

OFFICIAL - COMMERCIAL

AGREEMENT RELATING TO THE SERVICE AND MAINTENANCE OF FIXED AND MOBILE RN DETECTION
EQUIPMENT

Agreement

**relating to the service and maintenance of fixed and mobile RN detection
equipment**

Schedule 8.3 (Exit Management)

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1 Introduction

- 1.1 This Schedule sets out the requirements for Ordinary Exit and Emergency Exit Management of the Agreement, providing the activities, planning, obligations and supporting services to be provided by the Supplier and the governance arrangements for the Exit Management provisions of this Agreement.
- 1.2 This Schedule is split into the following sections and annexes:
- (a) Register and Configuration Database – confirming the records and documents to be kept and how these are to be agreed and used as part of the Exit Management provisions.
 - (b) Exit Manager – the provision of a central point of contact and coordinator of exit management activities responsible for the management of exit obligations and records under the provisions of the contract by both parties.
 - (c) Retendering Assistance Services – detailing the support and obligations of the Supplier required for the Authority to retender for the provisions of Services under this Agreement.
 - (d) Draft Exit Plan – the provision of a Draft Exit plan to record the initial details of the planning for exit management, including the timing of the Draft exit plan.
 - (e) Finalisation of the Exit Plan – the provisions of a completed exit plan and the timing for its approval adoption and regularity of updates.
 - (f) Exit Services – the terms by which exit services are to be provided for either Ordinary Exit or Emergency Exit, their timing and the obligations of the Parties by which the exit services are enacted and provided.
 - (g) Assets, Sub-contracts and Software – detailing the recording, updating and maintenance of records and documentation to support the Goods and Services to be provided and accordingly to support the exit management tasks for the provision of exit under the Agreement and to support transition to the Authority or Replacement Supplier(s).
 - (h) Supplier Personnel – linking the exit management provisions of this Schedule to the provision of Schedule 9.1 (Staff Transfer) and the relevant terms by which Supplier Personnel shall conduct themselves under the terms of this Schedule as part of the Agreement.
 - (i) Annex 1: Scope of The Exit Services
 - (j) Annex 2: Assets
 - (k) Annex 3: Contracts Register
 - (l) Annex 4: Outline Draft Exit Plan

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2 Register and Configuration Database

2.1 The Supplier shall by no later than 3 Months from the Effective Date create and maintain an accurate and complete:

(a) register (to be accessible electronically by the Authority's nominees) which shall include details of the following (herein referred to as the "**Register**") which shall at all times be kept and managed in accordance with the Schedule 2.4 (Security Management):

(i) Assets, (including any Assets which are Intellectual Property Rights) including details of (using the format set out in Annex 2):

(A) make, model, description and Asset identification number (if any);

(B) ownership and status as either transferrable or non-transferable to the Authority or a Replacement Supplier;

(C) condition and/or version and physical and/or virtual location of those assets and where they are stored/fixed;

(D) their use (including technical specifications); and

(ii) Sub-contracts and any other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements and Intellectual Property Rights) which the Supplier requires for the performance of the Services which shall include details of the following (using the format set out in Annex 3):

(A) a description of the Sub-contract and type (licence, Software licence, Third Party Software licence and/or other agreements such as lease for Asset), date and term and any option periods;

(B) the identity of the Sub-contractor and all other contracting parties;

(C) key terms of the Sub-contracts (including charges, termination, assignment and novation); and

(D) whether the Sub-contractor is designated as a Key Sub-Contractor; or

(E) whether the obligations in the Sub-contract may be transferred or novated to the Authority or a Replacement Supplier;

and;

(b) configuration database (to be accessible electronically by the Authority's nominees) (hereinafter defined as the "**Configuration Database**") detailing the Supplier's and all Key Sub-contractor's operating procedures through which the Supplier provides the Services, in sufficient detail to enable the Authority and/or the Replacement Supplier to:

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- (i) acquire technical understanding of how the Supplier and each such Sub-contractor provides the Services;
 - (ii) perform the Services; and
 - (iii) enable the smooth transition of the Services with the minimum of disruption to the Authority or Replacement Supplier.
- 2.2 The Supplier shall ensure that the format of the Register is detailed in the Exit Plan and shall maintain such format (or other formats as may be approved by the Authority) throughout the Term.
- 2.3 The Supplier shall ensure regular and prompt updates of records in accordance with the Services set out in the Schedule 2.1 (Services Description) throughout the Term as Assets, Sub-contractors, Sub-contracts or other relevant agreements are added to or removed, changed or amended in accordance with this Agreement.
- 2.4 The Supplier shall:
 - (a) ensure that all Assets which are tangible are clearly marked to identify that they are exclusively used for the provision of the Services under this Agreement; and
 - (b) unless otherwise agreed by the Authority in writing, procure that all licences for Third Party Software and all Sub-contracts shall be assignable and/or capable of novation at the request of the Authority to the Authority (and/or its nominee) and/or any Replacement Suppliers upon the Supplier ceasing to provide the Services (or part of them) without restriction (including any need to obtain any consent or approval) or payment by the Authority.
- 2.5 Where the Supplier is unable to procure that any Sub-contract or other agreement referred to in Paragraph 2.1(a)(ii) which the Supplier proposes to enter into after the Effective Date is assignable and/or capable of novation to the Authority (and/or its nominees) and/or any Replacement Suppliers without restriction or payment, the Supplier shall promptly notify the Authority of this and the Parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which, where the Authority so directs, may include the Supplier seeking an alternative Sub-contractor or provider of goods or services to which the relevant agreement relates.

3 Exit Manager

- 3.1 Within 3 months after the Effective Date, each Party shall nominate a suitably experienced and qualified person for the purposes of managing the Parties' respective obligations under this Schedule and provide written notification of such appointment to the other Party (each an **"Exit Manager"**). The Supplier shall ensure that its Exit Manager has the requisite authority and responsibility 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 Schedule.
- 3.2 The Supplier shall ensure that it allocates and acquires sufficient resources to enable it to comply with the requirements set out in this Schedule.

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- 3.3 The Parties' Exit Managers will liaise with each other in relation to all issues relevant to the termination or expiry by effluxion time of this Agreement and all matters connected with this Schedule and each Party's compliance with it.

4 Retendering Assistance Services including Exit Information

- 4.1 At any time during the Term, the Authority may request the Exit Information set out at paragraph 4.2 by serving notice on the Supplier (an **"Exit Information Notice"**) setting out:

- (a) the required Exit Information
- (b) the form of the required Exit Information; and
- (c) the date by which the Supplier must provide Exit Information (the **"Exit Information Date"**). The Exit Information Date shall in no circumstances be fewer than 90 days after the date on which the Exit Information Notice is served.

- 4.2 Where the Supplier receives an Exit Information Notice, the Supplier shall provide to the Authority and/or the Authority's nominated Replacement Supplier(s) (subject to the nominated Replacement Suppliers entering into reasonable written confidentiality undertakings with the Supplier in such form to be specified and approved by the Authority in its sole discretion) on or before the Exit Information Date the Exit Information specified in the Exit Information Notice, including:

- (a) details of the Service(s);
- (b) an up to date, complete and accurate copy of the Register and Configuration Database;
- (c) an inventory of all Authority Data in the Supplier's possession or control;
- (d) details of all Key Sub-contractors and their Sub-contracts and any Software licences, Third Party Software licences and other agreements used by the Supplier or Key Sub-contractors in the performance of the Services and the key terms (including charges, termination, assignment and novation) of those (using the tables provided in this Schedule);
- (e) details of any on-going and/or threatened disputes involving the Supplier or any Sub-contractor in relation to the provision of the Services;
- (f) to the extent permitted by applicable Law, all Staffing Information relating to any Transferring Supplier Employees, Transferring Former Authority Employees, Transferring Former Supplier Employees required to be provided by the Supplier under this Agreement; and
- (g) such other material and information as the Authority shall reasonably request;

collectively and together with the information set out in this Paragraph 4.1, the **"Exit Information"**.

- 4.3 The Supplier acknowledges that the Authority may disclose the Supplier's Confidential Information to an actual or prospective Replacement Suppliers or any third party

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whom the Authority is considering engaging as a supplier to the extent that such disclosure is necessary to the Authority's engagement or potential engagement of such third parties (save that the Authority may not under this Paragraph 4.2 disclose any Supplier's Confidential Information which discloses the Supplier's or its Sub-contractors prices or costs unless such disclosure is otherwise expressly permitted under this Agreement).

4.4 The Supplier shall:

- (a) notify the Authority within 5 Working Days before any material change to the Exit Information which may or is likely to adversely impact upon any potential transfer of any Services to the Authority or any Replacement Supplier or the continuance of any Services and shall consult with the Authority regarding such proposed material changes and take into consideration the Authority's comments in implementing such material change; and
- (b) provide the Authority as soon as reasonably practicable (and in any event within 10 Working Days after any written request from the Authority) with accurate and complete copies of the Exit Information.

4.5 Subject to paragraph 1.4 of Part D to Schedule 9.1 (Staff Transfer), in supplying any Exit Information, the Supplier shall ensure that it is accurate and complete in all material respects and of sufficient detail as would be reasonably necessary to enable the Authority to perform the Services or for a Replacement Supplier to prepare an informed offer for those Services and not be or likely to be disadvantaged in any subsequent procurement process compared to the Supplier (if the Supplier participates) as a result of the Exit Information.

5 Draft Exit Plan

(See Schedule 4.1)

The following shall be provided as part of the Bidder's response to tender:

- *An outline of the Draft Exit Plan should be provided as part of the ITT response, that outline Draft Exit Plan being a summarised form of the contents that will be provided in the Draft Exit Plan;*
- *details of the approach to be taken to achieve the Draft Exit Plan within 4 months of the Effective Date;*
- *the outline Exit Plan in Annex 4 is to be the plan which was submitted by the Supplier as part of its response to the ITT that shall also be updated in accordance with the Exit Plan;*
- *A list of proposed Assets, Sub-contracts and software to deliver the Services; and*
- *Additional Exit Services to those stated in Annex 1 that may be applicable as part of the Bidder's response to tender.]*

5.1 Within 4 months after the Effective Date, the Supplier shall deliver to the Authority in writing a proposed Exit Plan ("**Draft Exit Plan**") which:

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- (a) sets out the Supplier's proposed methodology for achieving an orderly transition of the Services from the Supplier to the Authority and/or its Replacement Supplier on the expiry or termination of this Agreement;
- (b) details and explanations of any material variances between the Draft Exit Plan and the Exit Plan set out in Annex 4 (Outline Exit Plan) to this Schedule;
- (c) complies with the requirements set out in Paragraph 5.4;
- (d) addresses each of the issues set out in Annex 1 and ensures that there is no disruption in the supply of the Services and no deterioration in the quality of the Services; and
- (e) is otherwise reasonably satisfactory to the Authority.

5.2 The Parties shall use reasonable endeavours to agree the contents of the Draft Exit Plan. If the Parties are unable to agree the contents of the Draft Exit Plan within 20 Working Days after the date that is 4 months after the Effective Date, then the matter shall be deemed a Dispute and resolved in accordance with the Dispute Resolution Procedure.

5.3 Where:

- (a) in the Authority's opinion (acting reasonably), the Authority is not the cause of a material variance between the Draft Exit Plan and the outline Exit Plan set out in Annex 4; and
- (b) such material variance, if agreed by the Authority would result or would likely result in an increase in Contract Charges payable by the Authority under this Agreement,

then the Authority has the right to reject the whole or part of the Draft Exit Plan and the matter shall be managed in accordance with the Dispute Resolution Procedure.

5.4 The Draft Exit Plan shall set out, as a minimum:

- (a) the content and format of Exit Information to be obtained and maintained;
- (b) separate mechanisms for dealing with Ordinary Exit and Emergency Exit, wholly or partially, the provisions relating to Emergency Exit being prepared on the assumption that the Supplier may be unable to provide the full level of assistance which is required by the provisions relating to Ordinary Exit, and in the case of Emergency Exit, provision for the supply by the Supplier of all such reasonable assistance as the Authority shall require to enable the Authority, any Replacement Supplier or its Sub-contractors to provide the Services;
- (c) the management structure, governance and processes to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit;
- (d) the management structure and processes to be employed during the Exit Assistance Period;

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- (e) a detailed description of both the transfer and cessation processes, including a proposed timetable, applicable in the case of an Ordinary Exit and an Emergency Exit;
 - (f) how the Services will transfer to any Replacement Supplier(s) or the Authority, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Supplier or its Sub-contractors (where applicable);
 - (g) the scope of the Exit Services required by the Authority (including such of the services set out in Annex 1);
 - (h) a timetable and critical issues for providing the Exit Services and the period which it is anticipated the Exit Services will be required;
 - (i) an estimate of any charges relating to Exit Services ("**Exit Charges**"), calculated in accordance with Paragraph 10 (Charges) of this Schedule 8.3 (Exit Management);
 - (j) a maximum cap on any Exit Charges (the "**Exit Charges Cap**");
 - (k) how the Exit Services would be provided (if required) during the Exit Assistance Period;
 - (l) procedures to deal with requests made by the Authority and/or any Replacement Suppliers for Staffing Information pursuant to Schedule 9.1 (Staff Transfer) and the Supplier's proposed approach and procedures in respect of managing Transferring Supplier Employees, Former Authority Employees or any Former Supplier Employees in accordance with Schedule 9.1 (Staff Transfer); and
 - (m) how each of the issues set out in this Schedule will be addressed to facilitate the transition of the Services from the Supplier to the Replacement Suppliers or the Authority so that there is no disruption to the Authority or degradation of the Services during the Exit Assistance Period.
- 5.5 The Parties acknowledge that the transfer or migration of the Services from the Supplier to the Authority or any Replacement Suppliers may be phased at the request of the Authority, such that certain of the Services are handed over before others.
- 5.6 Where the Parties have agreed the contents of the Draft Exit Plan, the Draft Exit Plan shall be known as the "**Current Exit Plan**".

6 Finalisation of the Exit Plan

- 6.1 Within 20 Working Days after service of a Termination Notice by either Party or if earlier by no later than 12 months prior to the expiry of this Agreement, the Supplier will submit for the Authority's approval the Current Exit Plan in a final form suitable for immediate implementation.

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- 6.2 The final form of the Current Exit Plan shall be prepared on a basis consistent with the principles set out in this Schedule and shall reflect any changes in the Services that have occurred since the last Current Exit Plan was last agreed.
- 6.3 The Parties will meet and use their respective reasonable endeavours to agree the contents of the final form of the Exit Plan. Notwithstanding paragraph 6.1, if the Parties are unable to agree the contents of the Exit Plan within 20 Working Days following its delivery to the Authority then such matter will be deemed a Dispute and shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.4 Where the Parties are unable to agree the Exit Plan as described in paragraph 6.3, the Supplier shall provide all Staffing Information and information relating to the Supplier Personnel in accordance with the provisions of Schedule 9.1 (Staff Transfer) despite the Dispute.
- 6.5 Until the agreement of the final form of the Exit Plan, the Supplier shall provide the Exit Services in accordance with the principles set out in this Schedule and the Current Exit Plan (insofar as relevant).
- 6.6 The Supplier shall review and (if appropriate or if requested by the Authority) update the Current Exit Plan on a basis consistent with the principles set out in this Schedule by no later than the end of the first month of each Contract Year (commencing with the second year) to reflect any changes in the Services that have occurred since the Current Exit Plan was last agreed.
- 6.7 Following such update, the Supplier shall submit the revised Exit Plan to the Authority for review. Within 20 Working Days following submission of the revised Current Exit Plan, the Parties shall meet and use reasonable endeavours to agree the contents of the revised Current Exit Plan. If the Parties are unable to agree the contents of the revised Current Exit Plan within that 20 Working Day period, such matter shall be deemed a Dispute and shall be resolved in accordance with the Dispute Resolution Procedure, with the exemption of the provision of any Staffing Information relating to Supplier Personnel, in which case the provisions of Schedule 9.1 (Staff Transfer) shall take precedence.

7 Exit Services

Notification of Requirements for Exit Services

7.1 Exit Assistance Notice

- 7.1.1 Subject to paragraphs 7.1.2 and 7.1.3, the Authority may request the provision of Exit Services at any time during the Term by giving written notice to the Supplier (an **"Exit Assistance Notice"**).
- 7.1.2 Subject to paragraph 7.1.3, the Authority shall endeavour to provide the Exit Assistance Notice at least 4 months before the date of termination or expiry of this Agreement by effluxion of time.
- 7.1.3 Where either Party serves a Termination Notice to terminate the Agreement with less than 4 months' notice before the Termination Date and the Authority requires the provision of Exit Services, the Authority shall provide the Supplier with an Exit

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Assistance Notice as soon as reasonably practicable and, in any case, not less than one month before the Termination Date.

7.1.4 The Exit Assistance Notice shall specify:

- (a) the date from which Exit Services are required;
- (b) the nature and extent of the Exit Services required; and
- (c) the period during which it is anticipated that Exit Services will be required, which shall continue no longer than 12 months after the date that the Supplier ceases to provide the Services (or the last of the Services if terminating this Agreement) (the "**Exit Assistance Period**").

7.2 The Authority shall have an option to extend the period of assistance beyond the period specified in the Exit Assistance Notice provided that such extension shall not extend for more than 6 months after the date the Supplier ceases to provide the Services or, if applicable, beyond the end of the Exit Assistance Period and provided that the Authority shall notify the Supplier to such effect no later than 20 Working Days prior to the date on which the provision of Exit Services is otherwise due to expire. The Authority shall have the right to terminate its requirement for any or all of the Exit Services at any time during the Exit Assistance Period by serving not less than 20 Working Days' written notice upon the Supplier to such effect and the Supplier shall comply with such notice.

7.3 The Supplier shall supply Exit Services in good faith and in accordance with Good Industry Practice.

Exit Assistance Period

7.4 Throughout the Exit Assistance Period, the Supplier shall:

- (a) continue to provide the Services (as applicable) and, if required by the Authority pursuant to Paragraphs 7.1 to 7.3, provide the Exit Services;
- (b) in addition to providing the Services and the Exit Services, provide to the Authority any reasonable assistance requested by the Authority to allow the Services to continue without interruption following the termination or expiry of this Agreement and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Authority and/or its Replacement Supplier;
- (c) use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in Paragraph 7.4(b) without additional costs to the Authority;
- (d) provide the Services and the Exit Services at no detriment to the Service Level Targets, save to the extent that the Parties agree otherwise in accordance with Paragraph 7.6;
- (e) provide all reasonable assistance to the Authority and/or its nominated Replacement Suppliers to enable it or them to determine which Transferrable

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Assets and Transferrable Contracts are or may be likely to be required to provide the Services or Replacement Services; and

- (f) at the Authority's request and on reasonable notice and within the time scales specified in such notice, deliver an up-to-date Register and Configuration Database to the Authority.
- 7.5 Without prejudice to the Supplier's obligations under Paragraph 7.4(e), if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 7.4(b) without additional costs to the Authority, any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Exit Services or the Exit Plan shall be subject to the Variation Procedure.
- 7.6 If the Supplier demonstrates to the Authority's reasonable satisfaction that transition of the Services and provision of the Exit Services during the Exit Assistance Period will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Authority may approve (in its sole discretion) the variation of relevant Service Level Target(s) or the applicable Service Credits to take account of such adverse effect however the Authority is not under any obligation to do so.

Termination Obligations

- 7.7 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.8 Without prejudice to Paragraph 7.7, upon the date that is the later of the date of termination or expiry (as the case may be) or the end of the Exit Assistance Period (or such earlier date if requested by the Authority and where this does not adversely affect the Supplier's performance of the Services and the Supplier's compliance with the other provisions of this Schedule), the Supplier shall:
- (a) cease to use the Authority Data;
 - (b) provide the Authority and/or the Replacement Supplier(s) with a complete and uncorrupted version of the Authority Data in electronic form (or such other format as reasonably required by the Authority);
 - (c) erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Exit Assistance Period all Authority Data and promptly certify to the Authority that it has completed such deletion in accordance with the provisions of Schedule 2.4, (Security Management);
 - (d) return to the Authority such of the following as is in the Supplier's possession or control:
 - (e) all copies of the Authority Software and any other software licensed by the Authority to the Supplier under this Agreement;
 - (f) all materials created by or on behalf of the Supplier pursuant to this Agreement in which the IPRs are owned by or vested in the Authority under this Agreement;

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- (g) any parts of the ICT Environment and any other equipment or assets which belongs to the Authority;
- (h) any items that have been on-charged to the Authority, such as consumables; and
- (i) vacate any premises owned by or supplied by the Authority premises which the Supplier occupies.

7.9 For the duration of the Exit Assistance Period, the Supplier shall provide the Authority and any nominated Replacement Supplier(s) with access during the Authority Business Hours as each may require to:

- (a) such information relating to the Services as remains in the possession or control of the Supplier or each Key Sub-contractor; and
- (b) such members of the Supplier Personnel or personnel of the Key Sub-contractors as have been involved in the design, development and provision of the Services and who are still employed by the Supplier or such Key Sub-contractor,

provided that the Authority or the Replacement Suppliers pay the reasonable direct costs of the Supplier or such Key Sub-contractor which are actually incurred in responding to their requests for information under this Paragraph 7.9(b) and agree to reasonable confidentiality undertakings.

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

7.11 Except where this Agreement provides otherwise, all licences, leases and authorisations granted by the Authority to the Supplier in relation to the Services or under the Agreement shall be terminated with effect from the end of the Exit Assistance Period.

8 Assets, Sub-contracts and Software

8.1 Following notice of termination (wholly or partially) of this Agreement and during the Exit Assistance Period, the following provisions of Paragraph 8 shall apply.

8.2 The Supplier shall not, without the Authority's prior written consent:

- (a) terminate, enter into or vary any Sub-contract;
- (b) (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Assets or acquire any new Assets; or

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- (c) terminate, enter into or vary any licence for software in connection with the Services.
- 8.3 Within 20 Working Days after receipt of the up-to-date Register and Configuration Database provided by the Supplier pursuant to Paragraph 7.4(f), the Authority shall provide written notice to the Supplier setting out:
- (a) which, if any, of the Transferrable Assets that are to be transferred the Authority requires to be transferred to the Authority or any Replacement Suppliers (**"Transferring Assets"**);
 - (b) which, if any, of the Transferrable Assets that are not to be transferred the Authority (or the Authority's nominated Replacement Suppliers) requires the continued use of following termination and the period of such use;
 - (c) which, if any, of Transferrable Contracts the Authority requires to be assigned or novated to the Authority or to its nominated Replacement Suppliers (the **"Transferring Contracts"**); and
 - (d) for the purpose of the Authority or its Replacement Suppliers to provide the Services from or before the expiry of the Exit Assistance Period.
- 8.4 Where requested by the Authority and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Authority and/or its Replacement Supplier to enable it to determine which Transferrable Assets, Transferrable Contracts and non-transferrable Assets the Authority and/or its nominated Replacement Suppliers requires or may require to provide the Services or Replacement Services.
- 8.5 With effect from the expiry of the Exit Assistance Period, the Supplier shall transfer, with full title guarantee and free from all encumbrances, all Transferring Assets to the Authority or to its nominated Replacement Suppliers for a consideration equal to the Net Book Value of each Transferring Asset, except that where:
- (a) the cost of the Transferring Asset has been partially or fully paid for through the Contract Charges (including any Contract Charges for the performance of the Services which take account of the cost of the Supplier providing such Transferring Asset) at the time of expiry or termination of this Agreement, and such payment has not been fully accounted for by the depreciation policy, the Authority shall pay to the Supplier the Net Book Value of the Transferring Asset, less the amount already paid through the Contract Charges; and
 - (b) a Termination Payment is payable by the Authority to the Supplier, payment for such Assets shall be included within the Termination Payment and no consideration shall be payable to the Supplier for the Transferring Assets.
- 8.6 The Supplier warrants that, at the time of transfer pursuant to Paragraph 8.5 each Transferring Asset shall be in the same or better condition than it was in at the time of the last such inspection (fair wear excepted in the case of tangible assets and the effluxion of time excepted in the case of others). The Authority reserves the right to appoint an independent party to value the Assets to confirm the accuracy of the Register.

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- 8.7 Risk in the Transferring Assets shall pass to the Authority (or the Replacement Suppliers as the case may be) at the end of the Exit Assistance Period and title to the Transferring Assets shall pass to the Authority or the Replacement Suppliers (as the case may be) on payment by the Authority or the Replacement Suppliers (on the Authority's behalf) for the same. Possession of all Transferrable Assets to which title passes under Paragraph 8.5 shall be delivered in the manner reasonably specified by the Authority.
- 8.8 For any non-transferable Assets the subject of the Authority's notice given under Paragraph 8.3(b), which the Authority requires for itself or for any Replacement Suppliers to have continued use of following termination or expiry of this Agreement, the Supplier shall as soon as reasonably practicable:
- (a) procure a non-exclusive, perpetual, non-terminable, transferrable, sub-licensable, assignable royalty-free licence (or licence on such other terms that have been agreed by the Authority) for the Authority or the Replacement Suppliers to use such Assets; or failing which:
 - (b) procure a suitable (to be determined in the Authority's sole discretion) alternative to such Assets and the Authority shall ensure that it or the Replacement Suppliers shall bear the reasonable proven direct costs of the Supplier of procuring such alternative.
- 8.9 The Supplier shall as soon as reasonably practicable assign or procure the novation to the Authority or the Replacement Suppliers of the Transferring Contracts. The Supplier shall at its own cost promptly execute such documents and do all such further acts and things as are reasonably required and provide such other assistance as the Authority reasonably requires to give full effect to the rights given and the transactions contemplated by this Agreement, including, without limitation, to effect such novation or assignment and to transfer the full benefit to the Authority or its Replacement Suppliers of the Transferring Contracts and Transferring Assets and the vesting of Intellectual Property Rights in the Authority in as contemplated by this Schedule and the Agreement such that:
- (a) the third party is obliged to provide to the Authority (or the Authority's nominee as applicable) supplies equivalent to those provided under that Transferring Contract on identical terms; and
 - (b) no sum is payable by the party in whose favour the relevant contract is novated in respect of such novation.
- 8.10 The Authority shall:
- (a) accept assignments from the Supplier (where requested and accepted by the Authority) or join with the Supplier in procuring a novation of each Transferring Contract; and
 - (b) once a Transferring Contract is novated or assigned to the Authority and/or the Replacement Suppliers, 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 Suppliers does the same.

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- 8.11 The Supplier shall hold any Transferring Contracts on trust for the Authority until such time as the transfer of the relevant Transferring Contract to the Authority and/or the Replacement Suppliers has been affected.
- 8.12 The Supplier shall deliver to the Authority or the Replacement Supplier all documentation, manuals and other technical information relating to the Transferring Assets and Transferring Contracts on request by the Authority.
- 8.13 The Supplier shall indemnify the Authority (and/or the Replacement Suppliers, 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 Authority (or any Replacement Suppliers) pursuant to Paragraph 8.9 in relation to any matters arising prior to the date of such assignment or novation of such Sub-contract.

9 Supplier Personnel

- 9.1 The Authority and Supplier agree and acknowledge that in the event of the Supplier ceasing to provide the Services or part of them for any reason, Schedule 9.1 (Staff Transfer) shall apply.
- 9.2 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 Authority to dissuade or discourage any Supplier or Sub-contractor employees engaged in the provision of the Services from transferring their employment to the Authority and / or the Replacement Supplier(s).
- 9.3 During the Exit Assistance Period, the Supplier shall and shall procure that any relevant Sub-contractor shall:
- (a) give the Authority and /or the Replacement Supplier(s) and / or Replacement Sub-Contractor(s) reasonable access to the Supplier Personnel and / or their consultation representatives to present the case for transferring their employment to the Authority and / or the Replacement Supplier(s) and/or Replacement Sub-Contractor(s)) and/ or to discuss any measures envisaged by the Authority, and/or any Replacement Supplier(s) and/or any Replacement Sub-contractor(s) in respect of persons expected to be Transferring Supplier Employees; and
 - (b) co-operate with the Authority and/ or any Replacement Supplier(s) and/ or any Replacement Sub-Contractor(s) 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.
- 9.4 The Supplier shall immediately notify the Authority or, at the direction of the Authority, the Replacement Suppliers 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.
- 9.5 The Supplier shall not for a period of 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 Authority and/or the Replacement Supplier and/or the Replacement Sub-contractor, except that this paragraph shall not apply where an Schedule 8.3 (Exit Management)

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offer is made pursuant to an express right to make such an offer under Schedule 9.1 (Staff Transfer) in respect of a Transferring Supplier Employee not identified in the Supplier's Final Supplier Personnel List.

10 Charges

10.1 Where:

(a) the Authority serves an Exit Assistance Notice in accordance with Paragraph 7.1; or

(b) the Parties seek to agree the Exit Plan in accordance with paragraph 5.4(i),

the Parties shall adhere to the process set out at paragraphs 10.1.1 to 10.1.5 to determine any applicable Exit Charges and establish the Exit Charges Cap.

10.1.1 The Supplier shall provide an itemised proposal outlining the proposed Man Days required to support the relevant Exit Services as outlined in the Exit Plan (or Draft Exit Plan where applicable) during the Exit Assistance Period setting out the relevant Day Rates (an "**Exit Charges Proposal**").

10.1.2 Upon receipt of the Exit Charges Proposal, the Authority will review the Exit Charges Proposal and respond within five (5) Working Days by:

(a) approving the Exit Charges Proposal; or

(b) requesting further information from the Supplier and/or revisions to the Exit Charges Proposal (an "**Exit Charges Proposal Request**").

10.1.3 Where the Authority submits an Exit Charges Proposal Request, the Supplier shall provide its response within 5 Working Days of receiving the Exit Charges Proposal Request.

10.1.4 Where the Supplier has responded to an Exit Charges Proposal Request, paragraph 10.1.2 shall be repeated. Where the Parties are unable to agree the Exit Charges Proposal, either Party may refer the matter to the Dispute Resolution Procedure.

10.1.5 Upon approval of the Exit Charges Proposal, the Exit Charges Cap in the Current Exit Plan (or, where relevant, in the Draft Exit Plan) shall be set at the value of the agreed Exit Charges Proposal.

10.1.6 All Exit Services will be subject to invoices being provided by the Supplier to the Authority in accordance with Part C of Schedule 7.1 (Contract Charges) on the basis of the agreed Exit Charges.

10.2 If no Current Exit Plan has been agreed, the Contract Charges for providing Exit Services shall be determined by reference to the Day Rates for Staff set out in Table 3 in Annex 1 of Schedule 7.1 (Contract Charges) where applicable.

10.3 Except as otherwise expressly specified in this Agreement and subsequently agreed with the Authority, the Supplier shall not make any charges for the Services or any Exit Services provided by the Supplier pursuant to, and the Authority shall not be Schedule 8.3 (Exit Management)

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obliged to pay for costs incurred by the Supplier in relation to its compliance with, this Schedule including the preparation and implementation of the Exit Plan and any activities mutually agreed between the Parties to carry on after the expiry of the Exit Assistance Period.

11 Apportionments

- 11.1 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 Authority and the Supplier or (as nominated by the Authority) the Replacement Suppliers and the Supplier (as applicable) as follows:
- (a) the amounts shall be annualised and divided by 365 to reach a daily rate;
 - (b) the Authority shall be responsible for (or shall procure that the Replacement Suppliers 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
 - (c) the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.
- 11.2 Each Party shall pay (and/or the Authority shall procure that the Replacement Suppliers shall pay) any monies due under Paragraph 11.1 as soon as reasonably practicable.

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ANNEX 1: SCOPE OF THE EXIT SERVICES

- 1.1 The Exit Services to be provided by the Supplier shall include (without limitation) such of the following services as the Authority may require:
- (a) ceasing all non-critical Service changes (except where agreed in writing with the Authority);
 - (b) notification of Sub-contractors of the procedures to be followed and formal notification to exit such arrangements during the Exit Assistance Period and providing management to ensure these procedures are followed;
 - (c) providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and writing and implementing processes and procedures such that they are appropriate for use by the Authority or the Replacement Suppliers after the end of the Exit Assistance Period;
 - (d) delivering to the Authority in respect of the Services to be provided and the ICT Environment supported any existing systems support profiles, monitoring or system logs, problem tracking/resolution documentation and status reports all relating to the 24 Month period immediately prior to the commencement of the Exit Services);
 - (e) providing details of work volumes and staffing requirements over the 24 Month period immediately prior to the commencement of the Exit Services;
 - (f) with respect to work in progress as at the end of the Exit Assistance Period, documenting the current status and stabilising for continuity during Transition;
 - (g) providing the Authority with any problem logs which have not previously been provided to the Authority;
 - (h) providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Services and re-writing and implementing these during the Exit Assistance Period;
 - (i) providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Services and re-writing and implementing these such that they are appropriate for the continuation of the Services after the Exit Assistance Period;
 - (j) reviewing all Software libraries used in connection with the Services and providing details of these to the Authority and/or the Replacement Suppliers;
 - (k) making available to the Authority and/or the Replacement Suppliers expertise to analyse training requirements and provide all necessary training for the use of tools by such staff or Replacement Suppliers staff as are nominated by the Authority (acting reasonably) at the time of termination or expiry;
 - (l) generating a computer listing of the Source Code for such of the Software (if any) which is nominated by the Authority to be provided in such form and on such media reasonably requested by the Authority;

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- (m) agreeing with the Authority a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
- (n) assisting in the execution of a parallel operation with such Replacement Suppliers or the Authority until the date of expiry or termination of this Agreement or, if later, the end of the Exit Assistance Services;
- (o) in respect of the maintenance and support Services, providing historical performance data for the entire Term for the ICT Environment;
- (p) providing an information pack listing and describing the Services for use by the Authority in the procurement of the Replacement Services;
- (q) answering all reasonable questions from the Authority or the Replacement Suppliers regarding the Services;
- (r) agreeing with the Authority or the Replacement Suppliers a plan for the migration of the Authority Data to the Authority or the Replacement Suppliers and executing such agreed plan;
- (s) providing access to the Authority or the Replacement Suppliers during the Exit Assistance Period and for a period not exceeding 12 months afterwards for the purpose of the smooth transfer of the Services to the Authority and/or the Replacement Supplier:
 - I. for information and documentation relating to the Transferring Services that is in the possession or control of the Supplier or its Sub-contractors (and the Supplier agrees and shall procure that its Sub-contractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
 - II. following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Personnel who have been involved in the provision or management of the Services and who are still employed or engaged by the Supplier or its Sub-contractors for the purpose of the obligations set out in this Annex; and
 - III. knowledge transfer services, including:
 - A. transferring all training material and providing such training to those Authority or Replacement Suppliers staff responsible for the provision of the Services as may be reasonably requested by the Authority;
 - B. providing for transfer to the Authority or the Replacement Suppliers of all knowledge reasonably required for the provision of the Services which may, as appropriate, include information, records and documents; and
 - C. providing the Supplier or the Replacement Suppliers with access (for meetings or discussions) to such members of the Supplier's or its Sub-contractors' personnel as have been involved in the design, development, provision or management of the Services and who are still employed or engaged by the Supplier or its Sub-contractors.

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1.2 The Supplier shall:

- (a) provide a documented plan relating to the training matters referred to in Paragraph 1.1(k) for agreement by the Authority at the time of termination or expiry of this Agreement;
- (b) co-operate fully in the execution of the Handover Plan agreed pursuant to Paragraph 1.1(m), of this Annex providing skills and expertise of a suitable standard; and
- (c) fully co-operate in the execution of any Authority Data migration plan agreed pursuant to Paragraph 1.1(r), providing skills and expertise of a reasonably acceptable standard.

1.3 To facilitate the transfer of knowledge from the Supplier to the Authority or its Replacement Suppliers, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services, the change management process(es) and other standards and procedures (including governance) to the operations personnel of the Authority or the Replacement Suppliers.

1.4 The information which the Supplier shall provide to the Authority or the Replacement Supplier pursuant to Paragraph 1.2 and 1.3 shall include:

- (a) copies of up-to-date procedures and operations manuals;
- (b) Asset and Services information;
- (c) agreements with third party suppliers of goods and services which are to be transferred to the Authority or the Replacement Suppliers (including Transferring Assets and Transferring Contracts);
- (d) key support contact details for third party supplier personnel under Sub-contracts which are to be assigned or novated to the Authority pursuant to this Schedule;
- (e) information regarding any unresolved faults in respect of the ICT Environment or the Services in progress at the commencement of the Exit Assistance Period as well as those expected to be in progress at the end of the Exit Assistance Period; and,
- (f) details of physical and logical security processes and tools which will be available to the Authority.

1.5 During the Exit Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and Suppliers) of the Replacement Suppliers or the Authority access the upon reasonable prior written notice, to any Assets managed by or on behalf of the Supplier for the purpose of this Agreement or the purpose of effecting a prompt knowledge transfer provided that:

- (a) any such agent or personnel (including employees, consultants and suppliers) having access to any Sites pursuant to this Paragraph 1.5 shall:

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- i. sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and
 - ii. during each period of access comply with the security, systems and facilities operating procedures of the Supplier or Authority relevant to such Site and that the Authority deems reasonable; and
- (b) the Authority or the Replacement Suppliers shall pay the reasonable, proven and proper direct costs of the Supplier incurred in facilitating such access.

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ANNEX 2: ASSETS

No.	Asset Description	Make / Model	Asset ID No. (if any)	Net Book Value or Cost £ excl VAT	Condition	Physical location	Relationship to any other Asset	Owner	Designated Status: Transferable Asset or Non-Transferable Asset	Use / Technical specification
1.										
2.										
3.										
4.										
5.										
6.										
7.										

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ANNEX 3 – CONTRACTS REGISTER

No.	Sub-contract Description E.g. licence, Software licence, Third Party Software licence, Other agreement (if Other, specify type e.g. lease for Asset)	Sub- Contractor and Contracting parties	Contractor designated as Key Sub- Contractor? Yes / No	Key terms (including charges, termination, assignment and novation)	Sub-contract necessary or desirable to perform Services? Yes / No	Transferable Sub-contract? Yes / No	Non Transferable Sub- contract Yes / No
1.							
2.							
3.							
4.							
5.							
6.							
7.							

ANNEX 4 - OUTLINE DRAFT EXIT PLAN

(see Schedule 4.1 Exit Management)