT	FREQUENCY
Performance	Spend per month, cumulative spend to date, number of vouchers issued, number of vouchers used, number of free glasses issued, number of paid glasses to which a contribution has been made.	Spreadsheet via email	Monthly
Call Off Contract Charges	Monthly call off charges, cumulative call off charges from contract commencement	Spreadsheet via email	Monthly

**CALL OFF SCHEDULE 14: ALTERNATIVE AND/OR ADDITIONAL CLAUSES – NOT
USED**

CALL OFF SCHEDULE 15: CALL OFF TENDER