

**HEALTH AND SAFETY EXECUTIVE**

**and**

**CAPITA GAS REGISTRATION AND ANCILLARY SERVICES LIMITED**

**SERVICES CONCESSION AGREEMENT  
FOR  
OPERATION OF GAS SAFE REGISTER**

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## PARTIES

This Agreement is made on the eighth (8<sup>th</sup>) of November 2018.

Between:

Health and Safety Executive, of Redgrave Court, Merton Road, Bootle L20 7HS ("HSE"),

and

Capita Gas Registration and Ancillary Services Limited, 30 Berners Street, London W1T3 AB ("Provider")

together the "Parties" and individually a "Party".

## RECITALS

Whereas:

- (A) HSE sought proposals in connection with the operation of the gas installers registration scheme concessions, which have been operated under a certificate of approval granted by HSE under regulation 3 of the Gas Safety (Installation and Use) Regulations 1998 and a certificate of approval granted by Health and Safety Executive Northern Ireland (HSENI) under the Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004.
- (B) HSE undertook a competition on behalf of itself and HSENI to appoint a new operator and selected a number of organisations, including the Provider, to submit responses to an invitation to tender issued by HSE.
- (C) Provider responded to HSE's request and, based on a proposal supplied by the Provider and subsequent negotiations, HSE selected the Provider as its supplier of choice to provide the services specified in this Agreement.
- (D) HSENI has granted to the Provider the NI Scheme Approval.
- (E) Accordingly, the Provider has agreed to supply certain concession, Ancillary and Additional Services to HSE and HSENI, on the terms set out in this Agreement.

The Parties hereby agree as follows:

## PRELIMINARY

### 1. Interpretation

- 1.1 In this Agreement the definitions set out in Schedule 00 (Glossary) shall apply.
- 1.2 In this Agreement, except where the context requires:
  - 1.2.1 the singular includes the plural and vice versa;
  - 1.2.2 the masculine includes the feminine and the neuter;

- 1.2.3 the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”;
  - 1.2.4 references to any person or party shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons and parties of whatever kind and however constituted;
  - 1.2.5 references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
  - 1.2.6 headings are for convenience of reference only;
  - 1.2.7 references in this Agreement to any Clause or sub-Clause or Schedule without further designation shall be construed as a reference to the Clause or sub-Clause of or Schedule to this Agreement so numbered;
  - 1.2.8 references in this Agreement to any paragraph or subparagraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule to this Agreement so numbered; and
  - 1.2.9 reference to a Clause is a reference to the whole of that Clause unless stated otherwise.
- 1.3 Subject to Clause 1.4, in the event of and only to the extent of any conflict between any of the Terms and Conditions, the Schedules, attachments to the Schedules and any other document attached to or otherwise incorporated by reference into this Agreement, the conflict shall be resolved in accordance with the following order of precedence:
- 1.3.1 these Terms and Conditions;
  - 1.3.2 Schedules (1–24);
  - 1.3.3 attachments to the Schedules;
  - 1.3.4 any other document attached to or otherwise incorporated by reference into this Agreement; and
  - 1.3.5 Schedule 25 (Tender).
- 1.4 Where Schedule 25 (Tender) contains provisions which are more favourable to HSE in relation to the rest of this Agreement, such provisions of the Tender shall prevail. HSE shall in its absolute and sole discretion determine whether any provision in the Tender is more favourable to it in this context.

## **2. Commencement and Term**

- 2.1 This Agreement shall come into effect on the Effective Date and shall remain in force until the Expiry Date, unless terminated earlier in accordance with the provisions of Clause 41 (Termination and Exit Management).

## **SERVICES**

### **3. General**

- 3.1 *Grant of right to provide Concession Services*
- 3.1.1 HSE hereby

appoints the Provider to provide the Concession Services in accordance with this Agreement and grants the Provider the right to levy the Charges as consideration for providing the Concession Services.

### 3.2 *Territory*

3.2.1 The Provider shall, subject to the provisions of this Agreement, supply the Concession Services to Businesses and Engineers within the Territory.

### 3.3 *Human Rights Act*

3.3.1 The Provider acknowledges that in performing the Concession Services it performs functions of a public nature and is, to that extent, a public authority for the purposes of the Human Rights Act 1998.

3.3.2 The Provider shall ensure that at all times when performing the Concession Services it acts consistently with the provisions of the Human Rights Act 1998.

### 3.4 *Competition law*

3.4.1 The Provider shall, in all of its commercial relations with third parties, act as if it were an undertaking, as that term is understood in the context of the Competition Act 1998 and shall not engage in any conduct, practice or concerted practice, enter into any understanding or agreement, or reach any decision in association with an undertaking, which, in any case, is contrary or likely to be contrary to the prohibitions contained in section 2(2) and section 18(1) of that Act.

### 3.5 *Equal treatment of Businesses, Engineers and Consumers*

3.5.1 The Provider shall at all times treat Businesses, Engineers and Consumers equally and, in particular:

3.5.1(a) shall not refuse to provide Concession Services or Additional Services to any Business, Engineer or Consumer; or

3.5.1(b) provide any Business, Engineer or Public Users of the Register with different or inferior levels of service to any other Business, Engineer or Public User of the Register;

unless that refusal to provide Concession Services or difference in levels of service is proportionate and for one or more of the following reasons:

3.5.1(c) in the case of Businesses and Engineers:

3.5.1(c)(i) the payment or non-payment of Concession Charges or different amounts of registration fees;

3.5.1(c)(ii) the Competence of an individual Business or Engineer; or

3.5.1(c)(iii) failure to comply with the Rules of Registration or other conditions connected with the Registration Scheme;

3.5.1(c)(iv) the characteristics of an individual Business, including the number of Engineers employed or engaged by the Business;

3.5.1(c)(v) the Business' internal processes and procedures for ensuring that Gas Work is undertaken safely;

3.5.1(c)(vi) abusive behaviour towards the Provider's staff;

and such reasons shall be documented in the Rules of Registration;

3.5.1(d) in the case of Public Users of the Register:

3.5.1(d)(i) abusive behaviour towards the Provider's staff;

3.5.1(d)(ii) failure to comply with any applicable terms of use of the Register, including any Registration Data provided to the Consumer; and

3.5.1(d)(iii) the making of vexatious complaints about a Business or Engineer;

and such reasons shall be publicised on the Provider's website and made available on request.

### 3.6 *Documentation of processes and procedures*

3.6.1 The Provider shall ensure that it:

3.6.1(a) has in place appropriate and documented processes and procedures in accordance with Clause 4.3, so that its Provider Personnel comply with the requirements of Clauses 3.3, 3.4 and 3.5; and

3.6.1(b) provides appropriate and effective training to Provider Personnel whose duties may require compliance with the requirements of Clauses 3.3, 3.4 and 3.5.

3.6.2 The Provider shall notify HSE in writing within five (5) Working Days of receipt of any complaint or claim by a Business, Engineer or Consumer that the Provider has failed to comply with Clauses 3.3, 3.4 and 3.5 or any other legal duties to which it is subject which are substantially similar or analogous to Clauses 3.3, 3.4 and 3.5.

## 4. **Concession Services**

### 4.1 *Provider's responsibility to perform Concession Services*

4.1.1 Where the Provider is delivering the Services as a partnership or a consortium, each member shall be jointly and severally liable under this Agreement for performing the Services.

4.1.2 The Provider will have the responsibility for delivery of the Concession Services in accordance with this Agreement and will perform, or cause to be performed, from the Effective Date, the Renewal Fee Collection Start Date and the Services Start Date (as applicable) the services, functions and responsibilities described in this Agreement, including those set out in Schedule 1 (Concession Services Requirements), as they may be supplemented, modified or replaced in accordance with this Agreement.

4.1.3 The Provider shall provide reasonable information (including any documentation), advice and assistance in connection with the Services up to and including the Expiry Date (for whatever reason), to enable the timely transition of the supply of the Services (or any of them) to HSE and/or to any Replacement Provider.

4.1.4 An obligation on the Provider to do, or to refrain from doing, any act or thing shall include an obligation upon the Provider to procure that all Sub-

Contractors and Provider Personnel also do, or refrain from doing, such act or thing.

#### 4.2 *Identification of additional aspects of the Services*

- 4.2.1 If either Party identifies a function or responsibility of the Provider that is not specified in Schedule 1 (Concession Services Requirements), but which is reasonably and necessarily required for the proper performance and provision of the Concession Services, the Party identifying the omission shall promptly notify the other Party and the Parties shall discuss and amend Schedule 1 (Concession Services Requirements) accordingly so as to document that omitted function or responsibility. Any such amendment to Schedule 1 (Concession Services Requirements) will be implemented in accordance with Schedule 6 (Change Control Procedure).

#### 4.3 *Processes and procedures*

- 4.3.1 The Provider shall:
- 4.3.1(a) identify all of the Processes that constitute the Concession Services and document them in one or more Procedures;
  - 4.3.1(b) ensure that such Processes and Procedures enable the efficient and effective operation of the Registration Scheme;
  - 4.3.1(c) document the Processes and Procedures in a draft Processes and Procedures Register; and
  - 4.3.1(d) provide HSE with a copy of the draft Processes and Procedures Register when it is compiled and in any event no later than three (3) months before the Services Start Date.
- 4.3.2 HSE shall, within one (1) month after the receipt of the draft Processes and Procedures Register, provide its comments and suggestions or indicate that the Processes and Procedures Register is approved. The Provider shall, within one (1) further month and taking into account such comments and suggestions, prepare an updated Processes and Procedures Register for HSE's final approval. The Processes and Procedures Register shall not take effect until HSE has given its final approval, which shall not be unreasonably withheld or delayed.
- 4.3.3 The Processes and Procedures Register shall describe and include, in a manner that is suitable for use by HSE or any Replacement Provider to understand the Services:
- 4.3.3(a) how the Provider shall perform and deliver the Services under this Agreement;
  - 4.3.3(b) the documentation (including operations manuals, user guides and specifications) which provides further details of such activities;
  - 4.3.3(c) the activities that the Provider proposes to undertake in order to provide the Services, including those direction, supervision, monitoring, staffing, reporting, planning and oversight activities normally undertaken to provide services of the type the Provider is to provide under this Agreement;
  - 4.3.3(d) the Provider's problem management and escalation procedures.
- 4.3.4 The Provider shall regularly, and at least annually, maintain and update the Processes and Procedures Register, as appropriate, including the

incorporation of any relevant significant events or changes in any operations or procedures described therein. Updates of the Processes and Procedures Register shall be provided to HSE for review, comment and Approval (which shall not be unreasonably withheld or delayed but in any event within ten (10) Working Days) prior to their implementation and the Provider shall incorporate HSE's reasonable comments or suggestions and provide HSE with a copy of each final updated version.

4.3.5 The Provider shall:

4.3.5(a) ensure that the Processes and Procedures reflect the actual activities performed by its Provider Personnel in the performance of the Concession Services; and

4.3.5(b) ensure that at all times its Provider Personnel provide the Concession Services in accordance with the Processes and Procedures.

## **5. Additional Services**

5.1 The Provider shall obtain HSE's Approval before commencing New Additional Services, which shall be:

5.1.1 given or withheld by HSE at its sole discretion; and

5.1.2 made subject to such conditions or restrictions as HSE in its sole discretion may specify.

5.2 The Provider shall ensure that any New Additional Services proposed by the Provider will not amount to a substantial modification to this Agreement.

5.3 In seeking consent from HSE, for the operation or provision of any New Additional Services, the Provider shall provide to HSE such information as HSE may require to enable HSE to:

5.3.1 satisfy itself that such New Additional Services will not compromise, present any material risk to the successful performance or delivery of, or impede the operation or delivery of the Concession Services (or otherwise breach the provisions of Clause 5.5.3);

5.3.2 understand the use that the New Additional Services would make of the Registration Data and, in particular, any Personal Data;

5.3.3 understand:

5.3.3(a) the effect that the New Additional Services would have on competitors or potential competitors; and

5.3.3(b) whether the New Additional Services would create barriers or additional barriers to a competitor or potential competitor entering any market;

5.3.4 satisfy itself as to the financial standing and reputation of any organisation or entity which will be involved in providing such New Additional Service;

5.3.5 understand the expected costs and revenues of any such New Additional Service, including how:

5.3.5(a) such revenues will be applied to reduce the Concession Charges; and

- 5.3.5(b) such Additional Service will or may affect the financial position of the Provider; and
- 5.3.6 satisfy itself that the Provider will, in performing the New Additional Services, at all times comply with the requirements of Clause 5.5.
- 5.4 Where HSE Approves any New Additional Services, that service shall be added to Schedule 2 (Additional and Ancillary Services) and any conditions relating to that service shall be added to Schedule 2 (Additional and Ancillary Services).
- 5.5 The Provider shall ensure that any New Additional Services are performed in accordance with the following conditions:
- 5.5.1 the aim and effect of such New Additional Services is to generate Additional Charges;
- 5.5.2 the Additional Charges generated under Clause 5.5.1 are treated in accordance with Clause 18 (Charges);
- 5.5.3 the New Additional Services do not compromise nor present any material risk nor impediment to the provision of the Services in accordance with this Agreement;
- 5.5.4 all Additional Charges generated as a result of New Additional Services are properly accounted for in accordance with Clause 24 (Audit);
- 5.5.5 the New Additional Services do not include the offering of any retail services in any industry sector;
- 5.5.6 the New Additional Services do not include the offering of registration services;
- 5.5.7 the New Additional Services shall be developed, branded, marketed, promoted, offered and supplied separately from and to the Concession Services;
- 5.5.8 any agreements entered into by the Provider during the Term for the purposes of or related to any New Additional Service shall be made without preference or favour and on terms equivalent to terms which would have been obtained had the transaction taken place on the open market;
- 5.5.9 any New Additional Services are appropriate to and in accordance with the reputation and image of HSE; and
- 5.5.10 any New Additional Services are performed in accordance with any further general conditions or any specific conditions relating to that New Additional Service contained in Schedule 2 (Additional and Ancillary Services).
- 5.6 In the event that HSE considers that any Additional Service or New Additional Service (or the provision by the Provider of the same):
- 5.6.1 compromises, presents a material risk to or impedes the successful performance or delivery of the Concession Services or otherwise breaches the provisions of Clause 5.5.3 (above); or
- 5.6.2 is not being (or has not been) operated or provided in accordance with the requirements of this Clause 5 (Additional Services) or any relevant conditions contained in Schedule 2 (Additional and Ancillary Services),
- HSE may require the Provider by notice in writing to modify, suspend or cease forthwith the operation or provision of any such Additional Services or New Additional Services.

- 5.7 The Provider shall immediately comply with any notice given by HSE under Clause 5.6 subject to any pre-existing contractual relationships with third parties in relation to the Additional Services or New Additional Services.
- 5.8 For the avoidance of doubt, HSE shall not be responsible to the Provider for any Losses it may incur or suffer as the result of complying with any notice given by HSE under Clause 5.6.
- 5.9 The Provider shall ensure that any agreement with a third party related to or in connection with any Additional Services or New Additional Services includes terms that:
- 5.9.1 exclude, to the fullest extent permissible by any applicable law, any liability of HSE to any third party for any and all losses that any third party may suffer, by the operation or provision of, or otherwise in connection with or arising out of, any Additional Services or New Additional Services;
  - 5.9.2 provide for the automatic termination of such third party agreements upon the expiry (or termination for whatever reason) of this Agreement; and
  - 5.9.3 provide that no charges or compensation shall be payable by or due from HSE to the Provider or to any third party upon any termination of any Additional Services or New Additional Services under Clause 5.6 or any third party agreement in accordance with Clause 5.9.2 above.
- 5.10 The Provider shall notify HSE (in accordance with the provisions of Clause 22 (Notices)) and obtain HSE's consent:
- 5.10.1 prior to its commencement (or intended commencement), of the operation or provision of any Additional Services or New Additional Services; and
  - 5.10.2 (subject to Clause 5.11) in respect of any modification, suspension or termination the Provider may make (or intend to make) of any Additional Services or New Additional Services prior to any such modification, suspension or termination.
- 5.11 Where any modification, suspension or termination of any Additional Services or New Additional Services by the Provider is unplanned, the Provider shall notify HSE of the same as soon as reasonably practicable (and in any event within three (3) Working Days) (in accordance with the provisions of Clause 22 (Notices)) and such notice shall provide full and complete reasons for such modification, suspension or termination.
- 5.12 The Provider shall comply with the provisions of Clause 25 (Reporting) in relation to Additional Services or New Additional Services.

## **6. Ancillary Services**

- 6.1 HSE may from time to time require the Provider to perform certain Ancillary Services, and the Provider shall use its reasonable endeavours to provide the same.
- 6.2 In the event that HSE requires the Provider to perform any Ancillary Services, the Parties shall agree a Work Package for such Ancillary Services in accordance with Schedule 2 (Additional and Ancillary Services).
- 6.3 The Provider shall charge for Ancillary Services in accordance with the provisions of Schedule 2 (Additional and Ancillary Services) and paragraph 4.4 of Schedule 4 (Charges).

- 6.4 The Provider shall ensure that any agreement with a third party related to or in connection with any Ancillary Services includes terms that:
- 6.4.1 exclude, to the fullest extent permissible by any applicable law, any liability of HSE to any third party for any and all losses that any third party may suffer, by the operation or provision of, or otherwise in connection with or arising out of, any Ancillary Services; and
  - 6.4.2 provide for the automatic termination of such third party agreements upon the expiry (or termination for whatever reason) of this Agreement.
- 6.5 The Provider acknowledges that:
- 6.5.1 HSE is under no obligation to source all or any of its requirement for Ancillary Services from the Provider;
  - 6.5.2 no assurance, commitment, understanding or similar has been provided by HSE to source any particular Ancillary Service or any volume of Ancillary Services from the Provider.
- 6.6 The Provider shall co-operate with HSE in relation to any review of the efficiency and effectiveness of the Ancillary Services and shall provide all such reasonable assistance as may be necessary for the purposes of such review as is required by Schedule 10 (Governance and Contract Management).
- 6.7 The Provider shall comply with the provisions of Clause 25 (Reporting) in relation to Ancillary Services.

## **7. Key Performance Indicators**

- 7.1 The Provider shall comply with all its obligations related to the KPIs set out in this Agreement and in Schedule 8 (Key Performance Indicators).
- 7.2 The Provider shall at all times during the Term comply with the KPIs and achieve the KPI Targets set out in Schedule 8 (Key Performance Indicators).
- 7.3 HSE reserves the right to adjust, introduce new, or remove KPIs throughout the Term, however any changes to KPIs shall be agreed between HSE and the Provider in accordance with Clause 26 (Change Control Procedure).
- 7.4 The Provider acknowledges that KPIs 1–3 have been apportioned a proportion of the Provider's share of the Gain Share Funds as set out in Schedule 8 (Key Performance Indicators).
- 7.5 Failure to achieve a KPI Target in respect of KPIs 1-3 (but not, for the avoidance of doubt, KPI 4) shall result in the Provider not having access to the full apportioned share of the Gain Share Funds attached to that KPI Target. The impact on the apportioned share of the Gain Share Funds shall be as set out in Schedule 8 (Key Performance Indicators) and shall depend on the extent of failure. Any such impact on the apportioned share of the Gain Share Funds shall be HSE's sole and exclusive financial remedy for a KPI Failure.
- 7.6 The level of failure to achieve a KPI Target shall be categorised in accordance with Annex 1 of Schedule 8 (Key Performance Indicators).
- 7.7 Annex 1 of Schedule 8 (Key Performance Indicators) describes the additional measures available to HSE in the event of a failure to achieve a KPI Target.
- 7.8 *Potential KPI Failure*

- 7.8.1 If the Provider believes that there is likely to be a KPI Failure, the Provider shall comply with the provisions set out in Clause 11 (Improvement Plan).
- 7.8.2 Where HSE has reasonable concerns, based upon complaints or comments or upon trends in the measurements of KPIs, that there is likely to be a KPI Failure, HSE may raise its concerns with the Provider and/or require the Provider to submit an Improvement Plan.
- 7.8.3 Where HSE has raised concerns in accordance with Clause 7.8.2, the Parties shall, without delay, meet to discuss those concerns. Where, following such discussions, the Provider agrees that the concerns are justified or is unable to demonstrate to HSE's reasonable satisfaction that the concerns are without foundation, the Provider shall comply with Clause 11 (Improvement Plan).

## **8. Service Levels**

- 8.1 The Parties shall comply with the provisions of Schedule 3 (Service Levels).
- 8.2 The Provider shall at all times during the Term provide the Services to meet or exceed the Service Level Performance Measure for each Service Level.
- 8.3 The Provider acknowledges that any Service Level Failure may have a material adverse impact on Businesses, Engineers and Consumers in addition to the business and operations of HSE and that it shall entitle HSE to exercise any of the Service Level Failure Rights.
- 8.4 For the avoidance of doubt:
  - 8.4.1 HSE may, in respect of any occasion of Service Level Failure, exercise none, any or all of the Service Level Failure Rights available to it;
  - 8.4.2 a decision by HSE in a particular circumstance not to exercise all or any of its Service Level Failure Rights, to exercise one Service Level Failure Right rather than another, or to exercise any Service Level Failure Right in a certain way shall not operate to prevent HSE from exercising any or all of its Service Level Failure Rights or exercising its Service Level Failure Rights in a different manner in any other circumstance of Service Level Failure.
- 8.5 Not more than once in each Contract Year, HSE may, on giving the Provider at least three (3) Months' notice, change the criticality of all or any of the Service Level Performance Measures in respect of one or more Service Levels and the Provider shall not be automatically entitled to object to the change in criticality provided the principal purpose of the change is to reflect changes in HSE's business requirements and/or priorities or to reflect changing industry standards. The Parties shall jointly consider the impact of any such changes to the criticality and any change to Service Points or Charges shall be considered in accordance with the Change Control Procedure.
- 8.6 The Provider shall measure and report its performance against the Service Levels in accordance with the reporting requirements set out in Clause 25 (Reporting) and Schedule 11 (Management Information, Reporting and Records). The Provider shall agree the relevant measuring and monitoring tools with HSE prior to using the same, and shall provide HSE with information and access to these measurement and reporting tools and procedures on reasonable request, to enable HSE to verify that they accurately measure the Provider's performance.
- 8.7 HSE will continuously monitor the Service Levels and the Parties shall:

- 8.7.1 formally review the Service Levels annually (or otherwise as required); and
  - 8.7.2 taking into account any improved performance capabilities of the Provider, make such adjustments to the Service Levels (including amending or removing Service Levels and adding new Service Levels) as appropriate in accordance with Schedule 6 (Change Control Procedure).
- 8.8 *Potential Service Level Failure*
- 8.8.1 If the Provider believes that there is likely to be a Service Level Failure, the Provider shall comply with the provisions set out in Clause 11 (Improvement Plan).
  - 8.8.2 Where HSE has reasonable concerns, based upon complaints or comments or upon trends in the measurements of Service Levels, that there is likely to be a Service Level Failure, HSE may raise its concerns with the Provider and/or require the Provider to submit an Improvement Plan.
  - 8.8.3 Where HSE has raised concerns in accordance with Clause 8.8.2, the Parties shall, without delay, meet to discuss those concerns. Where, following such discussions, the Provider agrees that the concerns are justified or is unable to demonstrate to HSE's reasonable satisfaction that the concerns are without foundation, the Provider shall comply with Clause 11 (Improvement Plan).
- 8.9 *Retention of data*
- 8.9.1 Unless otherwise agreed, the Provider shall retain data in relation to, and underlying the measuring and reporting of, the Service Levels and KPIs for a period of six (6) years after the later of the Expiry Date or earlier termination of this Agreement.

## 9. Service Points

- 9.1 *Accumulation of Service Points*
- 9.1.1 Service Points are calculated on a monthly and/or annual basis depending on the Service Measurement Period.
  - 9.1.2 Each Service Level shall be measured during the Service Measurement Period and, in the event of a Service Level Failure, the Provider shall accumulate Service Points in respect of each Service Level Performance Measure it has not Achieved in accordance with Annex 1 of Schedule 3 (Service Levels).
  - 9.1.3 Where, there is a repeat Service Level Failure as set out in Schedule 3 (Service Levels), the Service Points accumulated by the Provider in respect of the failure to achieve that service level performance measure shall be multiplied in accordance with Schedule 3 (Service Levels).
- 9.2 *Consequences of Service Point accumulation*
- 9.2.1 HSE shall be entitled to the following rights in respect of Service Point accumulation:
    - 9.2.1(a) Service Credits; and
    - 9.2.1(b) Where, on a rolling twelve (12) Month period commencing on the Services Start Date, total Service Points accumulated by the Provider in respect of Monthly Service Levels exceed points

or in respect of Annual Service Levels exceed      points, HSE may, in its sole discretion:

9.2.1(b)(i) exercise Direction Rights in accordance with Clause 12 (Direction Rights); and/or

9.2.1(b)(ii) exercise Step-in Rights in accordance with Clause 13 (Step-in Rights).

9.2.2 Where, in respect of a rolling 12 months, the aggregate Service Points accumulated by the Provider exceed      points HSE may, in its sole discretion terminate this Agreement in accordance with Clause 41 (Termination).

## 10. Service Credits

10.1 The Provider acknowledges and agrees that any Service Credit is a monetary adjustment and not an estimate of the Loss that may be suffered by HSE as a result of the Provider's failure to Achieve any Service Level.

10.2 Service Credits apply on a monthly basis and do not include VAT.

10.3 Table 2 of Schedule 3 (Service Levels) sets out the Service Credits due as a result of a Service Point accumulation.

10.4 The Provider confirms that it has modelled the Service Credits and has taken them into account in setting the level of the Charges. Both Parties agree that the Service Credits are a reasonable method of monetary adjustment to reflect poor performance; and Service Credits shall be HSE's sole and exclusive financial remedy for Service Level Failure except where HSE is entitled to or does terminate the Agreement pursuant to Clause 9.2.2.

## 11. Improvement Plan

11.1 For the purposes of this Clause 11:

11.1.1 Service Level Failures or repeated Service Level Failures of the same Service Levels shall be categorised in accordance with Table 3 of Schedule 3 (Service Levels); and

11.1.2 KPI Failures shall be categorised as set out in Annex 1 of Schedule 8 (Key Performance Indicators),

and failure to comply with Clause 11.4.1 shall result in the category of Service Level Failure and/or KPI Failure being raised to the next level.

11.2 *Service Level Failures*

11.2.1 Where there is a repeat Service Level Failure of the same Service Level within the relevant Rolling Period as set out in paragraph 6 of Schedule 3, in addition to the provisions set out in the remainder of this Clause 11, the Service Level Failure shall be raised and escalated, at the sole discretion of HSE, to either the Contract Review Group or the Executive Review Board to determine any additional measures which may be required by the Provider.

11.2.2 Where there are multiple Service Level Failures of different Service Levels with a criticality rating of "A" within the relevant Rolling Period as set out in Schedule 3 (Service Levels), in addition to the provisions set out in paragraph 6 of the remainder of this Clause 11, the occurrence of such

multiple Service Level Failures shall be reported to the Contract Review Board by HSE to determine any additional measures which may be required by the Provider.

### 11.3 *KPI Failures*

11.3.1 In addition to the provisions set out in the remainder of this Clause 11, where the category of KPI Failure is minor or moderate HSE, in its sole discretion, may escalate the occurrence of the KPI Failure to the Contract Review Board to determine any additional measures which the Provider may be required to take.

11.3.2 In addition to the provisions set out in the remainder of this Clause 11, where the category of KPI Failure is major HSE, in its sole discretion, may escalate the occurrence of the KPI Failure to the Executive Review Group to determine any additional measures which the Provider may be required to take.

### 11.4 Where there is a:

11.4.1 Service Level Failure or KPI Failure the Provider shall issue HSE with a draft Improvement Plan within five (5) Working Days; or

11.4.2 potential Service Level Failure or potential KPI Failure, the Provider shall issue HSE with a draft Improvement Plan within five (5) Working Days of the Provider becoming aware of the potential Service Level Failure or potential KPI Failure.

### 11.5 A draft Improvement Plan issued under Clause 11.4 shall contain the following information:

11.5.1 the potential or actual Service Level Failure or KPI Failures;

11.5.2 the improvements that HSE would expect to see in the Services; and

11.5.3 the actions the Provider intends to take to effect an improvement in the Services and to prevent the Service Level Failure or the KPI Failure from taking place or recurring.

### 11.6 Upon receipt of a draft Improvement Plan, HSE shall, within ten (10) Working Days of its receipt:

11.6.1 Approve the draft Improvement Plan;

11.6.2 Reject the draft Improvement Plan and inform the Provider why it does not accept the draft Improvement Plan and the changes that should be made to make the Improvement Plan acceptable; or

11.6.3 take no further action, in which case the draft Improvement Plan shall be deemed to be Approved after the expiry of ten (10) Working Days.

### 11.7 Where HSE rejects a draft Improvement Plan, the Provider shall address all HSE's concerns in a revised Improvement Plan, which it shall submit to HSE within two (2) Working Days (or such other period as agreed with HSE) of receipt of HSE's comments and Clause 11.6 shall apply to the revised Improvement Plan.

### 11.8 The Provider shall, upon the Approval of the Improvement Plan immediately commence work on implementing it and take any other remedial action that is reasonable to undertake to prevent the Service Level Failure from taking place or recurring.

### 11.9 Where there is a repeated Service Level Failure of the same Service Level within the periods set out in paragraph 4 of Schedule 3, the Provider shall review and amend

the Improvement Plan it submitted at the point of the first Service Level Failure and submit this revised Improvement Plan to HSE within five (5) Working Days of that repeated Service Level Failure.

- 11.10 If the Provider fails to implement or successfully complete an Approved Improvement Plan by the date indicated in the Improvement Plan HSE may, at its sole discretion:
  - 11.10.1 allow the Provider a further opportunity to submit or resume full implementation (as appropriate) of the Improvement Plan;
  - 11.10.2 invoke the Dispute Resolution Procedure;
  - 11.10.3 where such failure is a Material Breach:
    - 11.10.3(a) exercise Direction Rights in accordance with Clause 12 (Direction Rights);
    - 11.10.3(b) exercise its rights under Clause 13 (Step-In Rights); or
    - 11.10.3(c) upon at least 30 days' notice in writing, terminate this Agreement in accordance with Clause 41 (Termination).

## **12. Direction Rights**

- 12.1 HSE may exercise the rights set out in Clause 12.2:
  - 12.1.1 in the circumstances set out in Clause 11.10;
  - 12.1.2 where HSE is entitled to exercise Direction Rights as a consequence of Service Point accumulation by the Provider; or
  - 12.1.3 where HSE is entitled to terminate this Agreement as a consequence of:
    - 12.1.3(a) Service Point accumulation by the Provider; or
    - 12.1.3(b) Material Breach of this Agreement by the Provider.
- 12.2 HSE may direct the Provider to do one or more of the following:
  - 12.2.1 replace any member or members of the Provider's Senior Management Team responsible for that aspect or those aspects of the Services which were subject to the Service Level Failure and engage a suitable replacement member or members;
  - 12.2.2 terminate any existing Sub-Contract relating to that aspect or those aspects of the Services which were subject to the Service Level Failure and engage a suitable replacement Sub-Contractor; or
  - 12.2.3 engage an external professional adviser to review and make recommendations in respect of any aspect of the Provider's organisation, activities or Procedures and Processes and implement those recommendations.
- 12.3 The Provider shall comply promptly with any directions given by HSE under Clause 12.2.
- 12.4 Where the Provider refuses or fails to comply with any directions given by HSE under Clause 12.2, HSE may, upon at least 30 days' notice in writing, terminate this Agreement in accordance with Clause 41 (Termination and Exit Management). For the purposes of this Clause 12.4, a refusal or failure to comply with a direction shall include an unreasonable delay in complying with that direction.

### **13. Step-In Rights**

13.1 HSE may exercise the rights set out in Clause 13.2 in accordance with the other provisions of this Clause 13:

13.1.1 in the circumstances set out in Clause 9.2.1(b)(ii) or Clause 11.10.4; or

13.1.2 where HSE is entitled to terminate this Agreement for Material Breach.

13.2 HSE may appoint one or more persons to manage on a temporary basis the Provider's provision of the Services or any part thereof.

13.3 The Provider shall co-operate fully with HSE (and its agents or contractors appointed pursuant to Clause 13.2) and provide all reasonable assistance at no charge to HSE to restore the affected Services (or part thereof) as soon as possible, including by giving HSE (and its agents or contractors appointed pursuant to Clause 13.2) reasonable access to the Sites, the Equipment and any other such facilities as may be necessary or desirable to restore the affected Services or part thereof.

13.4 Where the Provider fails or refuses:

13.4.1 to co-operate with HSE, its agents or contractors;

13.4.2 provide all reasonable assistance required by HSE, its agents or contractors; or

13.4.3 provide reasonable access to the Sites or Equipment to HSE, its agents or contractors,

as required by Clause 13.3, HSE may, upon at least 30 days' notice in writing, terminate this Agreement in accordance with Clause 41 (Termination and Exit Management). For the purposes of this Clause 13.4, a refusal or failure to co-operate or provide reasonable assistance or access shall include an unreasonable delay in co-operating or providing that reasonable assistance or access.

13.5 HSE shall, upon exercising its rights under this Clause 13, by notice in writing to the Provider state:

13.5.1 the period of the temporary appointment of persons pursuant to Clause 13.2, such period to be no longer than is reasonably necessary in the circumstances; and

13.5.2 the terms of reference for the appointment of such persons, which shall be no more extensive than reasonably necessary in the circumstances.

13.6 HSE shall consult with the Provider on the terms of reference for the appointment of any persons pursuant to Clause 13.2.

13.7 In respect of any part of the Services concerning which HSE has exercised its rights under this Clause 13, the Provider shall bear no liability for any Service Level Failure, breach of this Agreement or any other reduction in performance during the period during which such rights are exercised beyond that for which the Provider was liable immediately before the exercise of such rights.

### **14. Licenses granted by HSE**

14.1 HSE hereby grants to the Provider a royalty-free, non-exclusive, non-transferable licence during the Term to use, reproduce and (save in respect of the Brand IPRs) update, amend and adapt HSE Background IPRs and HSE Data (such licence to take effect as from the date that HSE acquires ownership where ownership of the

relevant IPR or data is to be transferred by the Previous Provider to HSE) solely to the extent necessary for performing the Services in accordance with this Agreement, including (but not limited to) the right to grant sub-licences to Sub-contractors provided that:

- 14.1.1 any relevant Sub-contractor has entered into a confidentiality undertaking with the Provider as required by Clause 31 (Confidentiality); and
  - 14.1.2 the Provider shall not, without HSE's prior written consent, use the licensed materials for any other purpose or for the benefit of any person other than HSE; and
  - 14.1.3 the Provider complies with such other conditions as are contained in this Agreement relating to its use of the licensed materials.
- 14.2 In the event of the termination or expiry of this Agreement, the licence granted pursuant to Clause 14.1 and any sub-licence granted by the Provider in accordance with that Clause shall terminate automatically on the date of such termination or expiry and the Provider shall (unless HSE shall direct otherwise in writing for the purposes of Termination Assistance):
- 14.2.1 immediately cease all use of HSE Background IPRs and HSE Data (as the case may be);
  - 14.2.2 return or deliver to HSE or the Replacement Provider, as HSE shall direct in writing, all documents and other materials including software that contain or which relate to any of the HSE Background IPRs and HSE Data; and
  - 14.2.3 ensure, so far as reasonably practicable, that any HSE Background IPRs and HSE Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any Provider computer, word processor, voicemail system or any other Provider device containing such HSE Background IPRs and/or HSE Data.

## IMPLEMENTATION OF SERVICES

### 15. Conditions precedent

#### 15.1 *Conditions precedent for Renewal Fee collection*

- 15.1.1 The Provider shall, on or before the '**Renewal Fee Able-to-Proceed Date**' deliver to HSE:
  - 15.1.1(a) an executed copy of the Guarantee (a copy of which is attached to this Agreement as Annex 1 to Schedule 17 (Parent Company Guarantee)) or an alternative agreed by HSE;
  - 15.1.1(b) a certificate signed by a director or senior manager of the Provider stating that the Provider has:
    - 15.1.1(b)(i) delivered all Deliverables set out in the Transition Plan relating to the collection of Renewal Fees; and
    - 15.1.1(b)(ii) [not used]
    - 15.1.1(b)(iii) proposed KPI methodologies, data capture, and calculations;

- 15.1.1(c) a copy extract certified by a director or senior manager of the Provider of the board minutes and/or resolution of the Guarantor approving the execution of the Guarantee.
  - 15.1.2 Upon receipt by HSE of the documents set out in Clause 15.1.1, the Provider shall be entitled to commence collection of Renewal Fees from the Renewal Fee Collection Start Date.
  - 15.1.3 Subject to Clause 15.1.4, where the Provider is unable to provide a certificate as required by Clause 15.1.1(b), the Parties shall without delay meet and in good faith agree a Correction Plan in accordance with the provisions of Clause 17.5 (Correction Plan), subject to the following further conditions:
    - 15.1.3(a) the draft Correction Plan shall be delivered to HSE on the Renewal Fee Able-to-Proceed Date;
    - 15.1.3(b) the time limits set out in Clause 17.5.3 shall be reduced to two (2) Working Days;
    - 15.1.3(c) the draft Correction Plan shall include provisions requiring the Provider to:
      - 15.1.3(c)(i) devote such additional resources as may be required, such additional resources to be at the Provider's risk and expense; and
      - 15.1.3(c)(ii) use its best endeavours;to ensure that the Provider is able to commence collection of Renewal Fees on the Renewal Fee Collection Start Date.
  - 15.1.4 Where the Provider is unable to deliver the certificate required by Clause 15.1.1(b), the Provider shall, on the Renewal Fee Able-to-Proceed Date, deliver to HSE a Change Control Note detailing its plans for overcoming the failure and the impact of those plans on the collection of Renewal Charges, the Services Start Date, the Services and the Charges, and the Change Control Procedure shall apply to that Change Control Note.
- 15.2 *Conditions precedent for Services commencement*
- 15.2.1 The Provider shall, no later than one (1) calendar month before the Services Start Date:
    - 15.2.1(a) deliver to HSE copies of any agreements that it has entered into with the Previous Provider for the licensing to the Provider of the Previous Provider's IPRs;
    - 15.2.1(b) confirm that it knows of no reason why it cannot undertake any asset transfer set out in the exit plan agreed between HSE and the Previous Provider;
    - 15.2.1(c) deliver to HSE certificates of insurance or broker's verification of insurance showing that the Provider has obtained appropriate insurance in accordance with Clause 36 (Insurance);
    - 15.2.1(d) notify to HSE the identity of the Key Personnel;
    - 15.2.1(e) deliver to HSE for its comments and suggestions the draft Processes and Procedures Register in accordance with Clause 4.3.1(d) (Procedures and processes); and

- 15.2.1(f) deliver to HSE a certificate signed by a director or senior manager of the Provider stating that the Provider has, to the best of that individual's knowledge and belief, delivered all the Deliverables set out in the Transition Plan relating to the commencement of Services.
- 15.2.2 Where the Provider fails to comply with the requirements of Clause 15.2.1, the provisions of Clause 15.1.2 shall apply, save that:
  - 15.2.2(a) the reference to collection of Renewal Fees shall be read as a reference to the commencement of Services; and
  - 15.2.2(b) the reference to the Renewal Fee Collection Start Date shall be read as a reference to the Service Start Date.

## **16. Effect of Business Changes (Numbers of Businesses and Engineers) on Charges**

- 16.1 Where the Provider becomes aware that its costs (calculated in accordance with the Financial Model) will increase or decrease as the result of **Business Changes** it shall, on two occasions, the first being no later than the Renewal Fee Able-to-Proceed Date ("First True Up") and the second within four (4) months following the Services Start Date ("Second True Up"), deliver to HSE a Change Control Note detailing the impact of the Business Changes upon its costs and the changes it considers are necessary to the Charges (to maintain the Revenue levels as defined in the Financial Model submitted by the Provider at Best and Final Offer).
- 16.2 Any impact on the Provider's costs or revenue as a result of the First True Up shall:
  - 16.2.1 in the case of an increase in the Provider's costs apply to:
    - 16.2.1(a) Concession Charges for Year 1 and subsequent Contract Years; and/or
    - 16.2.1(b) a reduction in the amount paid by the Provider to the Gas Safety Charity in accordance with paragraph 3.2.1(d) of Schedule 5 (Financial Model and Gain Share);at HSE's discretion; and
  - 16.2.2 in the case of a decrease in the Provider's costs apply to Concession Charges for Year 1.
- 16.3 Any impact on the Provider's costs as a result of the Second True Up shall:
  - 16.3.1 in the case of an increase in the Provider's costs apply to:
    - 16.3.1(a) Concession Charges for Year 2 and subsequent Contract Years; and/or
    - 16.3.1(b) a reduction in the amount paid by the Provider to the Gas Safety Charity in accordance with paragraph 3.2.1(d) of Schedule 5 (Financial Model and Gain Share);at HSE's discretion;
  - 16.3.2 in the case of a decrease in the Provider's costs apply to Concession Charges for Year 2 and subsequent Contract Years.

- 16.4 Where the Provider has incurred additional costs as a consequence of an act or omission of the Previous Provider it shall use commercially reasonable endeavours to recover such costs from the Previous Provider.

## 17. Transitional arrangements

### 17.1 *Obligations of the Provider*

- 17.1.1 The Provider shall, from the Effective Date, perform the Transition Activities in accordance with the Transition Plan.

### 17.2 *Development of Updated Transition Plan*

- 17.2.1 Updates to the Transition Plan shall be made in accordance with Schedule 6 (Change Control Procedure).

- 17.2.2 The Parties shall consider and review the Transition Plan and progress towards its successful implementation at the meetings of the Transition Governance Board held in accordance with Schedule 10 (Governance and Contract Management). In preparation for such meetings the current Transition Plan and project status report shall be provided by the Provider to HSE not less than two (2) Working Days in advance of each meeting of the Transition Governance Board, and the Provider shall, on request, provide such further details regarding the Transition Activities as HSE may reasonably request.

### 17.3 *Deliverables during Transition Period*

- 17.3.1 Where the Transition Plan requires the Provider to deliver to HSE any Deliverables for Approval, the Provider shall do so in accordance with the provisions of the Transition Plan.

- 17.3.2 HSE shall comply with any requirements in the Transition Plan concerning the Approval of any Deliverables.

### 17.4 *Delay in Transition Period*

- 17.4.1 If, at any time, the Provider becomes aware that it has not implemented or will not implement any material aspect of the Transition Plan in accordance with its terms (a "**Transition Delay**"), it shall inform HSE of the fact and summarise the reasons for it.

- 17.4.2 The Provider shall, as soon as possible and in any event not later than five (5) Working Days after the initial notification under Clause 17.5.1, give HSE full details in writing of:

17.4.2(a) the reasons for the Transition Delay;

17.4.2(b) the consequences of the Transition Delay;

and shall submit to HSE a Correction Plan in accordance with Clause 17.5.

- 17.4.3 The Provider shall use all reasonable endeavours to eliminate or mitigate the consequences of the Transition Delay.

- 17.4.4 Any Dispute arising out of or in connection with any Transition Delay shall be resolved through the Dispute Resolution Procedure. Pending the resolution of the Dispute both parties shall continue to work to resolve the causes of, and mitigate the effects of, the Transition Delay.

### 17.5 *Correction Plan*

- 17.5.1 The Provider shall submit a draft Correction Plan where:
- 17.5.1(a) it becomes aware that there will or may be a Transition Delay; or
  - 17.5.1(b) there has been a Transition Delay.
- 17.5.2 The draft Correction Plan shall identify the issues arising out of the Transition Delay and the steps that the Provider proposes to ensure that it complies with the Transition Plan, including recovering any time lost as a result of the Transition Delay.
- 17.5.3 HSE shall, within five (5) Working Days after the receipt of the draft Correction Plan, provide its comments and suggestions or indicate that the Correction Plan is approved. The Provider shall, within five (5) further Working Days and taking into account such comments and suggestions, prepared an updated Correction Plan for HSE's final Approval. The Correction Plan shall not take effect until HSE has given its final Approval, which shall not be unreasonably withheld or delayed.
- 17.5.4 The Provider shall comply with its Correction Plan following its approval by HSE.
- 17.6 *End of Transition Period*
- 17.6.1 The Transition Period shall end when the Provider has complied fully with all the requirements and delivered the Phase 1 Deliverables set out in the Transition Plan in accordance with the Transition Plan to the approval of HSE, such approval not to be unreasonably withheld.
- 17.7 [Not used]
- 17.8 *Consequences of failure to comply with Transition Plan*
- 17.8.1 If the Provider has failed to comply with the provisions of the Transition Plan such that it will be unable to provide the Services in accordance with the Service Levels from the Services Start Date, HSE shall require the Provider to undertake such parts of the Services as HSE may specify by notice in writing and to formulate a further plan for the delivery of those parts of the Services not so specified, such plan to include provisions requiring the Provider to:
- 17.8.1(a) devote such additional resources as may be necessary, such additional resources to be at the Provider's risk and expense; and
  - 17.8.1(b) to ensure the Provider is able to commence full provision of the Services as soon as possible after the Services Start Date.
- 17.8.2 The exercise by HSE of its rights under Clause 17.8.1 shall not:
- 17.8.2(a) to any extent relieve the Provider of its obligation to meet the Service Levels or of any other liability or obligation under this Agreement; or
  - 17.8.2(b) entitle it to any sum by way of increased Charges.
- 17.8.3 Without prejudice to Clauses 17.4 and 17.5 the Provider shall, in respect of delays to the milestone entitled Phase 1 – Solution 'live' (as more fully described in Schedule 17 (Transition Plan)), be liable to pay Liquidated Damages calculated in accordance with paragraph 17.8.4.
- 17.8.4 The Provider's liability for such Liquidated Damages shall in no event exceed' in total ("**Liquidated Damages Cap**").

- 17.8.5 With reference to the completion date for the Phase 1 – Solution ‘live’ milestone, as set out in Schedule 17 (Transition Plan), in the event that the Provider fails to achieve such milestone by the date falling:
- 17.8.5(a) two months after such completion date, the Provider shall be liable to pay Liquidated Damages of 10% of the Liquidated Damages Cap;
  - 17.8.5(b) three months after such completion date, the Provider shall be liable to pay further Liquidated Damages of 15% of the Liquidated Damages Cap;
  - 17.8.5(c) four months after such completion date, the Provider shall be liable to pay further Liquidated Damages of 25% of the Liquidated Damages Cap; and
  - 17.8.5(d) five months after such completion date the Provider shall be liable to pay further Liquidated Damages of 50% of the Liquidated Damages Cap.
- 17.8.6 Such Liquidated Damages shall:
- 17.8.6(a) be HSE’s sole and exclusive financial remedy in the event of any delay to such milestone, save to the extent of any loss incurred by HSE after the dates falling five months after such completion date as a result of such delay; and
  - 17.8.6(b) be paid to Funds for Distribution, unless HSE directs otherwise.

## **CHARGES AND VALUE FOR MONEY**

### **18. Charges**

- 18.1 In consideration of providing the Concession Services in accordance with this Agreement the Provider shall, subject to having complied with Clause 15 (Conditions Precedent) be entitled from the Renewal Fee Collection Start Date to levy the Charges in accordance with Schedule 4 (Charges).
- 18.2 For the avoidance of doubt, the Provider shall not increase the Charges beyond those set out in Schedule 4 (Charges) or levy any additional charges or fees, except by way of indexation in accordance with that Schedule (in the case of increase to the Charges) or following the Change Control Procedure.
- 18.3 Each Contract Year, HSE shall have the right to require the Provider to reduce the Charges provided that any such a reduction is fully funded by way of a subsidy in accordance with paragraph 4.3.5(c) of Schedule 5 (Financial Model and Gain Share).

### **19. Value for money**

- 19.1 The Parties shall comply with their respective responsibilities under Schedule 5 (Financial Model and Gain Share).

### **20. Set-off**

- 20.1 If any sum of money shall be due from the Provider to HSE, the same may be deducted from any sum then due or which at any time thereafter may become due to the Provider under this Agreement or any agreement with HSE.

## **CONTRACT MANAGEMENT**

### **21. Contract management**

- 21.1 The Parties shall manage this Agreement through the governance arrangements as set out in Schedule 10 (Governance and Contract Management).

### **22. Notices**

- 22.1 Except as otherwise expressly provided in this Agreement, no notice or other communication from one Party to the other shall have any validity under this Agreement unless made in writing by or on behalf of the Party concerned.

- 22.2 Any notice or other communication which is to be given by a Party to the other shall be given by letter delivered by personal delivery or sent by first-class post or electronic mail. Such notices or communications shall be addressed to the other Party in the manner referred to in Clause 22.3.

- 22.3 For the purposes of Clause 22.2, the address of each Party shall be as follows:

22.3.1 for HSE:

Redgrave Court

Merton Road

Bootle

Merseyside L20 7HS

Email:

For the attention of: Gas Safe Register Contract Manager

22.3.2 for Provider:

Capita Gas Registration and Ancillary Services Limited

Viables 3, Viables Business Park

Jays Close

Basingstoke

Hampshire

RG22 4BS

Email:

For the attention of: Managing Director, Gas safe Register

- 22.4 Each Party may change the addresses and other contact details for itself listed in Clause 22.3 by providing written notice in accordance with Clause 22.2 to the other Party.

- 22.5 Any correctly addressed notice to be given under this Clause 22 shall be deemed to be received:

- 22.5.1 If delivered in person, at time of receipt evidenced by signature of a delivery receipt;
- 22.5.2 if sent by email, when sent unless an error message is received; or
- 22.5.3 if sent by first-class post, on the third (3rd) Working Day after posting.

## **23. Inspection and access**

- 23.1 The Provider shall allow during normal business hours and on the giving of reasonable notice access by HSE or its representatives, agents or nominees to those Sites, Equipment, systems and information used by the Provider in the running and administration of the Services for the purposes of inspecting the operations relating to the Services and ensuring the Provider's compliance with this Agreement.

## **24. Audit**

- 24.1 The Provider shall keep (or cause to be kept) and maintain (or cause to be maintained) for a minimum of six (6) years following the termination or expiry of this Agreement full and accurate records (the "Records") in relation to the Services performed in connection with this Agreement.
- 24.2 HSE (or HSE's auditors and their respective authorised agents, as applicable) may once during each year of the Term and at least once in the six (6) years following the expiry or earlier termination of this Agreement, have the right on reasonable prior written notice (save where the giving of such notice would be incompatible with the purpose of the audit) of reasonable access to the Records (including a right to make copies thereof at cost) and to any Sites and Equipment, to conduct an audit of the Provider (and the Provider shall provide all reasonable assistance in connection therewith) for any or all of the following purposes:
  - 24.2.1 in connection with any audit and certification of HSE's accounts;
  - 24.2.2 to verify the accuracy and completeness of any information supplied by the Provider to HSE under this Agreement;
  - 24.2.3 to audit the Provider's quality management and information security systems;
  - 24.2.4 to carry out an audit of the Provider's compliance with this Agreement;
  - 24.2.5 to carry out an audit of all activities, security and integrity in connection with the provision of the Services; and
  - 24.2.6 to carry out any other audit that may be required by HSE or any regulatory body.
- 24.3 The Provider shall bear its own costs of any audit or inspection under Clause 24.2 unless any audit reveals a breach of this Agreement, in which case the Provider shall bear its own and HSE's costs and reasonable expenses incurred with such audit.
- 24.4 HSE shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Provider in the performance of its obligations under this Agreement or in its daily operations in the normal course of business.

## **25. Reporting**

- 25.1 The Provider shall report to HSE on the operation and provision of the Services in accordance with Schedule 11 (Management Information, Reporting and Records) and the provisions of this Clause 25 (Reporting).
- 25.2 The Provider shall supply HSE with a mid-Contract Year update including where required a presentation and an annual report in such form as is agreed between HSE and the Provider in accordance with Schedule 10 (Governance and Contract Management).
- 25.3 The Provider shall annually at the end of each Contract Year (or otherwise at the direction of HSE) provide HSE with true and complete accounts concerning the provision of the Services and the revenues relating thereto, such accounts to be:
- 25.3.1 in writing; and
- 25.3.2 signed by a director of the Provider, or if no such person is appointed, by the chief financial officer or equivalent officer of the Provider.
- 25.4 The Provider shall annually at the end of each Contract Year (or otherwise at the direction of HSE) provide HSE with true and complete accounts concerning the provision of the Additional Services or New Additional Services, and the revenues relating thereto, such accounts to:
- 25.4.1 be in writing;
- 25.4.2 be signed by a director of the Provider, by the chief financial officer or equivalent officer of the Provider;
- 25.4.3 clearly indicate the effect that such revenues have, will or are expected to have, on the Concession Charges; and
- 25.4.4 clearly indicate what proportion and level of such revenues the Provider proposes to retain in accordance with Schedule 5 (Financial Model and Gain Share).
- 25.5 The Provider shall upon request supply HSE within a reasonable period of time a copy of any Registration Data.
- 25.6 The Provider shall during the term provide HSE with a copy of all audited accounts of the Provider within one month of publication.

## **26. Change Control Procedure**

- 26.1 Any changes to the Services supplied by the Provider, this Agreement, the Service Levels or any requirement for the provision of Additional Services or Ancillary Services shall be implemented through the Change Control Procedure.
- 26.2 The Provider shall not begin performing any change to the Services until the Changes relating to the same are approved by HSE in writing in accordance with Schedule 6 (Change Control Procedure).
- 26.3 The Provider acknowledges and agrees that the Services and their method of delivery (provided that such does not adversely affect the Service Levels or the Charges) may evolve and be supplemented and enhanced over time to keep pace with technological advancements and improvements in methods of delivering services, and that such evolution, supplementation and improvement of the Services over time will not be subject to Schedule 6 (Change Control Procedure) or result in an amendment (save for a downward amendment) to the Charges unless agreed with HSE in accordance with the Change Control Procedure.

- 26.4 If the Provider does not agree a Change Control Note in accordance with the Change Control Procedure the Dispute Resolution Procedure shall apply.
- 26.5 The Provider shall neither be relieved of its obligations to supply the Services in accordance with the terms of this Agreement nor be entitled to an increase in the Charges as the result of:
- 26.5.1 a General Change in Law; or
- 26.5.2 a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Effective Date.
- 26.6 If a Specific Change in Law occurs or will occur during the Term (other than those referred to in Clause 26.5), the Provider shall:
- 26.6.1 notify HSE as soon as reasonably practicable of the likely effects of that change, including:
- 26.6.1(a) whether any Change is required to the Services, the Charges or this Agreement; and
- 26.6.1(b) whether any relief from compliance with the Provider's obligations is required, including any obligation to meet the Service Levels at any time; and
- 26.6.2 provide, to HSE's reasonable satisfaction, evidence:
- 26.6.2(a) that the Provider has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors;
- 26.6.2(b) as to how the Specific Change in Law has affected the cost of providing the Services; and
- 26.6.2(c) demonstrating any expenditure that has been avoided.
- 26.7 Subject to Clause 26.6, the Provider shall be entitled to a change in the Charges and/or relief from the Provider's obligations resulting from a Specific Change in Law (other than as referred to in Clause 26.5.2) which shall be implemented in accordance with the Change Control Procedure.

## **27. HSE Policies**

- 27.1 The Provider shall comply with the Policies when performing the Services and shall ensure that all Provider Personnel responsible for or involved in performing the Services are aware of the Policies and comply with the same when performing the Services.
- 27.2 The Policies listed in Schedule 7 (Policies) shall apply in their entirety unless the Parties acting reasonably agree in writing within ninety (90) days following the Effective Date that any of them are not relevant to the Services.

## **28. Dispute Resolution**

- 28.1 The Parties shall resolve Disputes arising out of or in connection with this Agreement in accordance with the Dispute Resolution Procedure as set in Schedule 19 (Dispute Resolution).
- 28.2 The Provider shall continue to provide the Services in accordance with the terms of this Agreement until a Dispute has been resolved.

## 29. Provider Personnel and Supply Chain Matters

### 29.1 *Assignment or novation of agreements from Previous Provider*

29.1.1 The Provider shall be responsible for obtaining the novation or assignment or rights to use of all relevant third-party contracts from the Previous Provider, including those set out in Schedule 13 (Third-Party Contracts), to enable the Provider to perform the Services during the Term. Upon request, the Provider shall advise HSE of all requirements for consents in relation to such transfers.

### 29.2 *Key Personnel*

29.2.1 Schedule 14 (Key Personnel) lists the key roles ("**Key Roles**") and names of the persons who the Provider shall appoint to fill those Key Roles at the Effective Date.

29.2.2 The Provider shall ensure that the Key Personnel fulfil the Key Roles at all times during the Term.

29.2.3 HSE may identify any further roles as being Key Roles and, following agreement to the same by the Provider, the relevant person selected to fill those Key Roles shall be included on the list of Key Personnel.

29.2.4 The Provider shall not remove or replace any Key Personnel (including when carrying out its obligations under Schedule 12 (Exit Management)) unless:

29.2.4(a) requested to do so by HSE;

29.2.4(b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave;

29.2.4(c) the person's employment or contractual arrangement with the Provider or a Sub-Contractor is terminated for material breach of contract by the employee; or

29.2.4(d) the Provider obtains HSE's prior written consent (such consent not to be unreasonably withheld or delayed).

29.2.5 The Provider shall:

29.2.5(a) notify HSE promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Provider shall ensure appropriate temporary cover for that Key Role);

29.2.5(b) ensure that any Key Role is not vacant for any longer than ten (10) Working Days;

29.2.5(c) give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel's employment contract, this will mean at least three (3) Months' notice;

29.2.5(d) ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Services; and

- 29.2.5(e) ensure that any replacement for a Key Role:
    - 29.2.5(e)(i) has a level of qualifications and experience appropriate to the relevant Key Role; and
    - 29.2.5(e)(ii) is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.
  - 29.2.5(f) and shall procure that any Sub-Contractor shall not remove or replace any Key Personnel during the Term without Approval.
  - 29.2.6 HSE may require the Provider to remove any Key Personnel that HSE considers in any respect unsatisfactory. HSE shall not be liable for the cost of replacing any Key Personnel in any circumstances.
- 29.3 *Provider Personnel*
- 29.3.1 The Provider shall:
    - 29.3.1(a) provide a list of the names of all Provider Personnel requiring admission to HSE Premises, specifying the capacity in which they require admission and giving such other particulars as HSE may reasonably require;
    - 29.3.1(b) ensure that all Provider Personnel:
      - 29.3.1(b)(i) are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;
      - 29.3.1(b)(ii) are vetted in accordance with Good Industry Practice and, where applicable, the Security Policy and the standards referred to in Table 1 of Schedule 20;
      - 29.3.1(b)(iii) obey all lawful instructions and reasonable directions of HSE (including, if so required by HSE, the ICT Policy) and provide the Services to the reasonable satisfaction of HSE; and
      - 29.3.1(b)(iv) comply with all reasonable requirements of HSE concerning conduct at the HSE Premises, including the security requirements set out in Schedule 21 (Security Requirements and Plan);
    - 29.3.1(c) subject to Schedule 9 (Staff Transfer), retain overall control of the Provider Personnel at all times so that the Provider Personnel shall not be deemed to be employees, agents or contractors of HSE;
    - 29.3.1(d) be liable at all times for all acts or omissions of Provider Personnel, so that any act or omission of a member of any Provider Personnel which results in a Default under this Agreement shall be a Default by the Provider;
    - 29.3.1(e) use all reasonable endeavours to minimise the number of changes in Provider Personnel;
    - 29.3.1(f) replace (temporarily or permanently, as appropriate) any Provider Personnel as soon as practicable if any Provider Personnel have been removed or are unavailable for any reason whatsoever;

- 29.3.1(g) bear the programme familiarisation and other costs associated with any replacement of any Provider Personnel; and
  - 29.3.1(h) procure that the Provider Personnel shall vacate HSE Premises immediately upon the Expiry Date or upon termination of this agreement (if applicable).
  - 29.3.2 If HSE reasonably believes that any of the Provider Personnel are unsuitable to undertake work in respect of this Agreement, it may:
    - 29.3.2(a) refuse admission to the relevant person(s) to HSE Premises (if applicable); and/or
    - 29.3.2(b) direct the Provider to end the involvement in the provision of the Services of the relevant person(s).
  - 29.3.3 The decision of HSE as to whether any person is to be refused access to the HSE Premises shall be final and conclusive.
- 29.4 *Appointment of Sub-Contractors*
- 29.4.1 The Provider shall exercise due skill and care in the selection of any Sub-Contractors to ensure that the Provider is able to:
    - 29.4.1(a) manage any Sub-Contractors in accordance with Good Industry Practice;
    - 29.4.1(b) comply with its obligations under this Agreement in the delivery of the Concession Services; and
    - 29.4.1(c) assign, novate or otherwise transfer to HSE or any Replacement Provider any of its rights and/or obligations under each Sub-Contract that relates exclusively to this Agreement.
  - 29.4.2 Prior to sub-contracting any of its obligations under this Agreement, the Provider shall notify HSE and provide HSE with:
    - 29.4.2(a) the proposed Sub-Contractor's name, registered office and company registration number;
    - 29.4.2(b) the scope of any Services to be provided by the proposed Sub-Contractor;
    - 29.4.2(c) where the proposed Sub-Contractor is an Affiliate of the Provider, evidence that demonstrates to the reasonable satisfaction of HSE that the proposed Sub-Contract has been agreed on "arm's-length" terms.
  - 29.4.3 If requested by HSE within ten (10) Working Days of receipt of the Provider's notice issued pursuant to Clause 29.4.2, the Provider shall also provide:
    - 29.4.3(a) a copy of the proposed Sub-Contract; and
    - 29.4.3(b) any further information reasonably requested by HSE.
  - 29.4.4 HSE may, within ten (10) Working Days of receipt of the Provider's notice issued pursuant to Clause 29.4.2 (or, if later, receipt of any further information requested pursuant to Clause 29.4.3), object to the appointment of the relevant Sub-Contractor if they consider that:
    - 29.4.4(a) the appointment of a proposed Sub-Contractor may prejudice the provision of the Services or may be contrary to the interests of HSE under this Agreement;

29.4.4(b) the proposed Sub-Contractor is unreliable and/or has not provided reliable goods and/or reasonable services to its other customers; and/or

29.4.4(c) the proposed Sub-Contractor employs unfit persons, in which case, the Provider shall not proceed with the proposed appointment.

29.4.5 If:

29.4.5(a) HSE has not notified the Provider that it objects to the proposed Sub-Contractor's appointment by the later of ten (10) Working Days of receipt of:

29.4.5(a)(i) the Provider's notice issued pursuant to Clause 29.4.2; and

29.4.5(a)(ii) any further information requested by HSE pursuant to Clause 29.4.3; and

29.4.5(b) the proposed Sub-Contract is not a Key Sub-Contract which shall require the written consent of HSE in accordance with Clause 29.5 (Appointment of Key Sub-Contractors),

the Provider may proceed with the appointment.

## 29.5 *Appointment of Key Sub-Contractors*

29.5.1 HSE has consented to the engagement of the Key Sub-Contractors listed in Schedule 13 (Third Party Contracts).

29.5.2 Where the Provider wishes to enter into a new Key Sub-Contract or replace a Key Sub-Contractor, it must obtain the prior written consent of HSE (the decision to consent or otherwise not to be unreasonably withheld or delayed). HSE may reasonably withhold its consent to the appointment of a Key Sub-Contractor inter alia if it considers that:

29.5.2(a) the appointment of a proposed Key Sub-Contractor may prejudice the provision of the Services or may be contrary to its interests;

29.5.2(b) the proposed Key Sub-Contractor is unreliable and/or has not provided reasonable services to its other customers; and/or

29.5.2(c) the proposed Key Sub-Contractor employs unfit persons.

29.5.3 The Provider shall ensure that each Key Sub-Contract shall include:

29.5.3(a) provisions which will enable the Provider to discharge its obligations under this Agreement;

29.5.3(b) a right under Contracts (Rights of Third Parties) Act 1999 for HSE to enforce any provisions under the Key Sub-Contract which confer a benefit upon HSE;

29.5.3(c) a provision enabling HSE to enforce the Key Sub-Contract as if it were the Provider;

29.5.3(d) a provision enabling the Provider to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to HSE or any Replacement Provider;

- 29.5.3(e) obligations no less onerous on the Key Sub-Contractor than those imposed on the Provider under this Agreement in respect of:
  - 29.5.3(e)(i) data protection requirements set out in Clause 32 (Data protection) and Clause 37 (Security Requirements);
  - 29.5.3(e)(ii) FOIA requirements set out in Clause 33 (Freedom of information);
  - 29.5.3(e)(iii) the keeping of records in respect of the Services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
  - 29.5.3(e)(iv) the conduct of audits set out in Clause 24 (Audit);
- 29.5.3(f) provisions enabling the Provider to terminate the Key Sub-Contract on notice on terms no more onerous on the Provider than those imposed on HSE under Clause 41 (Termination and Exit Management).
- 29.5.3(g) a provision restricting the ability of the Key Sub-Contractor to sub-contract all or any part of the provision of the Services provided to the Provider under the Sub-Contract without first seeking the written consent of HSE;
- 29.5.3(h) a provision, where a provision in Schedule 9 (Staff Transfer) imposes an obligation on the Provider to provide an indemnity, undertaking or warranty, requiring the Key Sub-Contractor to provide such indemnity, undertaking or warranty to HSE, Previous Provider or the Replacement Provider as the case may be.

## 29.6 *Supply Chain Protection*

- 29.6.1 The Provider shall ensure that all Sub-Contracts contain a provision:
  - 29.6.1(a) requiring the Provider to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a valid and undisputed invoice;
  - 29.6.1(b) requiring that any invoices submitted by a Sub-Contractor shall be considered and verified by the Provider in a timely fashion and that undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed;
  - 29.6.1(c) conferring a right to HSE to publish the Provider's compliance with its obligation to pay undisputed invoices to the Sub-Contractor within the specified payment period;
  - 29.6.1(d) giving the Provider a right to terminate the Sub-Contract if the Sub-Contractor fails to comply in the performance of the Sub-Contract with legal obligations in the fields of environmental, social or labour law; and
  - 29.6.1(e) requiring the Sub-Contractor to include in any sub-contract which it in turn awards suitable provisions to impose, as between the

parties to that sub-contract, requirements to the same effect as those required by this Clause 29.6.1.

29.6.2 The Provider shall:

29.6.2(a) pay any undisputed sums which are due from it to a Sub-Contractor within thirty (30) days from the receipt of a valid Invoice;

29.6.2(b) include within the reports required pursuant to Clause 25 (Reporting) a summary of its compliance with Clause 29.6.2(a), such data to be certified each quarter by a director of the Provider as being accurate and not misleading.

29.6.3 Any invoices submitted by a Sub-Contractor to the Provider shall be considered and verified by the Provider in a timely fashion. Undue delay in doing so shall not be sufficient justification for the Provider failing to regard an invoice as valid and undisputed.

29.6.4 Notwithstanding any provision of Clauses 30.6 (Brand) and 31 (Confidentiality) if the Sub-Contractor notifies HSE that the Provider has failed to pay a valid and undisputed Sub-Contractor's invoice within thirty (30) days of receipt, or HSE otherwise discovers the same, HSE shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

29.7 *Termination of Subcontracts*

29.7.1 HSE may require the Provider to terminate:

29.7.1(a) a Sub-Contract where:

29.7.1(a)(i) the acts or omissions of the relevant Sub-Contractor have given rise to HSE's right of termination pursuant to Clause 41 (Termination);

29.7.1(a)(ii) the relevant Sub-Contractor or its Affiliates have embarrassed HSE or otherwise brought HSE into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in HSE, regardless of whether or not such act or omission is related to the Sub-Contractor's obligations in relation to the Services or otherwise; and/or

29.7.1(b) a Key Sub-Contract where there is a Change of Control of the relevant Key Sub-Contractor, unless:

29.7.1(b)(i) HSE has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or

29.7.1(b)(ii) HSE has not served its notice of objection within six (6) months of the later of the date the Change of Control took place or the date on which HSE was given notice of the Change of Control.

29.7.2 The Provider shall at all times during and after the Term indemnify and keep indemnified HSE against all Losses incurred by awarded against or agreed to be paid by HSE arising out of or in connection with any claim made by a

Sub-Contractor or Key Sub-Contractor arising out of or in connection with the exercise by HSE of its rights under this Clause 29.7.

#### 29.8 *Retention of Legal Obligations*

- 29.8.1 Notwithstanding the Provider's right to subcontract pursuant to this Clause 29, the Provider shall be and remain responsible for all acts and omissions of its Sub-Contractor and the acts and omissions of those employed or engaged by the Sub-Contractor as if they were its own.
- 29.8.2 An obligation on the Provider to do, or to refrain from doing, any act or thing shall include an obligation upon the Provider to procure that its Provider Personnel its Sub-Contractor, and its Sub-Contractor's employees, staff and agents also do, or refrain from doing, such act or thing.

### **INFORMATION AND DATA**

## **30. Intellectual Property and Brand Marketing**

### 30.1 *General Provisions*

- 30.1.1 Except as expressly set out in this Agreement:
- 30.1.1(a) HSE shall not acquire any right, title or interest in or to the Provider IPRs or the IPRs of the Provider's licensors;
  - 30.1.1(b) The Provider shall not acquire any right, title or interest in or to the HSE Background IPRs or the IPRs of HSE's licensors;
  - 30.1.1(c) The Provider shall ensure that all Services Specific IPRs, and internet domain names it owns, controls or has registered pursuant to its obligations under this Agreement together with all documents and other materials (including software) to which such Services Specific IPRs relate are capable of being transferred and delivered to HSE or the Replacement Provider (as required), and shall transfer and deliver or procure the transfer and delivery of the same to HSE or as HSE shall direct upon the expiry (or earlier termination) of this Agreement;
  - 30.1.1(d) In the absence of prior written agreement by HSE to the contrary, all Developed IPRs shall vest in HSE on creation. The Provider shall transfer and deliver (or shall procure the transfer and delivery) of all documents and other materials (including software) to which any Developed IPR relates to HSE or as HSE shall direct on demand or upon the expiry (or earlier termination) of this Agreement.

### 30.2 *Third-Party IPRs*

- 30.2.1 The Provider hereby warrants that the use of any Third-Party IPRs in the provision of the Services will not infringe the rights of any third party during the Term.
- 30.2.2 The Provider shall use reasonable endeavours to procure that upon the expiry or earlier termination of this Agreement any Third-Party IPRs will be capable of being licensed to HSE or any Replacement Provider to use in substantially the same manner as such IPRs are used by the Provider on commercially reasonable terms.

### 30.3 *Provider IPRs*

#### 30.3.1 The Provider hereby warrants that:

- 30.3.1(a) It or a member of the Provider's Group is the sole proprietor of the Provider IPRs upon the Effective Date;
- 30.3.1(b) It or a member of the Provider's Group will not, during the Term, cease to be the sole proprietor of the Provider IPRs;
- 30.3.1(c) It or a member of the Provider's Group will be the sole proprietor of any developments of or adaptations to the Provider IPRs during the term;
- 30.3.1(d) Where the Provider is the sole proprietor of a Provider IPR, it will not assign or otherwise transfer any rights in that Provider IPR to a member of the Provider's Group without HSE's prior express written permission, which shall not be unreasonably withheld or delayed (and the Provider shall ensure that where the Provider IPR is owned by a member of the Provider's Group the Provider shall have and continue to have throughout the Term such licence (on terms no less advantageous to the Provider than an arm's length commercial licence) to use it as shall enable it to comply with its obligations under this Agreement); and
- 30.3.1(e) The Provider IPRs are not subject to any third-party rights and the Provider or a member of the Provider's Group will not grant any third-party any rights over the Provider IPRs which may affect:
  - 30.3.1(e)(i) the ability of the Provider to perform the Services; or
  - 30.3.1(e)(ii) the ability of the Provider to grant a licence of the Provider IPRs in accordance with Clause 30.3.2 upon the expiry or earlier termination of this Agreement.

30.3.2 The Provider shall upon the expiry or earlier termination of this Agreement at HSE's request grant or procure the grant to HSE or any Replacement Provider on commercially reasonable terms a non-exclusive licence to use the Provider IPRs or any part thereof in substantially the same manner as such IPRs are used by the Provider in respect of services which are substantially the same as and replace the Services.

30.4 [Not used]

30.5 [Not used]

### 30.6 *Brand*

30.6.1 HSE's permission to the Provider to use the Brand under licence, and at no charge, during the Term for the purposes of providing the Services is subject to the Provider complying with the terms of this Clause 30.6.

30.6.2 The Provider shall ensure that the Brand is appropriately marketed and protected to ensure that:

- 30.6.2(a) the identity of the Register and the Brand is well known to Consumers, Businesses and Engineers;

- 30.6.2(b) the Brand is kept separate from any branding of the Provider and is not associated with any other good or service in the gas sector; and
  - 30.6.2(c) neither the Brand (nor the use of the Brand) brings either Party into disrepute.
  - 30.6.3 Where HSE becomes aware of any occasion where the circumstances referred to in Clause 30.6.2(b) or 30.6.2(c) exist, or of any third-party infringement of the Brand (including passing-off) or of any of the IPRs in the Brand (collectively, a "Brand Infringement"), it shall immediately inform the Provider of the same.
  - 30.6.4 Where the Provider becomes aware of a Brand Infringement it shall immediately notify HSE of the same.
  - 30.6.5 On being notified or becoming aware of a Brand Infringement the Provider shall take all appropriate steps to ensure that the Brand Infringement ceases as soon as is reasonably possible. The Provider shall not however institute legal proceedings against any third party in respect of any Brand Infringement by any third party without first obtaining written permission from HSE.
  - 30.6.6 All copyrights, trademarks, and other Intellectual Property consisting of or associated with the Gas Safe Register Brand, together with promotional materials developed by the Provider to promote the Brand shall remain owned by HSE. HSE may use the brand at any time and for any purpose whatsoever related to the Register or not.
- 30.7 *Third-Party Claims*
- 30.7.1 HSE shall notify the Provider, and the Provider shall notify HSE, immediately in writing of any IPR Claim.
  - 30.7.2 The Provider shall conduct all negotiations and any litigation arising in connection with any such IPR Claim, provided always that the Provider shall:
    - 30.7.2(a) consult and accept the direction of HSE on all substantive issues which arise during the conduct of such litigation and negotiations;
    - 30.7.2(b) take due and proper account of the interests of HSE; and
    - 30.7.2(c) not offer, settle or compromise any IPR Claim without HSE's prior written consent, such consent not to be unreasonably withheld or delayed.
  - 30.7.3 HSE shall at the request of the Provider afford to the Provider all reasonable assistance for the purpose of contesting or conducting any IPR Claim or any other claim or demand made or action brought against or by the Provider for infringement or alleged infringement of IPRs in connection with the performance of this Agreement.
  - 30.7.4 Neither the Provider nor HSE shall make any admissions which may be prejudicial to the conduct, defence or settlement of any IPR Claim.
  - 30.7.5 If any IPR Claim is made or in the reasonable opinion of the Provider is likely to be made, the Provider may at its own expense and subject to the consent of HSE, modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality so as to avoid the infringement or

the alleged infringement, provided that the terms of this Agreement shall apply with necessary changes to such modified Services or to the substituted services.

### 30.8 *Appointment of counsel, etc*

30.8.1 Where any proceedings, actions or claims are issued or defended under this Clause 30 the Provider shall (and shall procure that any counsel or other advisers and agents shall) provide such information, and report in relation to such proceedings, as HSE may require from time to time and shall allow HSE full access to all documents and data relating to such proceedings, actions or claims in its possession or control.

### 30.9 *IP Register*

30.9.1 The Provider shall establish and maintain a current register ("**IP Register**") (in a format specified by HSE) of:

30.9.1(a) all IPRs used by the Provider in performing its obligations under this Agreement (and for the avoidance of doubt this shall include the Developed IPRs and the Services Specific IPRs);

30.9.1(b) all licences and sub-licences of IPRs granted by or to the Provider, including, but not limited to, third-party IPRs used by the Provider; and

30.9.1(c) the status of any assignment, application for registration, application or amendment of any such IPRs.

30.9.2 The Provider shall provide HSE a copy of the up to date IP Register on demand, and every time it is updated.

### 30.10 *Guidelines on Use of Services Specific IPRs, Brand IPRs and Developed IPRs*

30.10.1 The Provider shall:

30.10.1(a) submit for approval by HSE guidelines relating to the use and mode of display of any Services Specific IPRs, Brand IPRs and Developed IPRs and their level of prominence and relationship to other logos and products, and shall comply with all such guidelines as approved by HSE;

30.10.1(b) update such guidelines prior to any new logo or design being used in relation to the Services, and all such updates shall be subject to HSE's approval; and

30.10.1(c) make such amendments to the guidelines or updates submitted to HSE as HSE shall require.

## **31. Confidentiality**

31.1 Both Parties shall:

31.1.1 treat all Confidential Information belonging to the other Party as confidential and safeguard it accordingly;

31.1.2 treat all Confidential Information belonging to the other Party with the same degree of care that it uses for its own Confidential Information;

31.1.3 not disclose any Confidential Information belonging to the other Party to any other person save as provided for under this Agreement; and

- 31.1.4 not use any Confidential Information otherwise than for the purposes of performing their obligations under this Agreement.
- 31.2 The Provider shall ensure that its relevant employees, professional advisers, Sub-Contractors and consultants are aware of the confidentiality obligations under this Clause 31.
- 31.3 The Provider shall take all steps that are necessary to procure compliance with this Clause 31, including ensuring that its employees, professional advisers, Sub-Contractors, consultants (and, where disclosure to them is required and necessary under sub-Clause 31.4.1 (below) companies belonging to the Provider's Group and Sub-Contractors) are aware of the obligations under this Clause 31 and have undertaken to comply with them.
- 31.4 Subject to Clauses 31.5, 31.6, 31.8 and 31.10, the Parties may only use and copy Confidential Information to the extent necessary to:
- 31.4.1 comply with their obligations under this Agreement;
  - 31.4.2 enable the Parties to exercise their rights under this Agreement; or
  - 31.4.3 enable the Parties to comply with any applicable law or regulation.
- 31.5 The provisions of this Clause 31 shall not apply to any Confidential Information of a Party:
- 31.5.1 which is or becomes public knowledge (otherwise than by breach of this Clause 31);
  - 31.5.2 is held by a third party who lawfully acquired it and is under no obligation of confidence;
  - 31.5.3 which was in the possession of that Party without restriction on disclosure before receipt from the Party to whom it belongs;
  - 31.5.4 which is previously or subsequently acquired by a Party from a third party who lawfully acquired it and is under no obligation of confidence;
  - 31.5.5 is independently developed by a Party without access to the Confidential Information;
  - 31.5.6 which is disclosed on a confidential basis for the purposes of obtaining confidential professional advice; or
  - 31.5.7 which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, the EIRs, or as required by any regulatory body or in court proceedings.
- 31.6 Nothing in this Clause 31 shall prevent HSE disclosing any Confidential Information disclosed by the Provider:
- 31.6.1 for the examination and certification of HSE's accounts;
  - 31.6.2 for any examination pursuant to sections 44 and 46 of the Audit Commission Act 1998 of the economy, efficiency and effectiveness with which HSE has used its resources;
  - 31.6.3 to any government department or non-departmental public body;
  - 31.6.4 subject to Clauses 31.8 and 31.9, to any person who has been invited to submit a proposal or tender to provide the Services or services substantially similar to the Services following or in anticipation of the expiry or termination

- of this Agreement or the exercise by HSE of Step-in Rights under Clause 11 or Clause 13; or
- 31.6.5 subject to Clause 31.8, to any person engaged in providing any goods or services to HSE for any purpose relating to, connected with or otherwise ancillary to this Agreement.
- 31.7 All government departments or non-departmental public bodies receiving Confidential Information disclosed under Clause 31.6.3 shall be entitled to further disclose the Confidential Information to other government departments or non-departmental public bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not a government department or a non-departmental public body.
- 31.8 HSE may only disclose Confidential Information under Clause 31.6.4 or 31.6.5 under the following circumstances:
- 31.8.1 HSE discloses only such Confidential Information as is reasonably necessary for the purpose concerned; and
- 31.8.2 HSE requires that:
- 31.8.2(a) the Confidential Information is treated in confidence;
- 31.8.2(b) the Confidential Information is used by the third party to whom it is disclosed only for the purpose of the disclosure and for no other purpose;
- 31.8.2(c) all copies of the Confidential Information provided to that third party are either destroyed or returned to HSE as soon as the purpose allowing the disclosure ends;
- 31.8.2(d) the third party puts in place sufficient systems and procedures to ensure that the Confidential Information is only accessed and used by those authorised to do so; and
- 31.8.2(e) a confidentiality undertaking is given by the person to whom the Confidential Information is disclosed substantially on the same terms as those contained in this Clause 31.8.
- 31.9 HSE may only disclose Confidential Information under Clause 31.6.4 where such disclosure is necessary to obtain value for money for Businesses and Engineers in respect of the services to be provided by a Replacement Provider and shall use reasonable endeavours to consult with the Provider concerning any relevant disclosure prior to it being made.
- 31.10 Nothing in this Clause 31 shall prevent either Party from using or communicating to any third party any techniques, ideas or know-how gained during the performance of this Agreement to the extent that this does not result in a disclosure of Confidential Information (except as allowed under this Clause 31) or an infringement of any IPRs.
- 31.11 In order to ensure compliance with this Clause 31, each Party undertakes to maintain sufficient security processes and systems to ensure that no unauthorised person gains access to any Confidential Information in their possession or control.
- 31.12 In the case of any unauthorised disclosure by a Party of another Party's Confidential Information (an "Unauthorised Disclosure"), the disclosing Party shall:
- 31.12.1 notify the other Party within three (3) Working Days of the discovery of the Unauthorised Disclosure and provide full details (to the best of its knowledge and belief) of the Confidential Information so disclosed;

- 31.12.2 use all reasonable endeavours to recover the Confidential Information, however it may be recorded;
  - 31.12.3 investigate the circumstances of the Unauthorised Disclosure and communicate the findings of such investigation, including any steps it proposes to take to prevent a recurrence of the Unauthorised Disclosure, to the other Party;
  - 31.12.4 co-operate with the other Party in any investigation it undertakes in respect of the Unauthorised Disclosure; and
  - 31.12.5 review and, where necessary, revise its security systems for Confidential Information in light of its own investigation and any investigation conducted by the other Party and communicate details of that revision to the other Party.
- 31.13 Each Party shall keep a record of any Unauthorised Disclosures it has made and make such record available to the other Party.
- 31.14 The Parties acknowledge that each shall be entitled to the remedies of injunction and other equitable relief against the other (in addition to any other rights available under this Agreement or at law) if that other Party breaches or threatens to breach any of its obligations under this Clause 31 (Confidentiality).
- 31.15 The provisions of this Clause 31 shall apply during the Term and indefinitely after the expiry or termination of this Agreement.

## **32. Data protection**

- 32.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, under this agreement HSE is the Controller and the Provider is the Processor in relation to the processing listed in Schedule 24 (Processing, Personal Data and Data Subjects). The only processing that the Provider is authorised by HSE to do is listed in Schedule 24 (Processing, Personal Data and Data Subjects) and may not be determined by the Provider.
- 32.2 The Provider shall notify HSE immediately if it considers that any of HSE's instructions infringe the Data Protection Legislation. The Provider's notification to HSE shall not be considered legal advice.
- 32.3 The Provider shall provide all reasonable assistance to HSE in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of HSE, include:
- 32.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;
  - 32.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - 32.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 32.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 32.4 The Provider shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- 32.4.1 process that Personal Data only in accordance with Schedule 24 (Processing, Personal Data and Data Subjects), unless the Provider is required to do otherwise by Law. If it is so required the Provider shall

- promptly notify HSE before processing the Personal Data unless prohibited by Law;
- 32.4.2 ensure that it has in place Protective Measures, which have been reviewed and approved by HSE as appropriate to protect against a Data Loss Event having taken account of the:
- 32.4.2(a) nature of the data to be protected;
  - 32.4.2(b) harm that might result from a Data Loss Event;
  - 32.4.2(c) state of technological development; and
  - 32.4.2(d) cost of implementing any measures;
- 32.4.3 ensure that:
- 32.4.3(a) the Provider Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 24 (Processing, Personal Data and Data Subjects));
  - 32.4.3(b) it takes all reasonable steps to ensure the reliability and integrity of any Provider Personnel who have access to the Personal Data and ensure that they:
    - 32.4.3(b)(i) are aware of and comply with the Provider's duties under this Clause 32;
    - 32.4.3(b)(ii) are subject to appropriate confidentiality undertakings with the Provider or any Sub-processor;
    - 32.4.3(b)(iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by HSE or as otherwise permitted by this Agreement; and
    - 32.4.3(b)(iv) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- 32.4.4 not transfer Personal Data outside of the EU unless the prior written consent of HSE has been obtained and the following conditions are fulfilled:
- 32.4.4(a) HSE or the Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by HSE;
  - 32.4.4(b) the Data Subject has enforceable rights and effective legal remedies;
  - 32.4.4(c) the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist HSE in meeting its obligations); and
  - 32.4.4(d) the Provider complies with any reasonable instructions notified to it in advance by HSE with respect to the processing of the Personal Data;

- 32.4.5 at the written direction of HSE, delete or return Personal Data (and any copies of it) to HSE on termination of the Agreement unless the Provider is required by Law to retain the Personal Data.
- 32.5 Subject to Clause 32.6, the Provider shall notify HSE:
- 32.5.1 Within two (2) Working Days, if it:
- 32.5.1(a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- 32.5.1(b) receives a request to rectify, block or erase any Personal Data;
- 32.5.1(c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- 32.5.1(d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- 32.5.1(e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- 32.5.2 immediately, if it becomes aware of a Data Loss Event.
- 32.6 The Provider's obligation to notify under Clause 32.5 shall include the provision of further information to HSE in phases, as details become available.
- 32.7 Taking into account the nature of the processing, the Provider shall provide HSE with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 32.5 (and insofar as possible within the timescales reasonably required by HSE) including by promptly providing:
- 32.7.1 HSE with full details and copies of the complaint, communication or request;
- 32.7.2 such assistance as is reasonably requested by HSE to enable HSE to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- 32.7.3 HSE, at its request, with any Personal Data it holds in relation to a Data Subject;
- 32.7.4 assistance as requested by HSE following any Data Loss Event;
- 32.7.5 assistance as requested by HSE with respect to any request from the Information Commissioner's Office, or any consultation by HSE with the Information Commissioner's Office.
- 32.8 The Provider shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Provider employs fewer than 250 staff, unless:
- 32.8.1 HSE determines that the processing is not occasional;
- 32.8.2 HSE determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- 32.8.3 HSE determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

- 32.9 The Provider shall allow for audits of its Data Processing activity by HSE or HSE's designated auditor.
- 32.10 The Provider shall designate a data protection officer if required by the Data Protection Legislation.
- 32.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Provider must:
- 32.11.1 notify HSE in writing of the intended Sub-processor and processing;
  - 32.11.2 obtain the written consent of HSE;
  - 32.11.3 enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Clause 32 such that they apply to the Sub-processor; and
  - 32.11.4 provide HSE with such information regarding the Sub-processor as HSE may reasonably require.
- 32.12 The Provider shall be and remain fully liable for all acts or omissions of any Sub-processor as if they were its own.
- 32.13 The Provider may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 32.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. HSE may on not less than 30 Working Days' notice to the Provider amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

### **33. Freedom of information**

- 33.1 The Provider acknowledges that HSE is subject to the requirements of the FOIA and the EIRs and shall assist and cooperate with HSE to enable HSE to comply with those requirements.
- 33.2 The Parties acknowledge that except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement is not Confidential Information. HSE shall determine whether any of the content of this Agreement is exempt from disclosure in accordance with the provisions of the FOIA. HSE may consult with the Provider to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 33.3 Notwithstanding any other provision of this Agreement, the Provider hereby gives its consent for the Authority to publish to the general public this Agreement in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Agreement agreed from time to time.
- 33.4 The Provider shall assist and co-operate with the Authority to enable the Authority to publish this Agreement.
- 33.5 The Provider shall and shall procure that its Sub-Contractor shall:
- 33.5.1 transfer any Request for Information to HSE as soon as practicable after receipt and in any event within two (2) Working Days of receiving a Request for Information;

- 33.5.2 provide HSE with a copy of all information in its possession, power or control in the form that HSE may require within five (5) Working Days (and shall use commercially reasonable efforts to provide such information within a lesser period if so requested by HSE) of HSE requesting that information;
- 33.5.3 provide all necessary assistance as reasonably requested by HSE to enable HSE to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIRs.
- 33.6 The Provider acknowledges that HSE is responsible for determining at its absolute discretion whether any information provided by the Provider, including any Confidential Information:
  - 33.6.1 is exempt from disclosure in accordance with the provisions of the FOIA or the EIRs; or
  - 33.6.2 is to be disclosed in response to a Request for Information.
- 33.7 On no occasion shall the Provider or any Sub-Contractor respond directly to a Request for Information unless expressly authorised to do so by HSE in writing.
- 33.8 The Provider acknowledges that HSE may, acting in accordance with the Minister for Cabinet Office's Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the EIRs to disclose information:
  - 33.8.1 without consulting the Provider; or
  - 33.8.2 following consultation with the Provider and having taken its views into account.
- 33.9 Subject to Clauses 33.6 and 33.8, HSE shall use reasonable endeavours to consult with the Provider before disclosing under FOIA or EIR any Information provided to HSE by the Provider.

## **HSE AND PROVIDER PROTECTIONS**

### **34. Representations, warranties and indemnities**

- 34.1 *Undertakings, Representations and Warranties by Provider*
  - 34.1.1 The Provider undertakes, represents and warrants to HSE that:
    - 34.1.1(a) the Provider has, and shall at all relevant times have, the requisite power, capacity and authority, and all necessary licences, permits and consents to enter into this Agreement and to perform the obligations contemplated herein.
    - 34.1.1(b) the Services shall be performed in compliance with this Agreement;
    - 34.1.1(c) all obligations shall be performed by appropriately qualified and experienced staff and discharged with all due care, skill and diligence and in accordance with Schedule 7 (Policies);
    - 34.1.1(d) adequate numbers of appropriately qualified individuals will be used to perform the Services, including as may be required by law, regulation or the Policies;
    - 34.1.1(e) the Provider shall perform its obligations under this Agreement in a manner that complies with all applicable law and regulations,

- and shall notify HSE immediately if it becomes aware of any non-compliance with any applicable law, regulation;
- 34.1.1(f) there are no actions, suits, proceedings or regulatory investigations pending, or to its knowledge, threatened against or affecting the Provider before any court or administrative body or arbitration tribunal that might affect the ability of the Provider to meet and carry out its obligations under this Agreement;
- 34.1.1(g) the Provider's execution, delivery and performance of this Agreement shall not:
- 34.1.1(g)(i) constitute a violation of any law and/or regulation by which Provider is bound, or of any judgment, order or decree of any court or governmental agency to which the Provider is a party, or by which the Provider is bound;
  - 34.1.1(g)(ii) constitute a violation, breach or default under any contract by which the Provider or any of its assets (whether tangible or intangible) are bound (whether by charge, pledge, lien or otherwise); or
  - 34.1.1(g)(iii) result in the termination, cancellation or acceleration (whether after the giving of notice, passage of time, or both) of any contract by which the Provider or any of its assets (whether tangible or intangible) are bound (whether by charge, pledge, lien or otherwise);
- 34.1.1(h) transactions between the Provider and any other entities within the Provider's parent company's (or ultimate parent company's) Control entered into during the Term shall be made on arm's-length terms equivalent to terms which would have been obtained had that transaction taken place on the open market;
- 34.1.1(i) none of the events referred to in Clause 41.2 (Termination on Insolvency) is in effect in relation to the Provider as at the Effective Date;
- 34.1.1(j) the Provider is not aware, as at the Effective Date, of any matter or thing which will or might adversely affect its ability to fulfil its obligations under this Agreement;
- 34.1.1(k) the Provider has not violated any applicable law or any applicable regulation, or any Policy notified to the Provider regarding the offering of inducements in connection with this Agreement;
- 34.1.1(l) the Provider has no conflict of interest in relation to this Agreement;
- 34.1.1(m) the Provider has no ownership or active interest in any gas installation business which is required under any applicable law or regulation to register with a registration scheme approved by HSE;
- 34.1.1(n) the Provider shall perform and deliver the Concession Services in an efficient manner that does not impose any burden beyond

that reasonably necessary for the provision of the Concession Services to Businesses and/or Engineers;

- 34.1.1(o) the Provider shall maintain during the Term appropriate insurance against any losses or damages arising from the Provider's performance of this Agreement, in accordance with the provisions of Clause 36 (Insurance), evidence of which shall be provided to HSE upon request;
- 34.1.1(p) the Provider shall act at all times with probity and in accordance with core public sector values of fairness, honesty and openness, efficiency, effectiveness and professionalism;
- 34.1.1(q) the Provider has, and shall at all relevant times have, all necessary rights in IPR used by the Provider to perform the Provider's obligations under this Agreement;
- 34.1.1(r) the Provider's performance of its obligations under this Agreement will not infringe any third party IPR; and
- 34.1.1(s) the Provider's use of the Brand under this Agreement does not and will not constitute an infringement of any third-party IPR.

#### 34.2 *Provider's Exit Warranties*

34.2.1 The Provider represents and warrants to HSE that:

- 34.2.1(a) the Processes and Procedures Register shall at all times during the Term be true, correct and complete in all material respects; and
- 34.2.1(b) the Replacement Provider will be able to provide the Services (including the operation of the Registration Scheme), using adequate numbers of appropriately skilled and experienced staff using all due care, skill and diligence, by following the Processes and Procedures Register.

#### 34.3 *Provider's Indemnities*

34.3.1 In relation to this Agreement, the Provider shall, at all times during and after the Term, indemnify HSE and keep HSE indemnified against all Losses incurred by, awarded against or agreed to be paid by HSE arising from or in connection with:

- 34.3.1(a) any claim that the use of the Brand by the Provider or HSE in connection with the Concession Services or for the purpose of domestic gas safety infringes the IPRs of any third party;
- 34.3.1(b) any claim, action or demand by any third party arising out of or in connection with any Additional Service, except insofar as such claim, action or demand arises out of a negligent act or omission to act by HSE;
- 34.3.1(c) death or bodily injury caused by a negligent act or omission of the Provider or the Provider's Sub-Contractor;
- 34.3.1(d) fraudulent or dishonest acts of the Provider;
- 34.3.1(e) any breach by the Provider or the Provider's Sub-Contractor or Sub-processor of the provisions of:
  - 34.3.1(e)(i) Clause 31 (Confidentiality); and

34.3.1(e)(ii) Clause 32 (Data protection);

34.3.1(f) any breach by the Provider or the Provider's Sub-Contractor of any applicable law or regulation.

#### 34.4 *Other Provider Indemnities*

##### 34.4.1 *IPR*

34.4.1(a) In relation to this Agreement, the Provider shall, at all times during and after the Term, indemnify HSE and keep HSE indemnified against all Losses incurred by, awarded against or agreed to be paid by HSE arising from or in connection with any IPR Claim arising as a result of a failure on the part of the Provider to comply with Clause 30 (Intellectual Property and Brand Marketing) or as a result of any misrepresentation or breach of the warranties contained in it.

##### 34.4.2 *VAT*

34.4.2(a) The Provider shall indemnify HSE on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on HSE at any time (whether before or after the making of a demand pursuant to the indemnity hereunder) in respect of the Provider's failure to account for or to pay any VAT relating to payments made to the Provider under this Agreement.

##### 34.4.3 *Income Tax and National Insurance Contributions*

34.4.3(a) Where the Provider or any Provider Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Agreement, the Provider shall:

34.4.3(a)(i) at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and

34.4.3(a)(ii) indemnify HSE against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made (whether before or after the making of a demand pursuant to the indemnity hereunder) in connection with the provision of the Services by the Provider or any Provider Personnel.

#### 34.5 *HSE's indemnities*

34.5.1 In relation to this Agreement, HSE shall, at all times during and after the Term, indemnify the Provider and keep the Provider indemnified against all Losses incurred by, awarded against or agreed to be paid by the Provider arising from or in connection with:

- 34.5.1(a) any claim by a Business or Engineer that the Concession Charges levied by the Provider are, either in whole or in part, without lawful authority, save that, for the avoidance of doubt, such indemnity shall not extend to any claim by an Business or Engineer that the Concession Charges levied by the Provider, being lawful, are levied in an unlawful manner or are disproportionate to the Concession Services provided by the Provider to Businesses or Engineers;
- 34.5.1(b) death or bodily injury caused by a negligent act or omission of HSE;
- 34.5.1(c) fraudulent or dishonest acts of HSE; or
- 34.5.1(d) any breach by HSE of the provisions of Clause 31 (Confidentiality).

#### 34.6 *Indemnification Procedure*

- 34.6.1 Each Party (the “Indemnified Party”) shall notify the other Party (the “Indemnifying Party”) in detail in writing (a “Notice of Claim”) promptly after it becomes aware of claim against it or any event which may give rise to a claim against it, which it believes will or may give rise to a claim for indemnification under the provisions of the indemnity obligations set out in this Clause 34 (an “Indemnified Claim”).
- 34.6.2 Within fifteen (15) days following receipt of a Notice of Claim from the Indemnified Party, but not later than ten (10) days before the date on which any response to legal process is due, the Indemnifying Party shall notify the Indemnified Party in writing whether or not the Indemnifying Party acknowledges and unconditionally accepts its indemnification obligation and elects to assume control of the defence and settlement of that Indemnified Claim (a “Notice of Election”).
- 34.6.3 Provided that the Indemnifying Party delivers a suitable Notice of Election within the specified period, the Indemnifying Party shall be entitled, at its own expense, to control the conduct, defence and settlement of any litigation and negotiations arising in respect of the Indemnified Claim (subject to Clause 30.7 (Third Party Claims)), provided that where there is an impact on the Indemnified Party, the Indemnifying Party will consult with the Indemnified Party and will at all times keep the Indemnified Party informed of all material matters. The Indemnified Party shall be entitled to participate and employ legal assistance in any such litigation or negotiations provided that unless the participation of the Indemnified Party was in response to a request by the Indemnifying Party, the Indemnifying Party shall not be liable to the Indemnified Party for any legal costs and expenses incurred by the indemnified party relating to the Indemnified Claim incurred after the Indemnifying Party delivered a Notice of Election, provided that this was delivered in a timely manner.
- 34.6.4 At the request of the Indemnifying Party, the Indemnified Party shall afford to the Indemnifying Party reasonable assistance and documentation for the purpose of contesting any Indemnified Claim, and act as or be joined as defendant in legal proceedings. The Indemnifying Party shall promptly reimburse the Indemnified Party for reasonable costs and expenses (including legal fees on a solicitor/own client basis and disbursements and costs of investigation) incurred in so doing.

- 34.6.5 If the Indemnifying Party does not deliver a Notice of Election relating to the Indemnified Claim, or otherwise fails to acknowledge and unconditionally accept its indemnification obligation or to assume the defence of the Indemnified Claim within the required notice period, or ceases to defend the Indemnified Claim, the Indemnified Party shall have the right to defend the Indemnified Claim in such manner as it may deem appropriate, at the cost and expense of the Indemnifying Party, including payment of any judgement or award and the costs of settlement or compromise of the Indemnified Claim. The Indemnifying Party shall promptly reimburse the Indemnified Party for all such costs and expenses (including legal fees on a solicitor/own client basis and disbursements and costs of investigation).
- 34.6.6 At the request of the Indemnified Party, the Indemnifying Party shall assign or otherwise pass through to the Indemnified Party, to the extent that the Indemnifying Party is able, the benefit of any indemnities given to the Indemnifying Party by third parties which are applicable to the Indemnified Claim.
- 34.6.7 The Indemnified Party shall not make any admissions (except as required by court order or applicable regulation) in relation to the Indemnified Claim, without the prior written approval of the Indemnifying Party.
- 34.6.8 The Indemnifying Party shall not cease to defend, compromise or settle any Indemnified Claim without the Indemnified Party's prior written consent, if such cessation, compromise or settlement:
- 34.6.8(a) would impose or result in the continuation of an injunction or other equitable relief upon the Indemnified Party; or
  - 34.6.8(b) does not include or result in the third party's release of the Indemnified Party from all liability relating to such Indemnified Claim.
- 34.7 *Enforcement of Indemnities*
- 34.7.1 It is not necessary for either Party to incur expense or make payment before enforcing a right under any indemnity conferred by this Agreement.

## **35. Liability**

### *35.1 Liability*

- 35.1.1 Where the Provider is delivering the Services as a partnership or a consortium, each member shall be jointly and severally liable under this Agreement.

### *35.2 Unlimited Liability*

- 35.2.1 Neither Party limits its liability for:
- 35.2.1(a) death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractor; or
  - 35.2.1(b) fraud or misrepresentation by it or its employees;
  - 35.2.1(c) breach of any obligation as to title implied by statute; or
  - 35.2.1(d) any other act or omission, for which liability may not be limited under applicable law.

- 35.2.2 The Provider does not exclude or limit its liability in respect of the indemnities in Clause 34.4 (Other Provider Indemnities) and in each case whether before or after the making of a demand pursuant to the indemnity therein.
- 35.3 *Financial Limits*
- 35.3.1 Subject to Clause 35.2, the Provider's total aggregate liability:
- 35.3.1(a) in respect of all Service Credits payable in respect of each Contract Year shall be of the Provider's Operating Costs and Profit Margin for that Contract Year;
- 35.3.1(b) in respect of all other Losses incurred by HSE under or in connection with this Agreement shall in no event exceed:
- 35.3.1(b)(i) in respect of the period from the Effective Date to the end of the Year 1, the sum of two million pounds (£2m);
- 35.3.1(b)(ii) in any subsequent Contract Year the sum of three million pounds (£3m).
- 35.3.2 The Outstanding Renewal Charges calculated in accordance with the provisions of Schedule 4 (Charges) shall be excluded from any calculations of liability pursuant to Clause 35.3.
- 35.4 Subject to Clause 35.2 and Clause 35.5, neither Party shall be liable to the other Party for:
- 35.4.1 any indirect, special or consequential loss or damage; or
- 35.4.2 any loss of profits, loss of business opportunities, revenue or damage to goodwill.
- 35.5 The provisions of Clause 35.4 shall not limit HSE's right to recover as Losses any of the following from the Provider:
- 35.5.1 additional operational and administrative costs and expenses arising from a Default;
- 35.5.2 wasted expenditure or charges rendered unnecessary and incurred by HSE arising from a Default;
- 35.5.3 any additional cost of procuring and implementing Replacement Services in the event of a Default;
- 35.5.4 all costs and expenses incurred by HSE in respect of third parties incurred in connection with a Default by Provider;
- 35.5.5 the reasonable costs incurred by HSE in exercising its rights under Clauses 13 (Step-in Rights) and 41 (Termination); and
- 35.5.6 any fines, expenses or other losses arising from a breach by Provider of any applicable laws or regulations
- provided always that such losses, costs, expenses, fines or other expenditure are reasonably and necessarily incurred by HSE as a result of a Default by Provider.
- 35.6 Subject to Clause 35.2, 35.7 and 43.3.3(b), HSE's total aggregate liability for Losses incurred by the Provider shall in no event exceed £500,000 (five hundred thousand pounds Sterling).
- 35.7 HSE's liability in respect of the indemnities set out in Clause 34.5.1(a) is unlimited.

- 35.8 Nothing in this Agreement shall be taken as in any way reducing or affecting a general duty to mitigate loss suffered by a Party and the Parties shall at all times take reasonable steps to:
- 35.8.1 mitigate any loss in respect of which the affected Party is entitled to bring a claim (including in respect of any indemnity) against the other Party under this Agreement; and
  - 35.8.2 mitigate the effects, circumstances or events adversely affecting the performance of their obligations under this Agreement which would otherwise entitle the affected Part to relief under this Agreement.
- 35.9 The Provider shall not be liable for any Service Level Failure or other Default by the Provider or other liability arising in connection with this Agreement where and to the extent such Service Level Failure, Default or other liability arises directly from any act, omission, instruction or breach of contract of HSE, HSE's employees, agents or Sub-Contractor, provided always that the Provider shall:
- 35.9.1 notify HSE, as soon as the Provider is aware, of any such act, omission, instruction or breach of contract and its effect on the Services or other obligations of the Provider; and
  - 35.9.2 have provided a reasonable opportunity to HSE to remedy such act, omission, instruction or breach.

## **36. Insurance**

- 36.1 The Provider shall effect and maintain on an annual basis policies of insurance of the types set out in Clause 36.3 with a reputable insurance company to provide a level of cover sufficient (and in any event not less than the amounts set out in Clause 36.3) for all risks which may be incurred by the Provider under this Agreement, including death or personal injury, or loss of or damage to property and financial loss arising from any advice given or omitted to be given by the Provider.
- 36.2 The Provider shall hold employer's liability insurance in respect of its employees in accordance with any legal requirement for the time being in force.
- 36.3 The insurance policies entered into by the Provider under Clauses 36.1 and 36.2 shall provide the following minimum levels of cover:
- 36.3.1 public liability: £10,000,000 (ten million pounds Sterling) in respect of each incident or series of related incidents;
  - 36.3.2 employer's liability: £5,000,000 (five million pounds Sterling) in respect of each incident or series of related incidents; and
  - 36.3.3 professional indemnity: £5,000,000 (five million pounds Sterling) in respect of each incident or series of related incidents.
- 36.4 The Provider shall produce to HSE, within five (5) Working Days of request, copies of all insurance policies referred to in this Clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place under such policies.
- 36.5 The Provider shall immediately inform HSE if:
- 36.5.1 it is unable to procure or renew the insurance policies as required under Clauses 36.1 and 36.2 at ordinary commercial rates; or
  - 36.5.2 any event occurs to the Provider or to a company in the Provider's Group which will or may have the effect set out in Clause 36.5.1.

- 36.6 If, for whatever reason, the Provider fails to give effect to and maintain the insurances required by this Agreement, HSE may make alternative arrangements to protect its interests at its discretion and may recover the costs of such arrangements from the Provider.
- 36.7 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under this Agreement.
- 36.8 The Provider shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Provider shall use all reasonable endeavours to notify HSE (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

## **RISK MANAGEMENT**

### **37. Security Requirements**

- 37.1 The Provider shall comply with the Security Policy and the requirements of Schedule 21 (Security Requirements and Plan) including the Security Management Plan (if any) and shall ensure that the Security Management Plan produced by the Provider fully complies with the Security Policy.
- 37.2 HSE shall notify the Provider of any changes or proposed changes to the Security Policy.
- 37.3 If the Provider believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a Change Control Note to HSE. In doing so, the Provider shall support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall then be subject to the Change Control Procedure.
- 37.4 Until and/or unless a change to the Charges is agreed by HSE pursuant to the Change Control Procedure, the Provider shall continue to perform the Services in accordance with its existing obligations.

### **38. Business Continuity and Disaster Recovery**

- 38.1 The Parties shall comply with the provisions of Schedule 15 (Business Continuity and Disaster Recovery).

### **39. Force Majeure**

- 39.1 Subject to the remainder of this Clause 39 (and, in relation to the Provider, subject to its compliance with any obligations in Clause 38 (Business Continuity and Disaster Recovery)), a Party may claim relief under Clause 39 from liability for failure to meet its obligations under this Agreement for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Provider in performing its obligations under this Agreement which results from a failure or delay by an agent, Sub-Contractor or supplier shall be

- regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Provider.
- 39.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 39.3 If the Provider is the Affected Party, it shall not be entitled to claim relief under Clause 39 to the extent that consequences of the relevant Force Majeure Event:
- 39.3.1 are capable of being mitigated by any of the provision of any Services, including any Business Continuity Services as referred to in Schedule 15, but the Provider has failed to do so; and/or
- 39.3.2 should have been foreseen and prevented or avoided by a prudent provider of Services similar to the Services, operating to the standards required by this Agreement.
- 39.4 Subject to Clause 39.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 39.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Provider is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 39.6 Where, as a result of a Force Majeure Event:
- 39.6.1 an Affected Party fails to perform its obligations in accordance with this Agreement, then during the continuance of the Force Majeure Event:
- 39.6.1(a) the other Party shall not be entitled to exercise any rights to terminate this Agreement in whole or in part as a result of such failure unless the provision of the Services is materially impacted by a Force Majeure Event which endures for a continuous period of more than ninety (90) days; and
- 39.6.1(b) neither party shall be liable for any Default arising out of such failure;
- 39.6.2 the Provider fails to perform its obligations in accordance with this Agreement:
- 39.6.2(a) HSE shall not be entitled:
- 39.6.2(a)(i) during the continuance of the Force Majeure Event to exercise its step-in rights under Clause 13 as a result of such failure; and
- 39.6.2(a)(ii) to receive Service Credits to the extent that a Service Level Failure has been caused by the Force Majeure Event; and
- 39.6.2(b) the Provider shall be entitled to receive payment of the Charges (or a proportional payment of them) only to the extent that the Services (or part of the Services) continue to be provided in

accordance with the terms of this Agreement during the occurrence of the Force Majeure Event.

- 39.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Agreement.
- 39.8 Relief from liability for the Affected Party under Clause 39.1 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Agreement and shall not be dependent on the serving of notice under Clause 39.7.

## REMEDIES AND RELIEF

### 40. HSE Remedies for Default

#### 40.1 Remedies

40.1.1 Without prejudice to any other right or remedy of HSE howsoever arising and subject to any exclusive financial remedy provisions, if the Provider commits any Default of this Agreement then HSE may (whether or not any part of the Services have been provided) in the following order:

40.1.1(a) give the Provider the opportunity (at the Provider's expense) to remedy the Default together with any damage resulting from such Default (where such Default is capable of remedy) or to carry out any other necessary work to ensure that the terms of this Agreement are fulfilled;

if the action in 40.1.1(a) fails to remedy the Default, HSE may:

40.1.1(b) at the Provider's expense procure or carry out any Replacement Services and/or carry out any work necessary to make the provision of the Services comply with this Agreement; or

40.1.1(c) if the Default is a Material Breach that is capable of remedy (or there have been a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a Material Breach);

40.1.1(c)(i) instruct the Provider to comply with the Rectification Plan Process;

40.1.1(c)(ii) suspend this Agreement (whereupon the relevant provisions of Clause 42 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) the Services;

40.1.1(c)(iii) without terminating or suspending the whole of this Agreement, terminate or suspend this Agreement in respect of part of the provision of the Services only (whereupon the relevant provisions of Clause 42 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) such part of the Services;

- 40.1.2 Where HSE exercises any of its step-in rights under this Agreement, HSE shall have the right to charge the Provider for and the Provider shall on demand pay any costs reasonably incurred by HSE (including any reasonable administration costs) in respect of the supply of any part of the Services by HSE or a third party and provided that HSE uses its reasonable endeavours to mitigate any additional expenditure in obtaining Replacement Services.
- 40.1.3 With respect to KPI or Service Level failures, HSE will invoke the remedies available in Clauses 9, 10, 11 and 12 before those identified in Clause 40.
- 40.2 *Rectification Plan Process*
- 40.2.1 Where HSE has instructed the Provider to comply with the Rectification Plan Process pursuant to Clause 40.1.1(c)(i):
- 40.2.1(a) the Provider shall submit a draft Rectification Plan to HSE for it to review as soon as possible and in any event within 10 (ten) Working Days (or such other period as may be agreed between the Parties) from the date of HSE's instructions. The Provider shall submit a draft Rectification Plan even if the Provider disputes that it is responsible for the Default giving rise to HSE's request for a draft Rectification Plan;
- 40.2.1(b) the draft Rectification Plan shall set out:
- 40.2.1(b)(i) full details of the Default that has occurred, including a cause analysis;
- 40.2.1(b)(ii) the actual or anticipated effect of the Default; and
- 40.2.1(b)(iii) the steps which the Provider proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable).
- 40.2.2 The Provider shall promptly provide to HSE any further documentation that HSE requires to assess the Provider's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with Schedule 19 (Dispute Resolution).
- 40.2.3 HSE may reject the draft Rectification Plan by notice to the Provider if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:
- 40.2.3(a) is insufficiently detailed to be capable of proper evaluation;
- 40.2.3(b) will take too long to complete;
- 40.2.3(c) will not prevent reoccurrence of the Default; and/or
- 40.2.3(d) will rectify the Default but in a manner which is unacceptable to HSE.
- 40.2.4 HSE shall notify the Provider whether it consents to the draft Rectification Plan as soon as reasonably practicable. If HSE rejects the draft Rectification Plan, HSE shall give reasons for its decision and the Provider shall take the reasons into account in the preparation of a revised Rectification Plan. The Provider shall submit the revised draft of the Rectification Plan to HSE for review within five (5) Working Days (or such other period as agreed

between the Parties) of HSE's notice rejecting the first draft. In the event that HSE rejects the second draft, it may invoke the Dispute Resolution Procedure.

- 40.2.5 If HSE consents to the Rectification Plan, the Provider shall immediately start work on the actions set out in the Rectification Plan.

## **41. Termination and Exit Management**

### *41.1 Termination on Material Breach*

- 41.1.1 HSE may terminate this Agreement for Material Breach by issuing a Termination Notice to the Provider where:

- 41.1.1(a) a representation or warranty given by the Provider pursuant to Clause 34 (Representations, warranties and indemnities) or Clause 44 (Prevention of Fraud and Bribery) is materially untrue or misleading, and the Provider fails to provide details of proposed mitigating factors which in the reasonable opinion of HSE are acceptable;
- 41.1.1(b) as a result of any Defaults, HSE incurs Losses in any Contract Year which exceed 80% of the value of the Provider's aggregate annual liability limit for that Contract Year as set out in Clauses 35.3.1(b)(i) and 35.3.1(b)(ii) (Liability);
- 41.1.1(c) HSE expressly reserves the right to terminate this Agreement for Material Breach, including pursuant to any of the following Clauses: (Service Points), 11.10.3(b) (Improvement Plan), 12.4 (Direction Rights), 13.4 (Step-in Rights), 44.6.2 (Prevention of Fraud and Bribery), or pursuant to Schedule 9 (Staff Transfer);
- 41.1.1(d) the Provider commits any Material Breach of this Agreement which is not, in the reasonable opinion of HSE, capable of remedy;
- 41.1.1(e) any changes are made to the memorandum, articles or constitution of the Provider which, in the reasonable opinion of HSE, are likely to impact adversely and materially on the performance by the Provider of its obligations under this Agreement; and/or
- 41.1.1(f) the Provider commits a Material Breach, which in the opinion of HSE is remediable but the Provider has not remedied such Default to the satisfaction of HSE in accordance with the Rectification Plan Process or in accordance with Clause 40.1.1(a) (whichever is applicable).

- 41.1.2 For the purpose of Clause 41.1.1, a Material Breach may be a single Default or may be a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a Material Breach.

### *41.2 Termination on Insolvency*

- 41.2.1 HSE may terminate this Agreement by issuing a Termination Notice to the Provider where an Insolvency Event affecting the Provider occurs.

### *41.3 Termination in relation to Financial Standing*

- 41.3.1 HSE may terminate this Agreement by issuing a Termination Notice to the Provider where in the reasonable opinion of HSE there is a material detrimental change in the financial standing and/or the credit rating of the Provider which:
- 41.3.1(a) adversely impacts on the Provider's ability to supply the Services under this Agreement; or
  - 41.3.1(b) could reasonably be expected to have an adverse impact on the Provider's ability to supply the Services under this Agreement.
- 41.4 *Termination on Change of Control*
- 41.4.1 The Provider shall notify HSE immediately in writing and as soon as the Provider is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control and provided such notification does not contravene any Law.
- 41.4.2 The Provider shall ensure that any notification made pursuant to Clause 41.4.1 shall set out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.
- 41.4.3 HSE may terminate this Agreement by issuing a Termination Notice under this Clause 41 to the Provider within six (6) Months of:
- 41.4.3(a) being notified in writing that a Change of Control is anticipated or in contemplation or has occurred; or
  - 41.4.3(b) where no notification has been made, the date that HSE becomes aware that a Change of Control is anticipated or is in contemplation or has occurred,
- which in either case, in HSE's reasonable opinion, is likely to result or results in:
- 41.4.3(c) a material degradation in the performance of the Services; or
  - 41.4.3(d) an adverse impact on HSE's ability to exercise all or any of its rights pursuant to or arising out of this Agreement,
- but shall not be permitted to terminate where Approval of the Change of Control was granted prior to the Change of Control.
- 41.5 *Termination in Relation to Change Control Procedure*
- 41.5.1 Subject to paragraph 3.7.1 of Schedule 6 (Change Control Procedure), HSE may terminate this Agreement by issuing a Termination Notice to the Provider for failure of the Provider to implement a Variation in accordance with the Change Control Procedure. HSE will not invoke the provision of this Clause 41.5.1 without first giving the Provider a further opportunity to implement the Variation.
- 41.6 *Termination By Either Party*
- 41.6.1 Either Party may, by issuing a Termination Notice to the other Party, terminate this Agreement in accordance with Clause 39 (Force Majeure).
- 41.7 *Termination without Cause*
- 41.7.1 HSE shall have the right to terminate this Agreement at any time by issuing a Termination Notice to the Provider giving at least six (6) calendar months' written notice.
- 41.8 *Termination as a Consequence of De-regulation of the Register*

41.8.1 HSE may terminate this Agreement by issuing a Termination Notice where the legal requirement that Businesses and Engineers be Registered with the Registration Scheme is removed.

41.9 *Termination in Relation to Guarantee*

41.9.1 HSE may terminate this Agreement without liability by issuing a Termination Notice to the Provider where:

41.9.1(a) the Provider fails to deliver the documents in accordance with Clause 15.1.1(a) and (c) (Conditions precedent for renewal fee collection);

41.9.1(b) the Guarantor withdraws the Guarantee for any reason whatsoever;

41.9.1(c) the Guarantor is in breach or anticipatory breach of the Guarantee;

41.9.1(d) an Insolvency Event occurs in respect of the Guarantor;

41.9.1(e) the Guarantee becomes invalid or unenforceable for any reason whatsoever,

and in each case the Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to HSE.

## **42. Partial Termination, Suspension and Partial Suspension**

42.1 Where HSE has the right to terminate this Agreement, HSE shall be entitled to terminate or suspend all or part of this Agreement provided always that, if HSE elects to terminate or suspend this Agreement in part, the parts of this Agreement not terminated or suspended can, in HSE's reasonable opinion, operate effectively to deliver the intended purpose of the surviving parts of this Agreement.

42.2 Any suspension of this Agreement under Clause 42.1 shall be for such period as HSE may specify and without prejudice to any right of termination which has already accrued, or subsequently accrues, to HSE.

42.3 The Parties shall seek to agree any Variation necessitated by a partial termination, suspension or partial suspension in accordance with the Change Control Procedure, to take account of the effect that the partial termination, suspension or partial suspension may have on the provision of any other Services and the Charges, provided that the Provider shall not be automatically entitled to either:

42.3.1 an increase in the Charges in respect of the provision of the Services that have not been terminated if the partial termination arises due to the exercise of any of HSE's termination rights under Clause 41 (Termination and Exit Management) except Clause 41.7 (Termination Without Cause); nor

42.3.2 reject the Variation.

## **43. Consequences of Expiry or Termination**

43.1 The consequences of termination under Clauses 41.1 (Termination on Material Breach), 41.2 (Termination on Insolvency), 41.3 (Termination in Relation to Financial Standing) 41.4 (Termination on Change of Control) 41.5 (Termination in Relation to Change of Control Procedure) and 41.9 (Termination in relation to Guarantee) shall be as follows, subject to 35.5.3:

- 43.1.1 Where HSE:
- 43.1.1(a) terminates (in whole or in part) this Agreement under any of the Clauses referred to in Clause 43.1; and
- 43.1.1(b) then makes other arrangements for the supply of the Services,
- HSE may seek to recover from the Provider the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by HSE throughout the remainder of the Term provided that HSE shall take all reasonable steps to mitigate such additional expenditure. No further payments shall be payable by HSE to the Provider until HSE has established the final cost of making those other arrangements.
- 43.2 The consequences of termination under Clause 41.6 (Termination by Either Party) shall be as follows:
- 43.2.1 The costs of termination incurred by the Parties shall lie where they fall if either Party terminates or partially terminates this Agreement for a continuing Force Majeure Event pursuant to Clause 41.6 (Termination by Either Party). No Losses or other costs, expenses or compensation shall be payable by HSE to the Provider in consequence of termination, in whole or in part, under this Clause 43.2.
- 43.2.2 The consequences of termination under Clause 41.7 (Termination without Cause) and Clause 41.8 (Termination as a Consequence of De-regulation of the Register) shall be as follows:
- 43.3 Where HSE terminates (in whole or in part) this Agreement under Clause 41.7 (Termination without Cause) or Clause 41.8 (Termination as a Consequence of De-regulation of the Register) HSE shall indemnify the Provider against any reasonable and proven Losses which would otherwise represent an unavoidable loss by the Provider by reason of the termination of this Agreement, provided that the Provider takes all reasonable steps to mitigate such Losses.
- 43.3.1 The Provider shall submit a fully itemised and costed list of such Losses, with supporting evidence including such further evidence as HSE may require, reasonably and actually incurred by the Provider as a result of termination under Clause 41.7 (Termination without Cause) or Clause 41.8 (Termination as a Consequence of De-regulation of the Register).
- 43.3.2 HSE shall not be liable under Clause 43.3 to pay any sum which:
- 43.3.2(a) was claimable under insurance held by the Provider, and the Provider has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
- 43.3.2(b) when added to any sums paid or due to the Provider under this Agreement, exceeds the total sum (Agreed Operating Costs plus Provider Profit) that the Provider would have been entitled to if this Agreement had not been terminated.
- 43.4 In all cases of termination (whatever the reason) or on expiry of this Agreement:
- 43.4.1 Save as expressly provided in this Agreement:
- 43.4.1(a) termination or expiry of this Agreement shall be without prejudice to any rights, remedies or obligations accrued under this Agreement prior to termination or expiration and nothing in this

Agreement shall prejudice the right of either Party to recover any amount outstanding at the time of such termination or expiry; and

43.4.1(b) the termination or expiry of the Agreement shall not affect the continuing rights or obligations of HSE and the Provider under any provision of this Agreement which is expressed to survive expiry or termination or which is required to give effect to such expiry or termination, including the following provisions:

43.4.1(b)(i) Clauses 24 (Audit), 28 (Dispute Resolution), 30 (Intellectual Property and Brand Marketing), 31 (Confidentiality), 32 (Data Protection) 33 (Freedom of Information), 35 (Liability), 43 (Consequences of Expiry or Termination), Clause 46 (Official Secrets Provisions), 50 (Third Party Rights), 53 (Severance), 54 (Entire Agreement), and 57 (Governing Law and Jurisdiction), and the provisions of Schedule 00 (Glossary), Schedule 4 (Charges), Schedule 9 (Staff Transfer), Schedule 12 (Exit Management), Schedule 19 (Dispute Resolution Procedure).

43.4.2 The provisions of Schedule 12 (Exit Management) shall come into effect and the Provider shall co-operate fully.

## MISCELLANEOUS

### 44. Prevention of Fraud and Bribery

44.1 The Provider represents and warrants that neither it, nor to the best of its knowledge any Provider Personnel, have at any time prior to the Effective Date:

44.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

44.1.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

44.2 The Provider shall not during the Term:

44.2.1 commit a Prohibited Act; and/or

44.2.2 do or suffer anything to be done which would cause HSE or any of HSE's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

44.3 The Provider shall during the Term:

44.3.1 establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

- 44.3.2 keep appropriate records of its compliance with its obligations under Clause 44.3.1 and make such records available to HSE on request;
  - 44.3.3 if so required by HSE, within twenty (20) Working Days of the Effective Date, and annually thereafter, certify to HSE in writing that the Provider and all persons associated with it or its Sub-Contractors or other persons who are supplying the Services in connection with this Agreement are compliant with the Relevant Requirements. The Provider shall provide such supporting evidence of compliance as HSE may reasonably request; and
  - 44.3.4 have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to HSE on request) to prevent it and any Provider Personnel or any person acting on the Provider's behalf from committing a Prohibited Act.
- 44.4 The Provider shall immediately notify HSE in writing if it becomes aware of any breach of Clause 44.2, or has reason to believe that it has or any of the Provider Personnel have:
- 44.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
  - 44.4.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
  - 44.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Agreement has committed or attempted to commit a Prohibited Act.
- 44.5 If the Provider makes a notification to HSE pursuant to Clause 44.4, the Provider shall respond promptly to HSE's enquiries, co-operate with any investigation, and allow HSE to audit any books, records and/or any other relevant documentation in accordance with Clause 24 (Audit).
- 44.6 If the Provider has misrepresented or is in breach of its warranty concerning the matters represented and warranted in Clause 44.1, or breaches any of Clauses 44.2 to 44.4, HSE may by notice:
- 44.6.1 require the Provider to remove from performance of this Agreement any Provider Personnel whose acts or omissions have caused the Provider's breach;
  - 44.6.2 immediately terminate this Agreement for Material Breach.
- 44.7 Any notice served by HSE under Clause 44.6 shall specify the nature of the Prohibited Act, the identity of the Party who HSE believes has committed the Prohibited Act and the action that HSE has elected to take (including, where relevant, the date on which this Agreement shall terminate).

## **45. Discrimination**

- 45.1 The Provider shall, and shall procure that its employees shall, comply with any applicable anti-discrimination Law.

- 45.2 The Provider shall take all reasonable steps to secure the observance of all applicable anti-discrimination Law by its suppliers or Subcontractors engaged in the execution of this Agreement.
- 45.3 The Provider shall prepare appropriate policies and internal controls to demonstrate its compliance with applicable anti-discrimination Law and shall provide HSE with copies of those policies and internal controls and any updates or amendments to them.
- 45.4 The Provider shall notify HSE of any occasion where it suspects or has grounds for suspicion that its employees, its suppliers or Sub-Contractors or its suppliers' or Sub-Contractors' employees have breached any applicable anti-discrimination Law.

#### **46. Official Secrets provisions**

- 46.1 The Provider shall comply with and ensure that its employees involved in performing its obligations under this Agreement comply with, the provisions of:
- 46.1.1 the Official Secrets Acts 1911 to 1989; and
- 46.1.2 section 182 of the Finance Act 1989,  
(together the "Official Secrets Provisions").
- 46.2 The Provider shall:
- 46.2.1 provide HSE with such information as HSE may reasonably require to satisfy itself that the Provider is complying with its obligations under the Official Secrets Provisions;
- 46.2.2 promptly notify HSE of any breach or suspected breach of their obligations under the Official Secrets Provisions and comply with any instructions that HSE might give in writing following such breach; and
- 46.2.3 ensure that it does nothing knowingly or negligently which places HSE in breach of HSE's obligations under the Official Secrets Provisions.
- 46.3 The provisions of Clause 46.1 shall apply during the Term and indefinitely after the expiry or termination of this Agreement.

#### **47. Health and Safety**

- 47.1 The Provider shall at all times during the Term comply with its duties under the Health and Safety at Work etc. Act 1974 and any other Law relating to health, safety and welfare, which may apply to its staff and others not in its employment in the performance of its obligations under this Agreement.
- 47.2 The Provider shall have in place at the commencement of the Term and shall keep in place during the Term a health and safety management system that includes provision for a health and safety policy; organising, planning and implementing health and safety measures; monitoring performance; and auditing and review.
- 47.3 The Provider shall notify HSE immediately in the event of any incident occurring in the performance of its obligations under this Agreement where that incident causes death or serious bodily injury or ill health, or any significant damage to property that could give rise to serious bodily injury or ill health.

#### **48. Procurement**

- 48.1 When seeking offers in relation to, or in awarding, a contract for the purchase or hire of goods, the Provider shall use reasonable endeavours to adhere to the principles set out in the Public Contracts Regulations 2015 and comply with the principles of transparency, equal-treatment, non-discrimination and proportionality set out in the Treaty for the Functioning of the European Union.

#### **49. Assignment and Novation**

- 49.1 The Provider shall not assign, novate, Sub-Contract or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Agreement or any part of it without Approval.
- 49.2 HSE may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under this Agreement or any part thereof to:
- 49.2.1 any part of the Crown; or
  - 49.2.2 any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by HSE; or
  - 49.2.3 any private sector body which substantially performs the functions HSE, and the Provider shall, at HSE's request, enter into an assignment or a novation agreement in such form as HSE shall reasonably specify in order to enable HSE to exercise its rights pursuant to this Clause 49.2.
- 49.3 A change in the legal status of HSE shall not, subject to Clause 49.4, affect the validity of this Agreement and this Agreement shall be binding on any successor body to HSE.
- 49.4 If HSE assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Agreement to a private sector body in accordance with Clause 49.2.3 or if a body which is not a Central Government Body succeeds HSE (the "Transferee" in the rest of this Clause 49.4) the right of termination of HSE in Clause 41.2 (Termination on Insolvency) shall be available to the Provider in the event of insolvency of the Transferee (as if the references to Provider in Clause 41.2 (Termination on Insolvency) and to Provider or Guarantor in the definition of Insolvency Event were references to the Transferee).

#### **50. Third-party rights**

- 50.1 The provisions of Schedule 9 (Staff Transfer) and Schedule 12 (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named in such provisions other than the Parties (each such person a "Third Party Beneficiary") and are intended to be enforceable by Third Parties Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act (CTRPA).
- 50.2 Subject to Clause 50.1, a person who is not a Party to this Agreement has no right under the CTRPA to enforce any term of this Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 50.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Parties, which may, if given, be given on and subject to such terms as the Parties may determine.

- 50.4 Any amendments or modifications to this Agreement may be made, and any rights created under Clause 50.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

## **51. Variation**

- 51.1 This Agreement shall not be varied or modified (except in accordance with Schedule 6 (Change Control Procedure)).

## **52. Waiver**

- 52.1 The rights and remedies under this Agreement may be waived only by notice in accordance with Clause 22 (Notices) and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Agreement or by Law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that right or remedy.
- 52.2 Unless otherwise provided in this Agreement, rights and remedies under this Agreement are cumulative and do not exclude any rights or remedies provided by Law, in equity or otherwise.

## **53. Severance**

- 53.1 If any provision of this Agreement (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of this Agreement are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of this Agreement shall not be affected.
- 53.2 In the event that any deemed deletion under Clause 53.1 is so fundamental as to prevent the accomplishment of the purpose of this Agreement or materially alters the balance of risks and rewards in this Agreement, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Agreement so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Agreement and, to the extent that is reasonably practicable, achieves the Parties' original commercial intention.
- 53.3 If the Parties are unable to conclude an agreement pursuant to the negotiations required by Clause 53.2 within twenty (20) Working Days of the date of the notice given pursuant to Clause 53.2, this Agreement shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Agreement is terminated pursuant to Clause 53. No Losses or other costs, expenses or compensation shall be payable by HSE to the Provider in consequence of termination, in whole or in part, under this Clause 53.3.

## **54. Entire agreement**

- 54.1 This Agreement constitutes the entire agreement and understanding of the Parties and supersedes any prior representations, warranties or arrangements relating to the subject matter of this Agreement.

- 54.2 Neither Party is entitled to rely on any contract, understanding, representation, warranty, or arrangement that is not expressly stated in this Agreement.
- 54.3 This Clause 54 does not exclude liability for fraudulent misrepresentation.

## **55. Relationship of the Parties**

- 55.1 Except as expressly provided otherwise in this Agreement, nothing in this Agreement, nor any actions taken by the Parties pursuant to this Agreement, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.

## **56. Conflicts of Interest**

- 56.1 The Provider shall take appropriate steps to ensure that neither the Provider nor any Provider Personnel is placed in a position where, in the reasonable opinion of HSE, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider and the duties owed to HSE under the provisions of the Agreement. The Provider will disclose to HSE full particulars of any such conflict of interest which may arise.
- 56.2 HSE reserves the right to terminate the Agreement immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of HSE, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider and the duties owed to HSE under the provisions of the Contract. The actions of HSE pursuant to this Clause 56 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to HSE.

## **57. Governing law and jurisdiction**

- 57.1 The construction, performance and validity of this Agreement shall be governed by English law, and the Parties irrevocably submit to the exclusive jurisdiction of the English courts.

**IN WITNESS WHEREOF** each of the Parties has executed this Agreement on the date dated at the head of this Agreement.

**SIGNED** by  
duly authorised for and on behalf of  
**HEALTH AND SAFETY EXECUTIVE**

**SIGNED** by  
duly authorised for and on behalf of  
**CAPITA GAS REGISTRATION AND ANCILLARY SERVICES LIMITED**



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**SCHEDULE 00: GLOSSARY**

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## DEFINITIONS

### 1. Defined terms

1.1 Unless the context otherwise requires, the following expressions shall have the meanings set out below:

<b>Access to Standards</b>	means provision of access to key industry Standards, covering natural gas, LPG, domestic, commercial and industrial gas installations, via a subscription service, provided at an additional cost on top of Gas Safe registration fees.
<b>Achieve</b>	means meeting or exceeding a Service Level Performance Measure or and “ <b>Achieved</b> ” shall be construed accordingly.
<b>ACS / Qualification Reporting Charge</b>	means the charge payable by Awarding Bodies for each qualification notified to the Provider.
<b>Additional Charges</b>	means all fees chargeable by the Provider in relation to Additional Services or parts thereof.
<b>Additional Services</b>	means any services (not being Concession Services or Ancillary Services) that the Provider performs or offers to perform for any third party, including Businesses, Engineers, Consumers or members of the Provider’s Group, but excludes those services the Provider performs for members of the Provider’s Group which arise solely through: (a) operation of Law, or (b) internal reporting arrangements which apply to all companies of the same description as the Provider which are members of the Provider’s Group.
<b>Admin Fees</b>	means the costs incurred by HSE in dealing with MI Failures calculated in accordance with the tariff of administration charges published at the following link: <a href="http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees">http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees</a> .
<b>Affected Party</b>	means the Party seeking to claim relief in respect of a Force Majeure event
<b>Affiliate(s)</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.

<b>Agreed Operating Costs</b>	means the operating costs proposed in the financial model incorporated into this Agreement as periodically updated.
<b>Agreed Provider Gain Share Funds</b>	means those funds that the Provider is entitled to access following Approval by HSE and calculated pursuant to the provisions set out in paragraph 4.2.5 of Schedule 5 (Financial Model and Gain Share).
<b>Agreement</b>	means this service concession agreement between the Parties, comprising: <ul style="list-style-type: none"><li>(a) the Terms and Conditions;</li><li>(b) the Schedules; and</li><li>(c) any other documents referred to in (a) and (b) above.</li></ul>
<b>Ancillary Charges</b>	means all fees chargeable by the Provider in relation to Ancillary Services in accordance with Schedule 2 (Additional and Ancillary Services).
<b>Ancillary Services</b>	means those services (not being Concession Services or Additional Services) of the general description set out in Schedule 2 (Additional and Ancillary Services) provided by the Provider to HSE as HSE may require from time to time, in accordance with Clause 6 (Ancillary Services) and Schedule 2 (Additional and Ancillary Services).
<b>Annual Service Levels</b>	means each of the Service Levels where the Service Measurement Period is on an annual basis.
<b>Annual Service Report</b>	shall be as specified in paragraph 3.2 of Schedule 11 (Management Information and Reporting).
<b>Annual Service Review</b>	means the review of the Provider's performance of the Services as set out in Schedule 10 (Governance and Contract Management).
<b>Application Fee</b>	means the difference between the New Registration Charge and the Business Renewal (Telephone and Post) Charge.
<b>Approval</b>	means the prior written consent of HSE and " <b>Approve</b> " and " <b>Approved</b> " shall be construed accordingly.
<b>Approved Third Party</b>	means, in relation to Gas Work notified under the Building Regulations, an organisation approved by the Provider to receive notification of Gas Work on behalf of the Provider.

<b>Assets Register</b>	the register of Registration Data, Service Assets, Subcontracts and other relevant agreements to be created and maintained by the Provider throughout the Term pursuant to paragraph 2.1 of Schedule 12 (Exit Management).
<b>Average Price</b>	in relation to the Comparable Services provided by the Comparison Group, the mean average of prices for those Comparable Services as adjusted to produce Equivalent Services Data over the previous twelve (12) month period, or other period as agreed between HSE and the Provider. (For the avoidance of doubt, the “mean average price” shall be calculated by aggregating the prices derived from Equivalent Services Data for each of the services and dividing the same by the number instances of Comparable Services).
<b>Awarding Body</b>	means a body accredited by the United Kingdom Accreditation Service and approved by the Accredited Certification Scheme, the Office of Qualifications and Examinations Regulator, Scottish Qualifications Authority and such other accreditation bodies as the Parties may agree, to assess and award certificates of Gas Work Competence.
<b>BCDR Plan</b>	has the meaning given in paragraph 1.1 of Schedule 15 (Business Continuity and Disaster Recovery)
<b>Benchmark Review</b>	means a review of one or more of the Services carried out in accordance with paragraph 6 of Schedule 5 (Financial Model and Gain Share) to determine whether those Services represent Good Value.
<b>Benchmarked Services</b>	a Service that HSE elects to include in a Benchmark Review under paragraph 7.2 of Schedule 5.
<b>Benchmarker</b>	means the independent third party appointed under paragraph 8 Schedule 5.
<b>Benchmarking Report</b>	the report produced by the Benchmarker following the Benchmark Review as further described in paragraph 10 of Schedule 5.
<b>Board Member</b>	HSE and Provider Board appointments set out in Annex A to Schedule 10 (Governance and Contract Management).
<b>Board(s)</b>	means the Contract Review Board, the Transition Governance Board, and the Executive Review Board as the context requires.
<b>Brand</b>	means the brand known as the Gas Safe Register.

<b>Brand Infringement</b>	means inappropriate use of the Brand as described in Clause 30.6.3.
<b>Brand IPRs</b>	means all IPRs, whether capable of registration or not, subsisting in the Brand.
<b>Brand Marketing</b>	means use of the Brand to raise awareness.
<b>Breach of Security</b>	means the occurrence of: (a) any unauthorised access to or use of the Services, the Sites and/or any Information and Communication Technology (“ICT”), information or data (including the Confidential Information and the HSE Data) used by HSE and/or the Provider in connection with this Agreement; and/or (b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the HSE Data), including any copies of such information or data, used by HSE and/or the Provider in connection with this Agreement.
<b>Building Gas Work</b>	means Gas Work comprising the installation of a heat-producing gas appliance as that term is used in Schedule 1, Part J of the Building Regulations 2000.
<b>Business Changes</b>	means an increase or decrease in the number of Registered Businesses, Engineers or Notifications of Work by comparison to the numbers in the Provider’s Financial Model submitted at Best and Final Offer and incorporated into this Agreement.
<b>Business Continuity Plan</b>	has the meaning given to it in paragraph 3 of Schedule 15 (Business Continuity and Disaster Recovery).
<b>Businesses</b>	means a business that carries out Gas Work, including self-employed gas engineers, required by applicable law or regulation to register with the Registration Scheme and “ <b>Business</b> ” shall be construed accordingly.
<b>Business Renewal Charge</b>	means, in respect of each Registered Business, the Business Renewal (Telephone & Post) Charge or the Business Renewal (Online) Charge, as applicable.
<b>Business Renewal (Online) Charge</b>	the annual fee registered businesses are required to pay in order to continue registration, where the application for Registration renewal is submitted to the Provider via the Provider’s website and the Registered Business commits to communicate with the Provider electronically.

<b>Business Renewal (Telephone and Post) Charge</b>	the annual fee registered businesses are required to pay in order to continue registration, where the application for Registration renewal is made by telephone or submitted to the Provider by post.
<b>Business Work Inspection</b>	means a site visit to inspect work carried out by a Business or Engineer.
<b>CEDR</b>	means the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU.
<b>Central Government Body</b>	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"><li>(a) Government Department;</li><li>(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</li><li>(c) Non-Ministerial Department; or</li><li>(d) Executive Agency.</li></ul>
<b>Change</b>	means a change to the Services or to this Agreement in accordance with the procedure set out in Schedule 6 (Change Control Procedure).
<b>Change Control Note</b>	means the written proposal to change the Services or this Agreement in accordance with the procedure set out in Schedule 6 (Change Control Procedure).
<b>Change Control Procedure</b>	means the procedure for control of Changes to the Services or to this Agreement as set out in Schedule 6 (Change Control Procedure).
<b>Change in Law</b>	means any change in Law, coming into force after the Effective Date, which impacts on the performance of the Services.
<b>Change of Control</b>	means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010.
<b>Charges</b>	means Concession Charges, Additional Charges and Ancillary Charges, as set out in Schedule 4.

<b>Commercially Sensitive Information</b>	means the subset of Confidential Information listed in Schedule 22 (Commercially Sensitive Information) of a commercially sensitive nature relating to the Provider, its IPRs or its business or which the Provider has indicated to HSE that if disclosed by HSE, would cause the Provider significant Commercial disadvantage or material financial loss.
<b>Comparable Services</b>	services that are identical or materially similar to the Benchmarked Services (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar services exist in the market, the Benchmarking shall propose an approach for developing a comparable service benchmark.
<b>Comparable Supply</b>	means the supply of Services to another customer of the Provider that are the same or similar to the Services.
<b>Comparison Group</b>	a sample group of organisations providing Comparable Services identified by the Benchmarking under paragraph 10 of Schedule 5 (Financial Model and Gain Share).
<b>Competence</b>	means the qualifications and skills to carry out Gas Work to current standards.
<b>Competence Criteria</b>	means the criteria used by the Provider to assess the Competence of Engineers or Businesses for the purpose of recording their details on the Register, as published by the Standards Setting Body – see <a href="http://www.euskills.co.uk/standards-training-gas-work">www.euskills.co.uk/standards-training-gas-work</a> .
<b>Competency</b>	means the Competence to undertake Gas Work of a particular type or category.
<b>Concession Charges</b>	means the charges specified in paragraph 2.1 of Schedule 4 (Charges).
<b>Concession Services</b>	means those services undertaken by the Provider which are set out in Schedule 1 (Concession Services Requirements).
<b>Concessions Regulations</b>	means the Concessions Contract Regulations 2016.
<b>Concordat</b>	means the document setting out the day-to-day working arrangements between the Parties.

<b>Confidential Information</b>	means, in respect of each Party: <ul style="list-style-type: none"><li>(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 either Party as the context requires;</li><li>(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 either Party’s attention or into either Party’s possession in connection with this Agreement, as the context requires; and</li><li>(c) information derived from any of the above.</li></ul>
<b>Consumers</b>	means domestic users of gas.
<b>Contract Managers</b>	the individuals appointed as such by HSE and the Provider in accordance with paragraphs 6.2 and 6.3 of Schedule 10 (Governance and Contract Management).
<b>Contract Review Board</b>	The personnel of both Parties listed in Annex A of Schedule 10 (Governance and Contract Management).
<b>Contract Year</b>	means a twelve (12) month period commencing on the Services Start Date and on any anniversary of the Services Start Date.
<b>Control</b>	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.
<b>Controller</b>	shall have the meaning given in the GDPR.
<b>Counter Notice</b>	means HSE’s reply to a written notice served on it by the Provider under Schedule 19 (Dispute Resolution).
<b>Correction Plan</b>	means the Provider’s plan for the remediation of a Transition Delay.
<b>Customer</b>	means Businesses, Engineers, Public Users of the Register and HSE, collectively.
<b>Data Loss Event</b>	means any event that results, or may result, in unauthorised access to Personal Data held by the Provider under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

<b>Data Protection Act</b>	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.
<b>Data Protection Impact Assessment</b>	means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
<b>Data Protection Legislation</b>	means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy.
<b>Data Protection Officer</b>	shall have the meaning given in the GDPR.
<b>Data Subject</b>	shall have the meaning given in the GDPR.
<b>Data Subject Access Request</b>	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
<b>Default</b>	means a breach by a Party of any of the provisions of this Agreement, including any failure in respect of the provisions of Schedule 3 (Service Levels).
<b>Default Management Charge</b>	means the sum of five hundred pounds (£500) in accordance with the tariff of administration charges published at the following link: <a href="http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees">http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees</a> .
<b>Deliverable</b>	means an item, feature or service which is required to be delivered by the Provider to HSE as part of the Transition Plan or at any other stage during the performance of this Agreement.
<b>Developed IPRs</b>	means IPRs in any work created or commissioned (or jointly created or commissioned) by the Provider for use in performing its obligations under this Agreement (including any Ancillary Services) and in any updates, amendments or adaptations of or to such IPRs, but excludes Third-Party IPRs.
<b>Direction Rights</b>	means the rights of HSE to direct the Provider to carry out the actions listed in Clause 12.2.

<b>Directive</b>	means the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended.
<b>Disaster</b>	means any unplanned interruption of any of the business processes or services of or supplied by the Provider caused by a Force Majeure Event of more than twenty-four (24) consecutive hours duration that materially affects the ability of the Provider to meet the Service Levels or its obligations under this Agreement.
<b>Disaster Recovery Plan</b>	has the meaning given to it in paragraph 4 of Schedule 15 (Business Continuity and Disaster Recovery). It includes plans for how, in the event of a disaster, the Provider will ensure continuity of service with, as far as reasonably possible, minimal adverse impact.
<b>Disaster Recovery System</b>	means the system embodied in the processes and procedures for restoring the provision of Services following the occurrence of a disaster.
<b>Dispute</b>	means any dispute, difference or question of interpretation arising out of or in connection with this Agreement, or any matter where the Agreement directs the Parties to resolve the issue by reference to the Dispute Resolution Procedure in Schedule 19.
<b>Dispute Resolution Procedure</b>	means the procedure as set out in Schedule 19 (Dispute Resolution).
<b>DPA</b>	means the Data Protection Act 2018.
<b>Effective Date</b>	Means 8 <sup>th</sup> November 2018.
<b>EIRs</b>	means the Environmental Information Regulations 2004.

<b>Employee Liability</b>	<p>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"><li>(a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;</li><li>(b) unfair, wrongful or constructive dismissal compensation;</li><li>(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;</li><li>(d) compensation for less favourable treatment of part-time workers or fixed term employees;</li><li>(e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by HSE or the Replacement Provider to a Transferring Provider Employee which would have been payable by the Provider or the Sub-Contractor if such payment should have been made prior to the Service Transfer Date and also including any payments arising in respect of pensions;</li><li>(f) claims whether in tort, contract or statute or otherwise;</li><li>(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.</li></ul>
<b>Enforcement Policy Statement</b>	<p>means the statement of general principles and approach to be adopted by health and safety authorities when taking enforcement action - issued and updated from time to time by HSE.</p>
<b>Engineer</b>	<p>means individual gas engineers who are required to register on the Gas Safe Register to undertake Gas Work legally.</p>
<b>Engineer Charge</b>	<p>means the charge payable on Registration, and on each renewal of a then current Registration, of an individual Engineer.</p>

<b>Equipment</b>	means any equipment, facilities and software necessary for the provision of the Services together with any files, documents or records relating to the Services or the management, direction or organisation thereof.
<b>Equivalent Services Data</b>	data derived from an analysis of the Comparable Services provided by the Comparison Group as adjusted in accordance with Schedule 5 (Financial Model and Gain Share).
<b>Exception</b>	means a deviation of project tolerances in accordance with PRINCE2 methodology in respect of this Agreement or in the supply of the Services.
<b>Executive Review Board</b>	the personnel of both Parties listed in Annex A of Schedule 10 (Governance and Contract Management).
<b>Exit Information</b>	has the meaning given to it in paragraph 3.1 of Schedule 12 (Exit Management).
<b>Exit Manager</b>	means the person appointed by each Party pursuant to paragraph 3.4 of Schedule 12 (Exit Management) for managing the Parties' respective obligations under Schedule 12.
<b>Expert</b>	means the person appointed by the Parties in accordance with paragraph 4.2 of Schedule 19 (Dispute Resolution).
<b>Expiry Date</b>	means midnight on 31 March 2024.
<b>Extraordinary Meeting</b>	means a meeting, attended in person or over a conference call, held by the Parties in an attempt to resolve a Dispute in good faith in accordance with Schedule 19 (Dispute Resolution).
<b>Financial Model</b>	means the financial model submitted to HSE pursuant to paragraph 3.3.2. of Schedule 5 (Financial Model and Gain Share).
<b>FOIA</b>	means the Freedom of Information Act 2000 as amended including all subordinate legislation enacted under or pursuant to that Act from time to time, and all guidance or codes of practice issued by the Information Commissioner, Lord Chancellor or Secretary of State for Constitutional Affairs in relation to such legislation.

<b>Force Majeure Event</b>	means an event or occurrence, including (but not limited to), fire, flood, acts of terrorism or any disaster, which is outside the reasonable control of the Party affected; the effects of which are not attributable to any act or failure to take preventative action by the Party affected; and which prevents the Party affected from performing any of its obligations under this Agreement.
<b>Force Majeure Notice</b>	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.
<b>Former Provider</b>	a Provider supplying the Deliverables to HSE before the Relevant Transfer Date that are the same as or substantially similar to the Deliverables (or any part of the Deliverables) and shall include any Subcontractor of such Provider (or any Subcontractor of any such Subcontractor).
<b>Funds For Distribution</b>	means amounts accrued in accordance with the provisions of paragraph 4 of Schedule 5 (Financial Model and Gain Share).
<b>Gain Share Fund(s)</b>	has the meaning set out in paragraph 3.2.4 of Schedule 5 (Financial Model and Gain Share)
<b>Gas Safety Charity</b>	means the charitable company whose registered charity number is 1131987.
<b>Gas Work</b>	means work (including installation, repair, service, removal, commissioning, testing or inspection) in relation to a gas appliance, gas fitting or gas storage vessel (as those terms are defined in the Gas Safety (Installation and Use) Regulations 1998).
<b>GDPR</b>	means the General Data Protection Regulation (Regulation (EU) 2016/679).
<b>General Change in Law</b>	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Provider) or which would affect the Comparable Supply.
<b>Good Industry Practice</b>	means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.

<b>Good Value</b>	means that: <ul style="list-style-type: none"><li>(a) the Charges attributable to a Benchmarked Services are, having taken into account the Service Levels, less than or equal to the Average Price; and</li><li>(b) any Service Levels attributable to Benchmarked Services are, having taken into account the Charges, equal to or greater than the mean average service levels for Comparable Services as adjusted using Equivalent Services Data.</li></ul>
<b>Group</b>	means, in respect of the Provider, the Provider, its ultimate holding company and all subsidiaries of its ultimate holding company, the definitions of “holding company” and “subsidiary” being those set out section 1159 of the Companies Act 2006.
<b>Guarantee</b>	means the guarantee provided by the ultimate parent company of the Provider, or an agreed alternative to a guarantee, in respect of the Provider’s performance under this Agreement.
<b>Guarantor</b>	means the company providing the Parent Company Guarantee under Schedule 17 (Parent Company Guarantee).
<b>HSE Assets</b>	means all materials, infrastructure, data, software, assets, equipment or other property owned by and/or licensed or leased to HSE and which is or may be used in connection with the provision or receipt of the Services.
<b>HSE Background IPRs</b>	means: <ul style="list-style-type: none"><li>(a) IPRs owned by HSE before the Effective Date, including IPRs contained in any of HSE’s know-how, documentation, processes and procedures which relate to the subject matter of this Agreement, the Policies and Procedures, the Risk Model, and the Brand and any trade marks associated with it;</li><li>(b) IPRs which relate to the subject matter of this Agreement created by HSE independently of this Agreement; and</li><li>(c) the items listed as HSE Background IPR in Schedule 18.</li></ul>

<b>HSE Data</b>	means: <ul style="list-style-type: none"><li>(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 HSE's Confidential Information, and which are:<ul style="list-style-type: none"><li>(i) supplied to the Provider by or on behalf of HSE; and/or</li><li>(ii) which the Provider is required to generate, process, store or transmit pursuant to this Agreement; or</li></ul></li><li>(b) any Personal Data for which HSE is the Data Controller; and</li><li>(c) the items listed as HSE Data in Schedule 18</li></ul>
<b>HSE Premises</b>	means any office or building for which HSE has responsibility for.
<b>ICT</b>	means Information and Communications Technology.
<b>ICT Policy</b>	means HSE's Information and Communications Technology Policy.
<b>Improvement Plan</b>	means a plan prepared by the Provider pursuant to Clause 11 (Improvement Plan).
<b>Indemnification Procedure</b>	means the Procedure for indemnity, where a claim is made against either Party, described in Clause 34.6.
<b>Indemnified Claim</b>	means a claim made against either Party under the Indemnification Procedure in Clause 34.6.
<b>Indemnified Party</b>	means the Party against whom a claim is made under the provisions of the Indemnification Procedure in Clause 34.6.
<b>Indexation Date</b>	means the date by which indexation is calculated, which shall be no later than 15 <sup>th</sup> November each Contract Year.
<b>Information Commissioner</b>	means the person for the time being holding the office of Information Commissioner (as constituted by the Data Protection Acts 1984 and 1998) and includes any officers, staff, agents or delegates of that person.

- In-Scope Contractors** means those contractors engaged by the Previous Provider to perform the Services or any part of the Services in the three (3) months prior to the Effective Date and whose functions or responsibilities in relation to the Services are displaced to the Provider as a result of this Agreement and whose details are set out in Annex B of Schedule 9 (Staff Transfer).
- In-Scope Employees** means those employees of the Previous Provider whose employment will transfer to the Provider on the Services Start Date and whose details are set out in Schedule 9 (Staff Transfer).

<b>Insolvency Event</b>	<p>means, in respect of the Provider or Guarantor (as applicable):</p> <ul style="list-style-type: none"><li>(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</li><li>(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</li><li>(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</li><li>(d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</li><li>(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</li><li>(f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</li><li>(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</li><li>(h) where the Provider or 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</li><li>(i) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction.</li></ul>
<b>Inspect</b>	means to undertake an Inspection.
<b>Inspection</b>	means an examination by the Provider of Gas Work carried out by an Engineer or Business and supervisory activities of a Business related to Gas Work for the purposes of determining ongoing compliance with Competence Criteria and the Rules of Registration.

<b>Inspection Event</b>	means a half-day awareness event for low-risk Engineers and Businesses.
<b>Inspection Rate</b>	means the average number of planned inspections per Business per Contract Year, as determined by the relevant Risk Category in accordance with Schedule 1 (Concession Services Requirements).
<b>Inspector</b>	means a person employed or engaged by the Provider in accordance with Schedule 1 (Concession Services Requirements) to carry out Inspections.
<b>Intellectual Property Rights or IPRs</b>	means <ul style="list-style-type: none"><li>(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;</li><li>(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</li><li>(c) all other rights having equivalent or similar effect in any country or jurisdiction.</li></ul>
<b>Internal Benchmark Review</b>	a review of the Intra-group Services carried out by the Provider in accordance with Schedule 5 (Financial Model and Gain Share) to determine whether those Intra-group Services represent Good Value.
<b>Intra-group Services</b>	services provided by companies within the Provider's Group to the Provider.
<b>IPR Claim</b>	means any claim, action or demand brought by a third party against the Provider or HSE (or instituted by the Provider or HSE) for infringement or alleged infringement in relation to any Services Specific IPRs, Developed IPRs, the Brand IPRs or any other IPR in connection with, arising out of or in respect of this Agreement.
<b>ISMS</b>	the information security management system and process developed by the Provider in accordance with paragraph 3 of Schedule 21 (Security Requirements and Plan).
<b>IT</b>	information and communications technology.
<b>Key Performance Indicators (KPIs)</b>	means the key performance indicators as set out in Schedule 8 (Key Performance Indicators).

<b>Key Personnel</b>	means those staff identified as such in Schedule 14 (Key Personnel), as the same may be amended or updated from time to time in accordance with this Agreement, and “ <b>Key Person</b> ” shall be construed accordingly.
<b>Key Roles</b>	means the roles carried out by Key Personnel identified in Schedule 14 (Key Personnel).
<b>Key Sub-Contract</b>	means a Sub-Contract listed in Schedule 13 (Third-Party Contracts).
<b>Key Sub-Contractor</b>	means a Sub-Contractor that delivers a Key Sub-Contract as listed in Schedule 13 (Third-Party Contract).
<b>KPI</b>	see Key Performance Indicators (KPIs).
<b>KPI Failure</b>	means a failure to Achieve a KPI in respect of one or more KPI measures in one or more Contract Years.
<b>KPI Target</b>	means the target set for each KPI in Schedule 8 (Key Performance Indicators).
<b>LABC</b>	means local authority building control.
<b>Late Renewal Charge</b>	means the charge levied on a Business where it does not renew its Registration within six (6) weeks of the expiry of that Business’ expired Registration.
<b>Law</b>	means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body.
<b>LED or Law Enforcement Directive</b>	means Law Enforcement Directive (Directive (EU) 2016/680).
<b>Liquidated Damages</b>	means the amount payable by the Provider to Funds for Distribution in the event that the Provider fails to deliver the Transition Plan Phase 1 (Solution ‘live’) milestone, as set out in Schedule 17 (Transition Plan).
<b>Liquidated Damages Cap</b>	means the maximum Liquidated Damages payable under Clause 17.8.
<b>Losses</b>	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.

<b>Lost Identity Card Charge</b>	means the charge payable by a Business for each reissued Engineer identity card as a result of a notification of a lost card of that Engineer where the details of the Engineer have not changed.
<b>Mandatory Attendance Event</b>	means a full-day awareness event including two knowledge-based tests. These events are used for targeted high-risk Businesses and Engineers.
<b>Material Breach</b>	means a breach of the Provider's obligations under this agreement which, on reasonable grounds, substantially undermines HSE's confidence in the Provider to provide the Services properly in accordance with the terms of this Agreement.
<b>Mediator</b>	means an independent third party appointed in accordance with paragraph 3.2 of Schedule 19 (Dispute Resolution).
<b>Management Information (MI)</b>	means the data and information required as set out in Schedule 11 (Management Information, Reporting and Records).
<b>Management Information System</b>	means appropriate systems, processes and records to ensure that the Provider can, at all times, deliver timely and accurate Management Information to HSE in accordance with the provisions of Schedule 11 (Management Information, Reporting and Records).
<b>MI Default</b>	has the meaning given to it in Schedule 11 (Management Information, Reporting and Records).
<b>MI Failure</b>	means when an MI report: <ul style="list-style-type: none"><li>(a) contains any material errors or material omissions or a missing mandatory field; or</li><li>(b) is submitted using an incorrect MI Reporting Template; or</li><li>(c) is not submitted by the reporting date (including where a Nil Return should have been filed).</li></ul>
<b>MI Report</b>	means a report containing Management Information submitted to the Authority in accordance with Schedule 11 (Management Information, Reporting and Records).
<b>MI Reporting Date</b>	means the 7th day of each Month following the Month to which the relevant Management Information relates, or such other date as may be agreed between the Parties.
<b>MI Reporting Template</b>	means the form of report set out in the Annex 1 to Schedule 11 (Management Information, Reporting and Records) setting out the information the Provider is required to supply to the Authority.

<b>Month</b>	means a calendar month and “ <b>Monthly</b> ” shall be interpreted accordingly.
<b>Monthly Agreed Operating Costs</b>	means the Agreed Operating Costs apportioned equally on a Monthly basis.
<b>Monthly Service Levels</b>	means each of the Service Levels where the Service Measurement Period is on a Monthly basis.
<b>Monthly Service Report</b>	shall be as specified in paragraph 3.1.2 of Schedule 11 (Management Information and Reporting).
<b>New Additional Service</b>	means any new Additional Service approved by HSE in accordance with Clause 5 (Additional Services).
<b>New Registration Charge</b>	means the charge payable in respect of the Registration of a Business that is not a Registered Business.
<b>New Service</b>	means any service, function or responsibility reasonably supplemental or ancillary to the Concession Services or Ancillary Services.
<b>NI Scheme Approval</b>	Northern Ireland Scheme of Approval means the certificate granted by HSENI under regulation 3 of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004, as set out in Schedule 23 (Scheme Approval).
<b>Non-Exclusive Assets</b>	means those Provider Assets (if any) which are used by the Provider or a Key Subcontractor in connection with the Services but which are also used by the Provider or Key Subcontractor for other purposes.
<b>Notification of Work</b>	means the notification of Gas Work under the Building Regulations (England & Wales).
<b>Notification of Work Under the Building Regulations (Online) Charge</b>	means the Concession Charge payable by a Business in respect of Building Gas Work notified to the Provider through the Provider’s website facility.
<b>Notification of Work Under the Building Regulations (Reprint) Charge</b>	means the Concession Charge payable for the reprint of a Building Regulations Compliance Certificate.
<b>Notification of Work Under the Building Regulations (Telephone &amp; Post) Charge</b>	means the charge payable by a Business in respect of Building Gas Work notified to the Provider by telephone or post.
<b>Notification of Work Under the Building Regulations (Third Party) Charge</b>	means the Concession Charge payable by an Approved Third Party in respect of Building Gas Work notified to the Provider by that Approved Third Party on behalf of a Registered Business.

**Open Book Data**

means complete and accurate financial and nonfinancial information which is sufficient to enable the Authority to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Term, including details and all assumptions relating to:

- (a) the Provider's Costs broken down against each Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware and software;
- (b) operating expenditure relating to the provision of the Services including an analysis showing:
  - (i) the unit costs and quantity of consumables and bought-in services;
  - (ii) manpower resources broken down into the number and grade/role of all Provider 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 Provider's Profit Margin; and
  - (iv) Reimbursable Expenses;
- (c) Overheads;
- (d) all interest, expenses and any other third-party financing costs incurred in relation to the provision of the Services;
- (e) the Provider Profit achieved over the Term 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 Provider;
- (g) an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk; and

the actual Costs profile for each Service Period.

**Operating Costs**

The costs of delivering the Services. As detailed in Schedule 5 (Financial model and Gain Share). Operating Costs will be proposed annually by the Provider and agreed with HSE.

<b>Outstanding Renewal Charges</b>	means Renewal Charges and New Registration Charges relating to any period that falls after the date of expiry or earlier termination, calculated as per the formula in Schedule 4 (Charges). This excludes the Application Fee, which does not relate to the period after expiry.
<b>Parent Company Guarantee</b>	means the guarantee provided by the ultimate parent company of the Provider in respect of the Provider's performance under this Agreement as further detailed in Schedule 17 (Parent Company Guarantee).
<b>Partial Termination</b>	the Partial Termination of the relevant Agreement to the extent that it relates to the provision of any part of the Services as further provided for in Clause 42 (Partial Termination, Suspension and Partial Suspension).
<b>Personal Data</b>	means personal data as defined in the GDPR which is processed by the Provider or any Sub-Contractor on behalf of HSE pursuant to or in connection with this Agreement, and includes the data listed in Schedule 24 (Processing, Personal Data and Data Subjects).
<b>Personal Data Breach</b>	shall have the meaning given in the GDPR.
<b>Policies</b>	means HSE, government or other policies which the Provider must comply with when delivering the Services and set out in Schedule 7 (Policies) and Schedule 18 (Assets), as the same may be amended or updated from time to time through the operation of the Change Control Procedure.
<b>Previous Provider</b>	means Capita Gas Registration and Ancillary Services Limited (company number 05078781).
<b>Previous Provider's IPRs</b>	means any IPRs used by the Previous Provider in the provision of the Services the title to which is owned by the Previous Provider or a member of the Previous Provider's Group.
<b>Probationary Registration</b>	means a time-defined initial admission or re-admission of a Business to the Register during which the competence of the business will be assessed.
<b>Procedure</b>	means a document describing a Process.
<b>Process</b>	means any activity performed on behalf of the Provider in the course of operating the Concession Services.
<b>Processes and Procedures Register</b>	means the register of Processes and Procedures in respect of Concession Services compiled by the Provider in accordance with Clause 4.3.

<b>Processor</b>	shall have the meaning given in the GDPR.
<b>Profit Margin</b>	the Profit Margin is means, in respect of each Contract Year, the percentage as referred to in paragraph 3.1.2 of Schedule 5 (Financial Model and Gain Share).
<b>Prohibited Act</b>	<p>means any of the following:</p> <ul style="list-style-type: none"><li>(a) to directly or indirectly offer, promise or give any person working for or engaged by HSE or any other public body a financial or other advantage to:<ul style="list-style-type: none"><li>(i) induce that person to perform improperly a relevant function or activity; or</li><li>(ii) reward that person for improper performance of a relevant function or activity;</li></ul></li><li>(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;</li><li>(c) committing any offence:<ul style="list-style-type: none"><li>(i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li><li>(ii) under legislation or common law concerning fraudulent acts; or</li><li>(iii) defrauding, attempting to defraud or conspiring to defraud HSE or other public body; or</li></ul></li><li>(d) 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.</li></ul>
<b>Protective Measures</b>	means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.
<b>Provider IPRs</b>	means any IPRs used by the Provider in the provision of the Services the title to which is owned by the Provider or a member of the Provider's Group.

<b>Provider Personnel</b>	means all directors, officers, employees, agents, consultants and contractors of the Provider and/or of any Sub-Contractor engaged in the performance of the Provider's obligations under this Agreement.
<b>Provider Profit</b>	means the amount of Revenue that the Provider is entitled to retain as a profit. It is calculated as a percentage of Agreed Operating Costs.
<b>Provider's Final Provider Personnel List</b>	means a list provided by the Provider of all Provider Personnel whose will transfer under the Employment Regulations on the Service Transfer Date.
<b>Provider's Proposals</b>	has the meaning given to it in paragraph 5 of Schedule 15 (Business Continuity and Disaster Recovery).
<b>Provider's Provisional Provider Personnel List</b>	means a list prepared and updated by the Provider of all Provider 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 Provider.
<b>Provisional Provider Gain Share Funds</b>	means the provisional funds apportioned in accordance with paragraph 4.1.1(b) of Schedule 5 (Financial Model and Gain Share).
<b>Public Users of the Register</b>	means Consumers who use the Register.
<b>Qualification</b>	Certificates of gas safety competence in a specified category or type of Gas Work. Engineers must only carry out Gas Work for those categories for which they hold the relevant valid qualifications, as listed by the Standards Setting Body.
<b>Rectification Plan</b>	means a plan to address the impact of, and prevent the recurrence of, a Material Breach by the Provider.
<b>Rectification Plan Process</b>	means the process whereby HSE requires the Provider to provide a plan to rectify Material Breaches.
<b>Refunds Policy</b>	means Gas Safe Register's Policy which provides a process for dealing with requests for the refund of registration fees and charges by Registered Businesses.
<b>Register</b>	means the record of Businesses and Engineers to be maintained by the Provider pursuant to the Registration Scheme and also called the Gas Safe Register.
<b>Registered Business</b>	means a Business included on the Register.

<b>Registered Engineer</b>	means an Engineer included on the Register.
<b>Registration</b>	means the inclusion of a Business or an Engineer (as applicable) on the Register.
<b>Registration Data</b>	means all information or data held on any computer or information system concerning or relating to former or current Engineers or Businesses and the work undertaken by those Engineers and Businesses.
<b>Registration Data IPRs</b>	means any IPRs subsisting in the Registration Data.
<b>Registration Database</b>	means all information or data held on any computer system and all documents, papers and other records in any form concerning or relating to former or current Businesses or Engineers and the work undertaken by those Businesses and Engineers, but excludes, where such information or data is held on a computer system, any relationship links between various items of information or data.
<b>Registration Date</b>	means the date upon which a Registered Business or Registered Engineer is included upon the Register, save that where any Registered Business was included on the Register operated by the Previous Provider, the Registration Date for such Registered Businesses shall be the Services Start Date.
<b>Registration IPRs</b>	means all intellectual property rights, including any database rights under the Copyright and Rights in Databases Regulations 1997 and any copyrights under the Copyright, Designs and Patents Act 1998 and predecessor or successor legislation, including subordinate legislation, existing in the Registration Database.
<b>Registration Personal Information</b>	means the personal information (as defined in the DPA) of the Engineers identified in the Registration Database.
<b>Registration Policy</b>	means the Policy which clarifies the Rules of Registration in relation to first entering on to the Register, ongoing requirements, sanctions and communications.
<b>Registration Scheme</b>	means the scheme set out in Schedule 1 (Service Requirements) relating to the operation of the Register and activities associated therewith.
<b>Registration Year</b>	means a twelve (12)-month period commencing on a Registration Date or any anniversary of a Registration Date.

<b>Regulations</b>	means the Gas Safety (Installation and Use) Regulations 1998.
<b>Regulatory Body</b>	means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement “Regulatory Body” shall be construed accordingly.
<b>Related Provider</b>	as referred to in Schedule 15 (Business Continuity and Disaster Recovery)
<b>Relevant Conviction</b>	any previous or pending prosecutions, convictions, cautions or binding over orders for burglary, violence or a sexual offence.
<b>Relevant Requirements</b>	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.
<b>Relevant Transfer</b>	means a transfer of employment to which the Employment Regulations apply.
<b>Relevant Transfer Date</b>	means in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place.
<b>Relief</b>	means: (a) a period during which the Provider’s Performance is not taken into account when determining whether it has Achieved the Service Levels in respect of a KPI; or (b) the adoption of an alternative calculation method to measure the Provider’s Performance, for example by omitting outliers in data, in respect of a KPI in each case as a result of a Force Majeure Event.
<b>Removal</b>	a Business or Engineer is removed from the official list of gas businesses or from the list of those competent and qualified to work on gas. This means that the Business or Engineer can no longer undertake Gas Work legally.
<b>Renewal Charges</b>	means the: (a) Business Renewal (Telephone & Post) Charge; (b) Business Renewal (Online) Charge; and (c) Engineer Renewal Charge.

<b>Renewal Fee</b>	means the cost to Businesses / Engineers to continue their registration, including Renewal Charges.
<b>Renewal Fee Able-to-Proceed Date</b>	means one (1) calendar month before the Renewal Fee Collection Start Date.
<b>Renewal Fee Collection Start Date</b>	means 1 February 2019.
<b>Repeat Failure Multiplier</b>	means the multiplier applied to failures as set out in Table 4 of Schedule 3 (Service Levels).
<b>Replacement Provider</b>	means any third party appointed by HSE from time to time to undertake services the same as or substantially similar to the Services following the expiry or earlier termination (or part termination) of this Agreement.
<b>Replacement Services</b>	means any Services which HSE performs itself or procures the performance of by a third party as a result of any Default by the Provider.
<b>Reporting</b>	means the provision of reports to HSE by the Provider in accordance with Clause 25 (Reporting).
<b>Request for Information</b>	shall have the meaning set out in section 8 of the FOIA and includes any apparent request for information under the FOIA or the EIRs.
<b>Retained Contracts</b>	means subcontracts between the Previous Provider and third parties related to or necessary for the provision of the Services which are to be transferred to the Provider and are set out in Schedule 13 (Third-Party Contracts).
<b>Revenue</b>	means all Concession Charges, Ancillary Charges and Additional Charges received and accounted for in respect of a Contract Year.
<b>Review Report</b>	has the meaning given to it in paragraph 5 of Schedule 15 (Business Continuity and Disaster Recovery).
<b>Risk Category</b>	is determined by a Business's Risk Rating, and determines the frequency of planned inspection (the Inspection Rate). Categories are lower, medium, higher and targeted higher.
<b>Risk Model</b>	means the model, process or algorithm used to determine a Business's Risk Rating, and subsequently the Risk Category that applies to them. It is used to assist in the selection of Gas Work to Inspect.
<b>Risk Rating</b>	is the score or rating allocated to a Business on application of the Risk Model.

<b>Risk Register</b>	means the management product developed and maintained by the Provider, in which all the information about each risk to the provision of Services is documented, such as a description of the risk, the people associated with managing the risk (e.g. the risk owner), the response to be carried out, and an evaluation of the risk in terms of expected value (i.e. a quantifiable measure combining probability and financial impact, facilitating appropriate risk prioritisation).
<b>Rolling Period</b>	the aggregated period of time during which performance against monthly and annual Service Levels is calculated, as set out in paragraph 4 of Schedule 3.
<b>Rules of Registration</b>	means the contract between the Provider and Businesses and Engineers governing the inclusion of those Businesses and Engineers in the Register, as published on the Gas Safe Register website at <a href="https://www.gassaferegister.co.uk/media/1600/rules-of-registration-v51.pdf">https://www.gassaferegister.co.uk/media/1600/rules-of-registration-v51.pdf</a>
<b>Sanctions Policy</b>	means the HSE-owned Policy that outlines the sanctions that Gas Safe Register can apply to the registration of any Registered Business and/or Engineer, where justification exists.
<b>Scheme Approval</b>	means the approval of the class of persons of which a Business must be a member for the purposes of regulation 3(3) of the Regulations, as set out in Schedule 23 (Scheme Approval).
<b>Scheme Documents</b>	means all documents created or acquired by the Provider to facilitate the provision of the Concession Services and Ancillary Services, including: <ul style="list-style-type: none"><li>(a) any document acquired, amended or created by the Provider to enable Inspectors, Businesses and Engineers to determine whether Gas Work is Unsafe Gas Work and, if so, the risk attaching to that Unsafe Gas Work;</li><li>(b) the Rules of Registration;</li><li>(c) the Processes and Procedures Register and all documents forming part of that register; and</li><li>(d) all training materials provided or delivered to the Provider Personnel to facilitate their provision of the Concession Services and Ancillary Services and which are specifically developed for the Concession Services.</li></ul>
<b>Security Management Plan</b>	means the Provider's security plan prepared pursuant to Schedule 21 (Security Requirements and Plan).

<b>Security Policy</b>	means HSE's security policy annexed to Schedule 21 (Security Requirements and Plan), as updated from time to time.
<b>Security Tests</b>	means tests to validate the ISMS and security of all relevant processes, systems, incident response plans, patches to vulnerabilities and mitigations to Breaches of Security.
<b>Senior Management Team</b>	means those individuals holding senior executive roles within the Provider's organisation.
<b>Senior Officers</b>	are senior officials of HSE and the Provider that have been instructed by HSE Representative and Provider Representative respectively to resolve a Dispute by commercial negotiation, in accordance with Schedule 19 (Dispute Resolution).
<b>Service Assets</b>	means all assets and rights owned or leased and used by the Provider to provide the Services in accordance with this Agreement.
<b>Service Credits</b>	means the amount payable by the Provider due to the occurrence of Service Level Failures calculated in accordance with Schedule 3 (Service Levels) .
<b>Service Levels</b>	means the service levels SL01 to SL17 as respectively set out in Schedule 3 (Service Levels).
<b>Service Level Failure</b>	means a failure to Achieve a Service Level Performance Measure.
<b>Service Level Failure Rights</b>	means the rights set out in Clauses 8 (Service Levels), 9 (Service Points), 11 (Improvement Plan), 12 (Direction Rights) and 13 (Step-In Rights).
<b>Service Level Performance Measure</b>	means the level of performance required to meet the respective Service Levels as indicated in Annex 1 Schedule 3 (Service Levels).
<b>Service Measurement Period</b>	means the period of calculation of performance for each Service Level as set out in Annex 1 of Schedule 3 (Service Levels).
<b>Service Point Application Period</b>	means the period against which Service Credits are calculated.
<b>Service Points</b>	means points accumulated as a result of a Service Level Failure during a Service Measurement Period.
<b>Services</b>	means the Concession Services, Additional Services and Ancillary Services, but excludes the Transition Activities.

<b>Services Specific IPRs</b>	means IPRs in items (including software) used or procured by the Provider (or by the Previous Provider or a third party on behalf of the Provider) specifically for the purposes of this Agreement (but excluding shrink-wrap and/or commercial off the shelf products of general application) and any updates, amendments or adaptations of those items and includes IPRs arising as a result of the performance by the Provider of its obligations under this Agreement.
<b>Services Start Date</b>	means the date when the Provider commence delivery of the Services, which will be 1 April 2019.
<b>Sites</b>	means any premises from where the Services are provided or where the Equipment is situated or from which Provider manages, organises or otherwise directs the provision or the use of the Services.
<b>Specific Change in Law</b>	a Change in Law that relates specifically to the business of HSE and which would not affect a Comparable Supply including but not limited to: <ul style="list-style-type: none"><li>(a) Gas Safety (Installation and Use) Regulations 1998;</li><li>(b) Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004.</li></ul>

**Staffing Information**

means in relation to all persons identified on the Provider's Provisional Provider Personnel List or Provider's Final Provider Personnel List, as the case may be, such information as HSE may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format:

- (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.

**Standards Setting Body**

the industry body with oversight of assessment and training standards for Gas Work. It is responsible for the governance and industry consultative structure that determines and agreed the Matters of Gas Safety criteria for gas Engineers, including the competence requirements for the certification required for Gas safe registration.

<b>Standards Setting Function</b>	the Standards Setting Function is the service delivery function for the Standards Setting Body. This includes secretariat, Standards Development Unit, and facilitating/hosting numerous forums/meetings.
<b>Step-in Rights</b>	means HSE's right to appoint one or more individuals to manage on a temporary basis the Provider's provision of the Services or any part them.
<b>Subcontract</b>	<p>means any contract or agreement between the Provider and a third party:</p> <ul style="list-style-type: none"><li>(a) where that contract or agreement to terminate without notice, the Provider would have significant difficulties in providing the Services and meeting the Service Levels, or</li><li>(b) where the third party agrees to perform (or to assist in performing a substantial part of) any of the Provider's material obligations under this Agreement (but excluding such subcontracts which relate to the delivery or performance of minor or non-material parts of the Services),</li></ul> <p>and, for the avoidance of doubt, includes forming a subsidiary company or any partnership, joint venture or other business arrangement between the Provider and a third party for the purpose of performing the Provider's obligations under this Agreement.</p>
<b>Subcontractor</b>	means any third party with whom the Provider enters into a Subcontract.
<b>Sub-processor</b>	means a processor of personal data, in relation to this agreement, appointed by the Provider when the Provider is unable to process that data.
<b>Suspension</b>	a Business or Engineer is removed from the official list of gas businesses or from the list of those competent and qualified to work on gas for a defined period. This means that the Business or Engineer can no longer undertake Gas Work legally until the suspension is lifted. Suspensions are normally lifted within 30 working days if specified criteria are met, but can also be for a specified fixed term, extended, or escalated to removal from the Register.
<b>Term</b>	means the period that this Agreement is in force as provided in Clause 2 (Commencement and Term).

<b>Termination Assistance</b>	means the activities to be performed by the Provider pursuant to the Exit Plan, and any other assistance required by HSE pursuant to the Termination Assistance Notice to achieve the orderly transition of Services to HSE or a Replacement Provider as appropriate.
<b>Termination Assistance Notice</b>	has the meaning given to it in paragraph 5.1 of Schedule 12 (Exit Management);
<b>Termination Assistance Period</b>	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 Schedule 12 (Exit Management).
<b>Termination Notice</b>	means a notice in writing, delivered in accordance with Clause 22 (Notices) terminating this Agreement (or any part thereof) or any Services (or part thereof).
<b>Terms &amp; Conditions</b>	means the terms and conditions (excluding the Schedules to) this Agreement.
<b>Territory</b>	means the United Kingdom of Great Britain and Northern Ireland.
<b>Third-Party IPRs</b>	means any IPRs used by the Provider to store, amend and manipulate the Registration Data or to enable it to perform any material aspect of the Services the IPRs in which are the property of any third-party, other than a member of the Provider's Group.
<b>Third Party Provisions</b>	means provisions for staff other than those of the Parties in relation to Staff Transfer and Exit Management as described in Clause 50.1.
<b>Transferable Contracts</b>	means the relevant Transferred Assets, Subcontracts, licences for Provider Background IPR, Project Specific IPR, licences for Third Party IPR or other agreements which are necessary to enable HSE or any Replacement Provider to provide the Services or the Replacement Services, including in relation to licences all relevant Documentation.
<b>Transferable Gain Share Funds</b>	shall have the meaning set out in paragraph 4.2.4 of Schedule 5 (Financial Model and Gain Share).
<b>Transferring Contracts</b>	means contracts assigned or novated to HSE and/or the Replacement Provider.

<b>Transferring Former Provider Employees</b>	means in relation to a Former Provider, those employees of the Former Provider to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Provider on or prior to the Relevant Transfer Date.
<b>Transferring HSE Employees</b>	those employees of HSE to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Provider on or prior to the Relevant Transfer Date.
<b>Transition Activities</b>	means all acts or things that the Provider will do or undertake from the Effective Date to the Services Start Date to ensure that it is able to provide the Services from the Services Start Date.
<b>Transition Governance Board</b>	means that board established by Annex A of Schedule 10 (Governance and Contract Management) to oversee the Transition Activities.
<b>Transition Period</b>	means the period from and including the Effective Date until the Services Start Date or such other period as shall be agreed between the Parties in accordance with Schedule 16 (Transition).
<b>Transition Plan</b>	means the Provider's transition plan set out in Annex 1 of Schedule 16 (Transition).
<b>Transparency Information</b>	is as defined in clause 33.2.
<b>TUPE</b>	means Transfer of Undertakings (Protection of Employment) Regulations 2006.
<b>Unauthorised Disclosure</b>	means disclosure by a Party of another Party's Confidential Information covered in Clause 31.12.
<b>Unsafe Gas Work</b>	means any Gas Work which is not to the standards formulated by the Provider.
<b>Updated Identity Card Charge</b>	means the charge payable by a Business for each reissued Engineer identity card as a result of a request for an updated Engineer identity card where the details of the Engineer have changed.
<b>Variation</b>	means a variation or modification made to the Agreement via the Change Control Procedure.
<b>Work Package</b>	means terms of reference, activities and deliverables agreed by the Parties in respect a requirement by HSE for Ancillary Services.
<b>Working Day</b>	means a day (excluding Saturdays, Sundays and bank holidays in England and Wales) on which banks are open for normal business in London.

**Working Hour** means, in respect of each Working Day, a period of 60 consecutive minutes within the hours of 07:30 to 19:00.

**Year 1** means the Contract Year commencing on the Services Start Date and “Year 2”, “Year 3” and all such similar expressions shall be interpreted accordingly.

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**SCHEDULE 1: CONCESSION SERVICES  
REQUIREMENTS**

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## **1. The role of the Provider**

- 1.1 This Schedule sets out the Concession Services to be supplied by the Provider.
- 1.2 In performing the Concession Services, the Provider must operate efficiently, and must not impose any unnecessary compliance burdens on Registered Businesses.
- 1.3 A Concordat shall be agreed between the Provider and HSE one month before the Services Start Date, providing the framework to guide the working relationship between the two Parties.
- 1.4 The objective of the Concordat shall be to ensure that the roles and responsibilities of the two Parties during the operation of the Gas Safe Register scheme from 1 April 2019 under the Services Concession Agreement (SCA) are effectively translated into practical working arrangements.
- 1.5 The Provider shall enter into discussions with the governments of the Isle of Man and Guernsey with a view to, with prior agreement from HSE, contracting to deliver Gas Safe registration services in these territories from the Services Start Date. Businesses and Engineers shall be charged the same fees and shall be subject to the same conditions of Registration as in Great Britain and Northern Ireland.

## **2. Manage and maintain an electronic Gas Safe Register**

- 2.1 The Provider shall for the purposes of the European Union (Recognition of Professional Qualifications) Regulations 2015 act as the competent authority known as the Gas Safe Register and shall operate the Register.
- 2.2 The Provider shall allow free-of-charge access to the Register to enable Consumers to check whether any person carrying out Gas Work is:
  - 2.2.1 registered on the Register; and
  - 2.2.2 competent to undertake such work.
- 2.3 The Provider shall:
  - 2.3.1 ensure the operation of the Register is in compliance with the Human Rights Act 1998, the Data Protection Act 1998 ("DPA"), and the General Data Protection Regulation (Regulation (EU) 2016/679) ("GDPR");
  - 2.3.2 hold all registration data at a UK-based BS ISO IIEC 27001 certified data centre with extracts held locally only temporarily and on secure and encrypted equipment;
  - 2.3.3 ensure compliance with Council Directive 2005/36/EC on the recognition of professional qualifications implemented by the European Communities (Recognition of Professional Qualifications) Regulations SI 2007/2781;
  - 2.3.4 comply with the requirements of the European Parliament and Council's Directive 2006/123/EC on services in the internal market.

- 2.4 The Provider shall set up and from the Services Start Date shall run a data management function for the Register, which should comprise as a minimum:
- 2.4.1 effective user access controls;
  - 2.4.2 identification of all data owners and stewards;
  - 2.4.3 a clearly documented issue resolution process with associated roles and responsibilities;
  - 2.4.4 a full design document set;
  - 2.4.5 a regular data audit;
  - 2.4.6 identification of personally identifiable information together with evidence that this information is encrypted in transit and at rest.

### **3. Registration, renewals, changes and removals**

- 3.1 The Provider shall inherit, maintain and publicise the Rules of Registration. The Provider shall keep the Rules of Registration under review and shall report to HSE when any amendments are required to the Rules of Registration.
- 3.2 The Provider shall not make any amendment to the Rules of Registration then in force without first obtaining the prior, express, written consent of HSE which shall not be unreasonably withheld or delayed.
- 3.3 The Provider shall ensure that Rules of Registration are freely available from the Gas Safe Register website and shall on registration provide one free hard copy to each Registered Business other than those Businesses that pay the Business Renewal (Online) Charge, and may make available additional copies in hardcopy on request at a price which does not exceed Provider's actual costs (including overheads and margin of no more than ten percent (10%)) of production, postage and handling. Revised Rules of Registration shall be provided to Businesses when Rules of Registration change, these shall not be provided in hard copy for those Businesses that pay the Business Renewal (Online) Charge.
- 3.4 In order to maintain the Register, the Provider shall manage registrations, renewals, changes and removals, and shall enable the processing of payments and the issue and return of registration identity cards by offering the following channels: phone, post, email and online (with an emphasis on encouraging people to choose the online option).

#### ***Registrations***

- 3.5 The Provider shall ensure that all necessary details have been received and checked (and subsequently maintained) for each individual Engineer or Business seeking to be registered, including (but not limited to):
- 3.5.1 trading title, business address (and if applicable company or limited liability partnership (LLP) name and registered office address as registered at Companies House);
  - 3.5.2 responsible person information;

- 3.5.3 business type (eg sole trader, partnership, limited liability company etc);
- 3.5.4 Companies House registration number;
- 3.5.5 information relating to individual Engineers including but not limited to:
  - 3.5.5(a) full name of each individual;
  - 3.5.5(b) Date of birth
  - 3.5.5(c) contact details (including postal address, mobile number and email address);
  - 3.5.5(d) National Insurance number;
  - 3.5.5(e) Qualifications;
  - 3.5.5(f) complaints history;
  - 3.5.5(g) inspection reports;
  - 3.5.5(h) details of Awarding Body for each qualification listed; and
  - 3.5.5(i) individual photographs;
- 3.5.6 details of any prosecutions and sanctions which may affect the application or registration;
  - 3.5.6(a) whether or not the Business wants their contact details given out over the phone or displayed on the Gas Safe Register website;
  - 3.5.6(b) that a signature, position and date has been provided (use of an electronic tick box is permissible) by each individual whereby they have confirmed they have read the Rules of Registration and Registration Policy.
- 3.6 The Provider shall set the probationary period for new registrations in line with the existing Registration Policy.
- 3.7 Each registration period shall last for 12 months, including any probationary period, and is subject to Engineers maintaining current qualifications. Registration may be suspended in line with the Sanctions Policy if a Business or Engineer breaches the Rules of Registration.
- 3.8 The Provider shall enable Awarding Bodies to upload qualification information about engineers through an application program interface (API).
- 3.9 The Provider shall receive qualification and candidate files from Awarding Bodies as pipe delimited files with the first field in each record being a character that determines the content of the rest of the record. All files should include the extension '.dat'. No change to this method shall be permitted without written consent from HSE.
- 3.10 On completion of registration the Provider shall send an email to the Engineer or Business in question confirming that registration has been effected, attaching the Rules of Registration and Registration Policy. In all cases, an identity card and hard copy Registration certificate shall be sent within five Working Days during the months April to January, or 10 Working Days during the months February and March.

*Probationary registration*

- 3.11 As part of the core process for registration of Businesses and Engineers the Provider shall operate a time-defined probationary registration period of three months, during which the Registered Business shall be inspected by the Provider.
- 3.12 The Provider shall grant a Business probationary registration where they satisfy all requirements for registration and:
- 3.12.1 the Provider has no previous performance history about the Business; or
  - 3.12.2 the Business has been previously registered under another name and has a complaints record or record of unsafe Gas Work.
- 3.13 The Provider may, in exceptional circumstances, which shall be specified in the [Rules of Registration](#), grant full registration to the Business concerned without the need for a period of probationary registration.
- 3.14 [Not used]
- 3.15 During the probationary registration, the Provider shall undertake at least:
- 3.15.1 one on-site inspection of Gas Work carried out by the Registered Business; and
  - 3.15.2 one inspection of the processes and procedures of the Registered Business.

#### ***Renewals and changes***

- 3.16 The Provider shall ensure all Registered Businesses and Engineers are reminded that they need to renew their registration one month prior to their annual renewal date and shall send the information required for renewal through an appropriate communication channel, including letter, email and SMS message.
- 3.17 If a registration has not been renewed a week before the renewal date, the Provider shall send further reminder through the same channel.
- 3.18 Before renewing, the Provider shall check that all the qualifications of the Engineer in question remain valid.
- 3.19 If a Business or Engineer fails to renew, the Provider shall issue a letter, email and SMS message informing that if they continue to undertake Gas Work they will be doing so illegally.
- 3.20 Registered Engineers and Businesses shall be allowed to change information on the Register relating to contact details and responsible person.

#### ***Removals***

- 3.21 Registration shall cease in the event of:
- 3.21.1 cessation of trading by a Business / entry into liquidation or bankruptcy;
  - 3.21.2 Business / Engineer's request;
  - 3.21.3 retirement of Engineer;
  - 3.21.4 death of Engineer;
  - 3.21.5 lapse of qualification;
  - 3.21.6 failure to renew registration;

- 3.21.7 any other reason as instructed by HSE from time to time in writing; or
- 3.21.8 breach of Rules of Registration.
- 3.22 Registration may be suspended in accordance with the Sanctions Policy.
- 3.23 In any case of cessation or suspension of registration, all relevant data shall be updated on the Register by the Provider immediately, including:
  - 3.23.1 ensuring any automatic renewal process is cancelled;
  - 3.23.2 ensuring no data is visible on the website but is archived on the Provider's system (with a record of the date it was archived and the reason);
  - 3.23.3 ensuring there are no outstanding inspections against that record;
  - 3.23.4 confirming to the Engineer/Business that their registration(s) has ceased or been suspended and all data relating to them archived; and
  - 3.23.5 requesting return of identity card(s).

### ***Payment options***

- 3.24 The Provider shall:
  - 3.24.1 offer a range of payment channels including cheque, credit and debit card, Direct Debit, standing order, or BACS/CHAPS;
  - 3.24.2 ensure all methods of card payment are Payment Card Industry (PCI) compliant;
  - 3.24.3 ensure that a Direct Debit option is available for renewal and monthly registration payments; and
  - 3.24.4 process refunds in line with the Refunds Policy.

### ***Identity cards***

- 3.25 The Provider shall issue an identity card to each Registered Business or Engineer. Cards shall be issued within:
  - 3.25.1 five (5) Working Days during April to January inclusive; or
  - 3.25.2 ten (10) Working Days during February and March;of completion of registration or receipt of valid renewal applications.
- 3.26 The Provider shall ensure all identity cards accurately reflect the information relating to that Business or Engineer contained on the Register.
- 3.27 The identity cards shall contain sufficient clear information for Consumers to identify easily that the Registered Business or Engineer is competent to carry out Gas Work of the type required by the consumer. It shall include:
  - 3.27.1 details of the Registered Business;
  - 3.27.2 photograph of the Engineer;
  - 3.27.3 identity details;
  - 3.27.4 categories of Gas Work the Engineer is qualified to work on;
  - 3.27.5 expiry dates of qualifications and registration.

- 3.28 Identity cards shall be issued to the registered business address of the Business or Engineer unless otherwise arranged.
- 3.29 Where the Provider is informed that the details concerning a Registered Business or Engineer have changed, it shall reissue the card, in accordance with the timeframes set out in Service Level SL17 in Schedule 3 Service Levels, with the changes made and shall charge the Business or Engineer for doing this in accordance with the table of charges in Schedule 4 (Charges).

#### **4. Check the competence of engineers**

- 4.1 At the point of registration the Provider shall ensure that Engineers have the necessary Qualifications, and that Businesses have at least one Engineer with the necessary Qualifications.
- 4.2 Throughout the Term, the Provider shall, as part of the process for Registration and renewals, check that Engineers and Businesses have the necessary Qualifications, and by means of Inspections shall check that Engineers and Businesses have the knowledge and practical experience to carry out, manage, direct, supervise or inspect relevant Gas Work.
- 4.3 Continued registration shall be conditional on Businesses only using Registered Engineers with appropriate Qualifications to undertake relevant Gas Work.
- 4.4 The Provider shall publicise the [Competence Criteria for Registration](#), as determined from time to time by the Standards Setting Body and shall use them to assess whether Engineers and Businesses have the required Competence and qualifications to be registered on the Register.

#### ***Inspection***

- 4.5 The Provider shall undertake on-site inspections to monitor the Competence of Engineers and investigate complaints of unsafe Gas Work.
- 4.6 The Provider shall establish a field operations function and employ a team of inspectors to carry out inspections and other activities. The key activities of the field operations function shall be to:
- 4.6.1 use the Risk Model to identify Gas Work (and Businesses and Engineers) for inspection;
  - 4.6.2 maintain and deliver an inspection programme of Businesses and Engineers;
  - 4.6.3 deliver regular inspector training and refresher exercises for inspectors to ensure Gas Work is inspected in line with current standards for Gas Work and inspection, and regularly update training materials and methods; and
  - 4.6.4 manage inspectors' competence and performance and document accordingly.

#### ***Types of inspection***

- 4.7 The work of the field operations function shall fall into one of four main categories:

- 4.7.1 For Registered Businesses/Engineers:
- 4.7.1(a) **reactive** – on-site inspections undertaken in response to consumer complaints (including unsafe Gas Work), other information received and requests from Regulatory Bodies with responsibility for gas safety (including those responsible for enforcement, for example HSE and local authorities);
  - 4.7.1(b) **planned** – planned on-site inspections arising from application of the Risk Model (see Table 1 in this Schedule 1); and
  - 4.7.1(c) **other** – inspection events, mandatory attendance events, Gas Work theory assessments and other ad hoc functions as agreed with HSE from time to time.
- 4.7.2 For unregistered Businesses and gas fitters:
- 4.7.2(a) **investigation (of illegal and unsafe Gas Work) and assistance to HSE enforcement** – the research and investigation of Gas Work performed by unregistered Businesses and gas fitters and unsafe Gas Work generally, and providing appropriate assistance to Regulatory Bodies with enforcement responsibility for gas safety.

### ***Risk profiling***

- 4.8 The Provider shall profile Registered Business and Engineers using the Risk Model to calculate a Risk Rating.
- 4.9 The Risk Rating will determine the Risk Category for each Registered Business. Risk Categories are:
- 4.9.1 Lower risk;
  - 4.9.2 Medium risk;
  - 4.9.3 Higher risk;
  - 4.9.4 Targeted higher risk.
- 4.10 The Risk Category determines the frequency of planned inspections as outlined in Table 2 below.
- 4.11 During Contract Year 1 and each year thereafter, the Provider shall review the Risk Model and Risk Categories and propose any changes. The Provider shall only make changes to the Risk Model and Risk Categories with HSE's agreement.

### ***Inspection requirements***

- 4.12 All Registered Businesses shall be subject to an inspection at least once every five years.
- 4.13 The type of inspection should be appropriate to the business type (large business, small business, or probationary) and Risk Category for small businesses which is determined by the Risk Model.
- 4.14 The Provider shall carry out a total of 53,362 inspections in Year 1. Table 1 sets out the required number of inspections for Year 1 broken down by planned/reactive inspection type, and in the case of planned inspections, by Business type. The

numbers of reactive/unplanned inspections are based on forecasts. A more detailed breakdown by type of the required 39,968 "Remainder of Inspections" will be determined by HSE (after consultation with the Provider) during the Transition Period. If the number of any category of unplanned /reactive inspections in Year 1 exceeds (or is likely to exceed) the forecast number, HSE shall adjust the number of other inspections to be carried out under the heading "Remainder of Inspections" so that they do not exceed 39,968.

**Table 1** Inspection requirements for Year 1

<b>Total inspection target for Year 1</b>		<b>53,362</b>
Large Businesses (planned)		4,258
Lower risk small Businesses (planned)		9,116
Remainder of inspections (delivered as site visits):		39,988
Planned (small Businesses) (Medium risk, Higher risk, Targeted and probationary Businesses)	34,405	
Reactive / Unplanned (total):	5,583	
Comprising:		
<i>Complaints</i>	4,483	
<i>Illegal Gas Work</i>	600	
<i>Support to enforcement authorities</i>	500	

- 4.15 For Year 2 onwards, planned inspection targets for a Contract Year shall be generated annually based on:
- 4.15.1 the number of Registered Businesses in each risk or inspection category as at 1 January immediately prior to the start of the Contract Year in question; and
  - 4.15.2 the inspection rates detailed in Table 2 or such revised rates as HSE shall determine following the review referred to in paragraph 4.11.
- 4.16 For Year 2 onwards, reactive/unplanned inspection targets for a Contract Year shall be based on the forecasts in Table 3. These forecasts will be reviewed annually by HSE prior to the commencement of the next Contract Year, and HSE shall then determine any required adjustment to the forecast after consultation with the Provider.
- 4.17 If the number of any category of unplanned/reactive inspections in Year 2 onwards exceeds (or is likely to exceed) the forecast number, HSE shall adjust the number of other inspections to be carried out under paragraphs 4.15 and 4.16 so that they do not exceed the number required by those paragraphs in aggregate for the Contract Year in question.

**Table 2** Inspection rate by business risk category (for Year 2 onwards)

<b>Business category</b>	<b>Inspection rate (as average number of inspections per business per Contract Year)</b>
Large Businesses (10 or more registered engineers)	3.8
Small Businesses (1-9 registered engineers)	
- Lower risk	0.2
- Medium risk	0.5
- Higher risk	2.0
- Targeted	5.0
Probationary businesses	2.6

**Table 3** Forecast reactive/unplanned inspections (for Year 2 onwards)

<b>Type of reactive/unplanned inspection</b>	<b>Inspection rate or number</b>
Complaints	6% of the number of Registered Businesses
Illegal Gas Work	600
Support to enforcement authorities	500

***Minimum requirements for an inspection******On-site inspection***

- 4.18 An on-site inspection (planned or reactive) to monitor an engineer's competence shall include the following:
- 4.18.1 the requirements of regulation 26(9) of the Gas Safety (Installation and Use) Regulations 1998;
  - 4.18.2 gas tightness testing;
  - 4.18.3 meter operating pressure checks;
  - 4.18.4 combustion performance flue gas analysis, where appropriate.
- 4.19 The results for all inspections must be recorded against the Business and Engineer in the Register database.
- 4.20 The Engineer should understand that they are being assessed.
- 4.21 Where it is not practicable to undertake the tests set out above, a visual assessment must be made and the results recorded in the Register database along with an explanation as to why a visual-only assessment was undertaken.

*Inspection event*

- 4.22 An inspection event shall consist of a half-day awareness event for low-risk Engineers and Businesses. The event shall include a knowledge-based test which allows validation of the Engineer's/Business's classification and Risk Rating.

*Mandatory attendance event*

- 4.23 A mandatory attendance event shall consist of a full-day awareness event including two knowledge-based tests, and shall be used for targeted high-risk Businesses and Engineers. Failure to attend shall result in immediate suspension from the Register. All attendees must have follow-up on-site inspections.

*Smaller Businesses (1 to 9 registered Engineers)*

- 4.24 For the purpose of meeting the planned inspection requirements of Tables 1 and 2, one inspection for a small Business may consist of:
- 4.24.1 a planned or reactive on-site inspection involving one site visit;
  - 4.24.2 one individual from one Business attending a half-day inspection event (lower risk Businesses only); or
  - 4.24.3 one individual from one Business attending a one-day mandatory attendance event for targeted higher-risk Businesses.

*Large Businesses (10 or more registered Engineers)*

- 4.25 For the purpose of meeting the planned inspection targets requirements of Tables 1 and 2, one inspection for a large Business may consist of:
- 4.25.1 Up to one full day planned or reactive office-based management audit inspection (of one or more premises); or
  - 4.25.2 a sample on-site planned or reactive inspection of an individual Engineer's Gas Work.

**Support to HSE and inspections of illegal Gas Work**

- 4.26 Each half Working Day of support by a Gas Safe Register inspector to HSE and local authorities in accordance with paragraph 10 counts as one inspection for the purposes of meeting the inspection requirements of Tables 1 and 3.
- 4.27 One site visit to an alleged illegal Gas Work site counts as one inspection for the purposes of meeting the inspection requirements of Tables 1 and 3.

**5. Complaints and appeals**

- 5.1 The Provider shall investigate, manage and respond to all complaints about:
- 5.1.1 Registered Businesses or Engineers;
  - 5.1.2 non-registered Businesses or gas fitters carrying out Gas Work;
  - 5.1.3 unsafe Gas Work; and
  - 5.1.4 acts or omissions by the Provider while delivering the Services.

- 5.2 A complaint is any expression of dissatisfaction, whether justified or not, about a service provided by, or a member of staff acting on behalf of, the Provider, or a report concerning illegal or potentially unsafe Gas Work.

***Complaints about Businesses and Engineers***

- 5.3 During the Transition Period, the Provider shall agree with HSE and publish on the Gas Safe Register website a 'complaints and appeals handling process' for investigating, managing and responding to complaints made in relation to potentially unsafe Gas Work carried out by any registered Business or Engineer and to reports of illegal Gas Work.
- 5.4 The Provider shall enable complaints to be reported by phone, email, letter and online.
- 5.5 The Provider shall undertake an initial review of complaint status to establish the next steps, prioritisation, and processes and procedures to be followed. This review should include:
- 5.5.1 determining whether an individual complaint or contact concerns potentially unsafe Gas Work;
  - 5.5.2 a mechanism by which the appropriate priority is given to any such complaint or enquiry;
  - 5.5.3 determining the next course of action where potential unsafe Gas Work is identified. Such courses of action shall include:
    - 5.5.3(a) identify the level of priority for each inspection;
    - 5.5.3(b) complaint handling within contact centre not requiring on-site inspection;
    - 5.5.3(c) assisting the complainant to contact the relevant gas emergency service provider (ESP). The Provider shall maintain an up-to-date list and contact details for all ESPs; and
    - 5.5.3(d) signposting to another agency if the complaint is not gas safety related.
- 5.6 Complaint inspections should be carried out within ten (10) Working Days of the complaint being logged, in accordance with Service Level SL03 and Service Level SL08 (see Schedule 3 Service Levels).

***Complaints and appeals against service and about actions taken by the Provider***

- 5.7 During the Transition Period, the Provider shall also be required to agree with HSE and publish on the Gas Safe Register website a complaints and appeals handling process for investigating and managing, handling and responding to complaints about any service provided by, or a member of staff acting on behalf of, the Provider.
- 5.8 Examples of potential subjects of a complaint relating to the Provider include (but are not limited to):
- 5.8.1 a failure to provide an offered service;
  - 5.8.2 giving incorrect or misleading information;

- 5.8.3 rude, unhelpful or inappropriate behaviour by staff;
  - 5.8.4 poor communication; and
  - 5.8.5 disagreement with policy or process.
- 5.9 The Provider shall enable individuals to contact it by phone, email and post if they are unhappy with the service provided.
- 5.10 The policy should also include provision for individuals to request a review of the complaint if they are unhappy with the initial response.
- 5.11 All complaint information must be handled sensitively and in compliance with any relevant data protection requirements.

#### ***HSE access to complaints and appeals cases***

- 5.12 The Provider shall bring to HSE's attention those complaints and appeal cases to which this Paragraph 5 relates that require consultation with HSE. The Provider shall follow the procedure for identifying and dealing with these cases as set out in the Concordat which shall be subject to annual review along with all policies and procedures.
- 5.13 The Provider shall make all complaints and appeal cases visible to HSE via an online portal or other reporting mechanism agreed with HSE.

#### ***Sanctions***

- 5.14 The Provider may apply sanctions to any registered Business and/or Engineer where there is justification to do so, under the Sanctions Policy which shall be reviewed annually and agreed with HSE.

### **6. Access to the Register**

- 6.1 The Provider shall ensure that the Register is:
- 6.1.1 electronic and accessible 24/7 via a free to use website;
  - 6.1.2 designed in such a way that it is straightforward for users to identify Businesses/Engineers, and the work they are qualified to undertake, by criteria including name of Business, name of Engineer, registration number and Competence. Search fields shall also include Business/Engineer postcode, their telephone number and their area / location (publication of this information being subject to agreement by the Business/Engineer concerned); and
  - 6.1.3 accessible by phone (via a Gas Safe Register Contact Centre).
- 6.2 The Provider may, subject to compliance with DPA and GDPR and permission from HSE, share registration data on a non-commercial basis with third parties for the furtherance of gas safety.
- 6.3 Access channels to the Register shall be regularly reviewed by the Provider to ensure that appropriate channels are available for Consumers, Businesses and Engineers.

## **7. Promote awareness of the Register, the work of Gas Safe Register and gas safety information**

- 7.1 The Provider shall promote and maintain awareness among the audience groups listed in paragraph 7.2 of the legal requirement for any Business or self-employed person carrying out Gas Work to be registered on the Register.
- 7.2 Audience groups are:
- 7.2.1 general public in the United Kingdom as a whole;
  - 7.2.2 homeowners, first-time buyers;
  - 7.2.3 tenants in rented accommodation;
  - 7.2.4 landlords (e.g. private landlords, housing associations, local authorities etc.);
  - 7.2.5 parents and those with family or community responsibilities;
  - 7.2.6 vulnerable groups as defined by Ofgem, e.g. the elderly; and
  - 7.2.7 other stakeholders to be specified from time to time by HSE.

### **Website**

- 7.3 The Provider shall host and maintain a website entitled "Gas Safe Register" and ensure that it is accessible to Registered Business and Engineers and Consumers / members of the public as the primary channel for dissemination of information by the Provider on all matters relating to or connected with:
- 7.3.1 the Register;
  - 7.3.2 Gas Work;
  - 7.3.3 the Services;
  - 7.3.4 gas safety and the risks of carbon monoxide.
- 7.4 Through the website, registered Business and Engineers shall have:
- 7.4.1 access to a password-protected portal to manage their registration and account activities;
  - 7.4.2 access to technical bulletins, safety alerts and industry updates;
  - 7.4.3 access to their own data held on the Register (including view-only access to expiry of registration and competencies, and inspection reports); and
  - 7.4.4 facility to report work notifiable under Building Regulations.
- 7.5 Through the website, members of the public shall be able to check Business and Engineer registrations and access gas safety information.
- 7.6 As a minimum requirement, the website should include the following:
- 7.6.1 search function to 'Check the Register';
  - 7.6.2 information about the Gas Safe Register including:
    - 7.6.2(a) policies;
    - 7.6.2(b) understanding the identity card; and

- 7.6.2(c) news and updates
  - 7.6.3 help and advice on topics including (but not limited to):
    - 7.6.3(a) Building Regulations certificates;
    - 7.6.3(b) carbon monoxide poisoning;
    - 7.6.3(c) complaints about or reporting a gas fitter operating illegally;
    - 7.6.3(d) gas emergencies;
    - 7.6.3(e) gas safety tips;
    - 7.6.3(f) nominating an appliance/installation for inspection; and
    - 7.6.3(g) requirements of a landlord and tenant
  - 7.6.4 contacts (Provider and industry);
  - 7.6.5 site search function;
  - 7.6.6 annual appliance safety check reminder option for Consumers;
  - 7.6.7 links to social media channels;
  - 7.6.8 consumer helpline clearly displayed;
  - 7.6.9 popular page links; and
  - 7.6.10 safety alerts.
- 7.7 The Provider must publish its Privacy Policy and Acceptable Use Policy on the website.

***Website standards and accessibility***

- 7.8 The website shall adopt responsive web design, allowing all webpages to be viewed in response to the size of the screen or web browser they are viewing it on and therefore accessible via a full range of devices (PC, smartphone, tablet).
- 7.9 The website shall comply with up to date website standards and include regular user testing/monitoring and agility to respond. Standards to be complied with include:
- 7.9.1 HTML5;
  - 7.9.2 CSS2.0 or above;
  - 7.9.3 Javascript ECMAScript5.1 or above, JQuery;
  - 7.9.4 WCAG AA minimum accessibility standard (including colour contrasts);
  - 7.9.5 W3C compliant mark-up;
  - 7.9.6 responsive UI using CSS media queries;
  - 7.9.7 user tested for accessibility; and
  - 7.9.8 tested and proven to work on all common N-2 browsers (Internet Explorer, Google Chrome, Firefox and Safari).
- 7.10 The website must be available at all times, with the exception of scheduled and essential maintenance.

- 7.11 The Provider shall be required to inform HSE of any planned maintenance or downtime affecting the website, database or telephone system at least 48 hours in advance and any unplanned downtime within one (1) Working Hour of the requirement for downtime being identified.

### **Contact Centre**

- 7.12 In addition to the Gas Safe Register website, the Provider shall operate a UK-based customer service contact centre (“Contact Centre”) to receive, triage and respond to communications from Businesses, Engineers and Consumers, HSE, local authorities and other enforcement agencies. Operating hours shall be 7:30am to 7pm Monday to Friday and 8am to 1pm on Saturday and shall be reviewed and agreed with HSE annually or as required.
- 7.13 The Contact Centre shall receive and manage communication through a range of channels including at minimum telephone calls, hard copy letters, emails and online contact.
- 7.14 The Contact Centre shall comply with the following minimum access standards:
- 7.14.1 access shall be free of charge;
  - 7.14.2 the Register shall be accessible to the vulnerable (as defined by Ofgem) in accordance with good industry practice. ‘Vulnerable’ includes Consumers who are in vulnerable circumstances, for example of pensionable age, have a disability, are chronically sick, on low incomes, living in rural areas;
  - 7.14.3 Consumers shall be made aware of where to direct any emergency calls;
  - 7.14.4 a call-back option shall be available where waiting time in the Contact Centre for telephone enquiries to be answered by a customer services advisor is greater than one minute, with the target for call backs being within one hour.
- 7.15 The Contact Centre shall incorporate three essential functions:
- 7.15.1 Consumer enquiries and helpline (including Gas Safety Advice Line);
  - 7.15.2 Engineer services (registration and renewal, and notification services); and
  - 7.15.3 Technical helpline (for Registered Businesses/Engineers).

### **Gas Safety Advice Line**

- 7.16 The Provider shall manage and operate a dedicated telephone number for a “Gas Safety Advice Line” to receive gas safety calls which shall be triaged by an interactive voice response (IVR) self-service telephone system.
- 7.17 The Gas Safety Advice Line shall provide information and guidance of a general nature on gas safety issues, drawing on material provided by HSE in the form of HSE website information, supplemented by FAQs and call scripts where necessary.
- 7.18 The Provider shall ensure that:
- 7.18.1 any advice given shall be limited to general information and guidance in accordance with paragraph 7.17; and
  - 7.18.2 the consumer is aware of this limit to the advice being given.

- 7.19 The Provider shall ensure that Consumers are able to nominate work for inspection by informing the Provider (by phone using a dedicated consumer helpline telephone number or online) about Gas Work they have had completed recently, which they would like inspected.
- 7.20 Provider shall have a system to ensure calls are routed to the correct team. The Contact Centre staff should develop sufficient knowledge to respond to the majority of calls without the need to transfer. Systems should include routes for dealing with enquiries which do not relate to HSE enforcement issues such as Building Regulations compliance. Such enquiries shall still need to be monitored for volumes and included in regular performance reports.

#### *Engineer services*

- 7.21 The Provider shall operate and advertise a separate phone line and email address for Registered Businesses and Engineers to raise any queries relating to their registration.

#### *Technical helpline*

- 7.22 The Provider shall operate and advertise a separate phone line and email address for Registered Businesses and Engineers to access a team of experienced gas engineers, offering support with decision making to address technical issues.

#### **Registered Gas Engineer magazine**

- 7.23 The Provider shall publish (in hard copy and electronic format) a monthly news and information magazine aimed at registered Businesses and Engineers to keep them up to date with important news, technical information and features regarding gas safety.
- 7.24 The Provider shall be required to ensure the quality and accuracy of information provided and outline the editorial process, to be agreed with HSE prior to the Services Start Date.
- 7.25 Each registered Business shall receive one hard copy of the magazine free of charge with the option to purchase additional copies.
- 7.26 The magazine must be:
- 7.26.1 funded from advertising or other sources;
  - 7.26.2 not-for-profit over the Term, in that Provider may cover its costs;
  - 7.26.3 offered at a nominal charge (to be agreed with HSE) to any person who is not a Registered Business or Registered Engineer; and
  - 7.26.4 made available free of charge in electronic format, including as a tablet edition (iPad and Android) enabling Registered Businesses and Engineers to access back issues on demand.
- 7.27 The Provider shall, prior to the completion of the transition period, develop advertising rules for the magazine which shall be subject to HSE approval.

#### **Access to Standards**

7.28 The Provider shall facilitate via a subscription service access to key industry standards. The range of Standards shall cover natural gas, LPG, domestic, commercial and industrial gas installations (32 IGEM, 36 BSI, 16 UKLPG). Access to Standards is an additional cost on top of Gas Safe registration.

## **8. Ensure relevant safety information is available to all**

8.1 The Provider shall enable Registered Businesses and Engineers, HSE, local authorities and others to alert it to any information about significant technical or operational failings, or shortfalls in the instructions provided for the installation or operation of gas appliances, and shall communicate these issues quickly and effectively to manufacturers or importers of gas appliances.

8.2 The Provider shall ensure that urgent safety information about gas appliances and installations received from manufacturers, the gas supply industry or others is analysed quickly and shall communicate that which is safety critical to all those affected as a matter of urgency.

8.3 The Provider shall ensure that they use appropriate and effective channels to receive and communicate such safety information.

## **9. Using and maintaining the Gas Safe Register brand**

9.1 The Provider shall refer to the Register in all communications (including publicity and marketing materials) as 'the Gas Safe Register' and shall use the Brand in all communications relating to the Register. The Provider must maintain intellectual property protection for the Brand. To ensure its independence, the Brand must be kept clearly separate from and must not be associated with any Provider branding.

### ***Objectives for the Gas Safe Register brand***

9.2 The Gas Safe Register brand shall be used in a range of channels by the Provider to:

- 9.2.1 promote gas safety across Great Britain and Northern Ireland;
- 9.2.2 be the recognised and trusted brand for the protection of gas Consumers from unsafe Gas Work;
- 9.2.3 raise awareness of the critical gas safety measures gas Consumers should take;
- 9.2.4 promote the need for gas Consumers to use only registered Businesses and Engineers;
- 9.2.5 promote the need for Consumers to always ask to see a registered Business or Engineer identity card and check its validity;
- 9.2.6 communicate the key message that it is illegal for anyone to undertake 'paid for' Gas Work unless they are registered; and
- 9.2.7 provide gas Consumers with essential information about gas safety and risks of carbon monoxide poisoning including the need to regularly service domestic gas appliances.

**Brand marketing material**

- 9.3 HSE permits the Provider to produce and sell marketing material in conjunction with third parties. Such use must be subject to HSE's agreement prior to charging.

**10. Support HSE/local authority enforcement action**

- 10.1 The Provider shall provide when required ad hoc on-site support (with occasional assistance out of office hours) to HSE and local authority regulatory functions for a fire/explosion incident investigation:
- 10.1.1 The Provider's incident investigator shall be competent to view gas installation pipework and appliances that may still be located in the premises or have been removed from the premises and provide a report of their findings.
  - 10.1.2 The report shall be based factually on what gas appliance/installation was inspected/viewed on the day.
- 10.2 The Provider shall when requested by HSE, local authorities, coroners or the police undertake urgent carbon monoxide (CO) incident investigations or priority inspection requests from HSE (see Service Levels 4 and 5 in Schedule 3) relating to circumstances where:
- 10.2.1 there are confirmed or suspected CO fatalities or poisonings (normally following a RIDDOR 11 (1 or 2) report) under the instruction of HSE/local authority/coroner/police; or
  - 10.2.2 where there is no dutyholder (gas supplier); or
  - 10.2.3 where there is a conflict of interest with the gas supplier; or
  - 10.2.4 where the police/coroner has jurisdiction; or
  - 10.2.5 where HSE/local authority has specifically requested support from Gas Safe Register.
- 10.3 Requests of the nature referred to in 10.1 and 10.2 shall be considered as urgent and shall be responded to within one (1) Working Hour of receipt, with arrangements for the investigation being made within the next three (3) Working Days.
- 10.4 The Provider shall when requested by HSE, local authorities, coroners and the police undertake specific work inspection in connection with a serious incident investigation or inspection of a specific engineer's work where the engineer is being investigated for unsafe Gas Work. Requests of this type shall be responded to within one (1) Working Day, with arrangements for the inspection activities being made for the earliest mutually agreed time and date, and the site visit completed and report submitted no later than ten (10) Working Days of the request (see Service Levels 6 and 7 in Schedule 3).
- 10.5 The Provider may occasionally be required to provide additional incident support such as attendance at community meetings or media briefings.

**On-site / off-site technical support**

- 10.6 The Provider shall provide both on-site and off-site gas safety technical advice to both HSE, local authorities and other enforcement agencies on request. On-site gas technical support such as supporting an HSE inspector or a local authority Environmental Health Officer (EHO) on inspection activities shall be undertaken upon appropriate authorisation from the requesting authority.
- 10.7 Requests for on-site gas technical support from HSE or a local authority shall be responded to within the next 24 hours, with arrangements for the support activity being arranged in line with standard inspection activities and Service Levels within the next ten (10) Working Days.
- 10.8 Off-site technical support shall normally be provided during office hours.

***Requesting technical support (eg police, coroner or other such agencies as HSE may from time-to-time require)***

- 10.9 The Provider shall provide access for local authorities, coroners, the police, and such other agencies as HSE may from time-to-time require, to enable them to request support, investigation or inspection of any kind covered by this Paragraph 10. Such requests shall be confirmed in writing (via email) to enable the request to be verified e.g. from a '.gov.uk' or 'police' email address, or valid government or enforcement body address.
- 10.10 The requester shall be asked if a request is connected with any existing HSE or local authority investigation.
- 10.11 Once a request for service has been received and all necessary information gathered by the Provider, arrangements for delivery of the support shall be confirmed by the Provider to the requester via email.
- 10.12 Response times shall be as stated in the Service Levels (see Schedule 3).

***Prosecutions***

- 10.13 On request, the Provider shall provide to HSE and agencies referred to above:
- 10.13.1 witness statements;
  - 10.13.2 court appearances;
  - 10.13.3 inspection reports;
  - 10.13.4 illegal Gas Work investigation reports; and
  - 10.13.5 copies of articles published in the *Registered Gas Engineer* magazine.

***Requests from HSE/local authorities to Gas Safe Register***

- 10.14 The Provider shall provide on HSE's request support in respect of other areas of work including gas safety stakeholder events, gas safety standards work, technical writing, local advice, attending technical committees (including international committees), supporting regional and national gas safety training initiatives for HSE staff, and local advisory and technical support on gas safety issues.

***Gas safety awareness training to enforcement bodies***

10.15 General gas safety awareness training shall be provided to HSE or another enforcement body as and when reasonably requested and subject to approval by HSE.

## **11. Maintain an illegal Gas Work investigation function**

11.1 The Provider shall maintain an appropriately resourced function to research and investigate Gas Work performed by unregistered business and gas fitters.

11.2 The function shall enforce the Rules of Registration and Competence Criteria for Registration and, in respect of unregistered businesses and gas fitters, shall:

11.2.1 encourage registration;

11.2.2 identify a range of approaches and channels to communicate the key message that they are acting illegally;

11.2.3 advise them to cease such illegal activities;

11.2.4 ensure that all communications with unregistered businesses and gas fitters are adequately documented and recorded to ensure they are suitable to support any prosecution;

11.2.5 prepare documents and evidence to be passed to HSE to support prosecutions;

11.2.6 ensure that inspectors and other staff members as required provide witness statements, prepare reports and give evidence as may be requested by a Regulatory Body; and

11.2.7 establish and maintain a process with HSE, by way of the Concordat, for the escalation of cases for consideration for prosecution, and the presentation of evidence in respect of such cases.

11.3 The Provider shall not undertake prosecutions.

## **12. Facilitate notification of Gas Work under the Building Regulations (England & Wales)**

12.1 In England and Wales, the Building Regulations require all local authorities to be informed within thirty (30) Working Days of a heat-producing appliance being installed in a property. This function shall be facilitated by the Provider.

12.2 The Building Regulations and Gas Safe Register's Rules of Registration require that Gas Safe registered businesses comply with their requirements by notifying (i.e. self-certifying) any relevant appliances they have installed to the local authority.

12.3 The Provider shall ensure there is the facility for Registered Businesses and Engineers to notify the installation of any relevant appliances in accordance with the Building Regulations to the local authority via the Provider. Such notifications shall be capable of being submitted online via the Gas Safe Register website, by phone or via an Approved Third Party (eg manufacturer) via API.

12.4 Where such work is reported to the Provider, the Provider shall be expected to:

- 12.4.1 acknowledge receipt of the report;
  - 12.4.2 check the Engineer who undertook the work is on the Register was competent to undertake such Gas Work;
  - 12.4.3 record the notification against the registration details of the Engineer/Business;
  - 12.4.4 forward notification details to the Local Authority Building Control (LABC) within thirty (30) Working Days;
  - 12.4.5 produce and send a compliance certificate to the consumer for whom the Gas Work was undertaken by post within fifteen (15) Working Days; and
  - 12.4.6 issue replacement certificates on request.
- 12.5 The Ministry of Housing, Communities & Local Government may occasionally make changes to requirements in accordance with Building Regulations. The Provider shall make necessary adjustments to the notification facility referred to in paragraph 12.4 to accommodate such changes.

**13. Provide assistance to HSE on all aspects of the management of the Register, including contract management and reporting on performance**

***Transition arrangements***

- 13.1 The Provider shall at the Effective Date appoint and maintain an appropriately qualified and resourced transition team to support HSE and liaise with the Previous Provider. This includes supporting the data migration process and cooperating with all parties to ensure staffing information, legal and procedural documentation, and service area templates are made available and securely transferred from the Previous Provider to the Provider.

***Contract and service management***

- 13.2 The Provider shall at the Effective Date appoint a contract manager with suitable qualifications, experience and sufficient authority and visibility in the organisation to manage day-to-day service delivery and act as a central point of contact with HSE and co-ordinate the production of management information.
- 13.3 The Provider shall establish and maintain a management structure to manage and monitor service delivery in accordance with the governance structure proposed by HSE in Schedule 10 (Governance and Contract Management).

***Reporting***

- 13.4 The Provider shall answer promptly all questions and provide relevant data about the operation of the Register to enable HSE to manage the contract, monitor the Provider's performance and to inform any development of the Register by HSE.
- 13.5 The Provider shall produce and publish on the Gas Safe Register website an Annual Performance Report for the industry, as a high-level summary, the content of which shall be developed by the Provider and agreed with HSE.

***Policies and Procedures***

- 13.6 The Provider shall maintain the Rules of Registration, the Concordat, and the Policies and Procedures listed in Schedule 18 (Assets). Any updates shall require agreement with HSE.
- 13.7 The IPR in these documents is owned by HSE.
- 13.8 The Provider shall review the documents listed in 13.6 annually, and make recommendations to HSE when changes are required. The Provider shall respond to ad hoc requirements to change and make recommendations to HSE.
- 13.9 The documents listed in paragraph 13.6 shall only be amended with HSE's prior permission.

#### ***Performance management***

- 13.10 The Provider shall be required to refine and implement the methodology proposed in Schedule 3 (Service Levels) and Schedule 8 (Key Performance Indicators) to measure their performance, establish baselines and agree performance targets during the Transition Period so that Service Level and Key Performance Indicators (KPIs) measures and targets are in place and ready to use from the Service Start Date.
- 13.11 The final KPI methodology and targets shall be agreed with HSE prior to implementation.

#### **14. Gas Safe Charity**

- 14.1 The Provider shall, before the Services Start Date, agree a memorandum of understanding with the Gas Safe Charity. That memorandum of understanding shall contain provision for the Provider to act as a facilitator and coordinator, be responsible for administrative support and to be the provider of marketing expertise.
- 14.2 The Provider shall make available a stakeholder manager and administration support and, if required, administer the Charity's funds.
- 14.3 The Provider shall nominate an individual from its organisation to act as a Trustee of the Charity (subject to formal appointment) during (but for no longer than) the Term who shall, as part of the role:
- 14.3.1 ensure the Charity is carrying out its purposes for the public benefit;
  - 14.3.2 comply with the Charity's Articles of Association and the law;
  - 14.3.3 act in the Charity's best interests;
  - 14.3.4 manage the Charity's resources responsibly; and
  - 14.3.5 ensure the Charity is accountable.
- 14.4 On expiry or termination of this Agreement, the appointment of the Provider's nominated trustee and the Provider's right to nominate trustees shall cease.

#### **15. Investigate the feasibility of student registration**

- 15.1 The Provider shall carry out a feasibility study into student registration, including analysis of the potential cost and benefits.

- 15.2 The findings of the feasibility study should be presented to HSE by the end of September 2020.
- 15.3 Based on the outcome of the study, the Provider shall deliver a report outlining:
- 15.3.1 proposals for implementing student registration which reflect the findings of the review;
  - 15.3.2 a clear pathway and timetable for delivering each proposal; and
  - 15.3.3 a cost/benefit analysis of each proposal for HSE and industry.

## **16. Standards Setting Body**

- 16.1 During Year 1, on behalf of the Standards Setting Body (SSB), the Provider shall conduct a procurement exercise to appoint an organisation to undertake the Standards Setting Function (SSF) (including secretariat) from Year 2 onwards under a four-year contract (with option to extend and novate to HSE or the next Provider at the end of this Agreement).
- 16.2 The contract for the procured services shall be between the Provider and the SSF service delivery provider.
- 16.3 The Provider shall develop the service levels and KPIs for the procured services in conjunction with the SSB and HSE. HSE and the SSB will participate in procurement exercise as evaluators.
- 16.4 During Year 1, the SSF service will be provided by EU Skills.
- 16.5 The Provider shall fund the SSB as outlined in Schedule 5 (Financial Model and Gain Share).

## **17. Establish an advisory panel**

- 17.1 The Provider shall establish an advisory panel (or suitable equivalent) to the Gas Safe Register. The composition of the panel should ensure representation from across the industry, including (but not limited to):
- 17.1.1 businesses with 1–5 registered engineers;
  - 17.1.2 regional representation;
  - 17.1.3 the gas industry (commercial and domestic); and
  - 17.1.4 training and assessment providers.
- 17.2 The panel shall operate virtually (online) and enable the group to discuss, suggest, recommend and vote on a range of issues.
- 17.3 The Provider shall oversee a process for moderating, administering and responding to all panel activity.
- 17.4 The proposal should include a consistent and transparent mechanism for formal submission of ideas and concerns to HSE and/or the Provider.
- 17.5 The advisory panel shall be operational by 31 March 2020.



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**SCHEDULE 2: ADDITIONAL AND ANCILLARY  
SERVICES**

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## PURPOSE

### 1. Purpose and effect

- 1.1 This Schedule sets out:
- 1.1.1 The Additional Services that the Provider is authorised to provide;
  - 1.1.2 The conditions applying to the provision of such Additional Services;
  - 1.1.3 The Ancillary Services that HSE and the Provider have agreed that the Provider will provide;
  - 1.1.4 The conditions upon which the Provider shall provide Ancillary Services; and
  - 1.1.5 The costs for Ancillary Services.
- 1.2 This Schedule shall have effect:
- 1.2.1 throughout the term in respect of Additional Services; and
  - 1.2.2 whenever HSE orders Ancillary Services.

## PART A: ADDITIONAL SERVICES

### 2. Additional Services

- 2.1 HSE has approved the Provider to undertake the following Additional Services:

**Table 1** Additional Services

Service	Date agreed	Description
Rules of Registration hard copy	Effective Date	Production and sale of hard copy versions of the Rules of Registration other than those hard copies versions to be provided for free to Registered Businesses in accordance with paragraphs 3.3 of Schedule 1 (Concession Services Requirements)
Brand marketing material	Effective Date	Production and sale of Brand marketing material in conjunction with third parties under paragraph 9.3 of Schedule 1 (Concession Services Requirements)
Magazine	Effective Date	Sale of <i>Registered Gas Engineer</i> magazine to the parties in accordance with paragraphs 7.23 to 7.26 of Schedule 1 (Concession Services Requirements)

Service	Date agreed	Description
3rd Party Provider API (excluding notification)	Effective Date	Make provision for approved Third Party Providers to access the GSR database for the purposes detailed within each individual agreement e.g. validate engineer registration. The agreed Additional Charges for this Additional Service are: (i) Initial set-up and (ii) annual subscription

- 2.2 The Provider shall not undertake Additional Services without the express prior written permission of HSE.

## **PART B: CONDITIONS APPLYING TO PROVISION OF ADDITIONAL SERVICES**

### **3. Conditions**

- 3.1 HSE has imposed no conditions other than those set out in paragraph 2 of this Schedule 2 on the provision by Provider of Additional Services.

## **PART C: CONDITIONS APPLYING TO THE PROVISION OF ANCILLARY SERVICES**

### **4. Introduction**

- 4.1 This Part C sets out the Ancillary Services HSE and the Provider have agreed that the Provider shall provide and the procedures for HSE to order and Provider to undertake Ancillary services.

### **5. Ancillary Services**

- 5.1 HSE and the Provider have agreed that the Provider shall provide the following Ancillary Service:

**Table 2** Ancillary Services

Service	Date agreed	Description

### **6. Order of Ancillary Services**

- 6.1 The ordering of Ancillary Services shall be subject to the Change Control Procedure.

## **7. Charges for Ancillary Services**

- 7.1 Ancillary Charges for each Work Package shall be based on the appropriate combination of:
  - 7.1.1 the Day Rates set out in Part D; and/or
  - 7.1.2 Any other additional costs agreed by HSE.
- 7.2 Ancillary Charges for an agreed Work Package shall in no circumstances be subject to increase or reduction and the entire risk in respect of increased or decreased costs compared to the proposal shall rest with the Provider subject to HSE fulfilling any obligations it may have in respect of such Work Package.
- 7.3 Any changes to a Work Package shall be made in accordance with the Change Control Procedure.

## **8. Payment terms**

- 8.1 Payment for Ancillary Services shall be agreed between the Parties as part of the Change Control Procedure.

**PART D: DAY RATES****9. Rates**

9.1 The day rates for Work Packages are set out in Table 3.

**Table 3 Day rates**

Role	Day Rate (£)		
	20 Days or Less	21 to 50 Days	51 Days +
Chief Executive/Managing Director			
Head of Field Operations & Enforcement			
National Field Operations Manager			
Technical Operations & Compliance Manager			
Field Operations Support Manager			
Business Improvements Manager			
Business Analyst			
Senior Inspector / Area Manager			
Inspector			
Inspection Scheduler			
Technical & Registration Manager			
Head of Service Operations (Technical & Customer Service)			
Technical Support Manager			
Standards Manager			
Technical Officer			
Technical Support Officer			
Program Manager			
Business Improvement Manager			
MI Development Manager			
Contact Centre Manager			
Contact Centre Team Leader			

Role	Day Rate (£)		
	20 Days or Less	21 to 50 Days	51 Days +
Senior Customer Service Advisor			
Customer Service Advisor			
Head of Marketing & Communications			
Marketing Manager			
Marketing Executive			
Head of Communications / PR Manager			
Stakeholder Manager			
Head of Finance			
Finance Manager			
IT Developer			
IT Technical Architect			
IT Data Analyst			
IT Tester			
IT Architect			
Administrator			

9.2 The overtime rates for additional services outside the contract are set out in Table 4.

**Table 4** Overtime rates

Number of minimum chargeable hours	0
Rate premium (if applicable) for weekday activity commencing outside standard service support hours. If the rate premium does not apply in respect of all grades, annotate the grades it does not apply to with an *.	
Rate premium (if applicable) for weekend activity commencing outside standard service support hours. If the rate premium does not apply in respect of all grades, annotate the grades it does not apply to with an *.	
Rate premium for bank holiday hours (if applicable). If the rate premium does not apply in respect of all grades, annotate the grades it does not apply to with an *.	

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**SCHEDULE 3: SERVICE LEVELS**

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## INTRODUCTION

### 1. Overview

- 1.1 This Schedule sets out:
- 1.1.1 the Service Levels that the Provider is required to achieve when delivering the Services, the mechanism by which Service Level Failures will be managed and the method by which the Provider's performance of the Services will be monitored;
  - 1.1.2 how Service Points are accumulated;
  - 1.1.3 how Service Credits are applied; and
  - 1.1.4 any additional measures required where there is a Service Level Failure.
- 1.2 The objectives of the Service Levels, Service Points and Service Credits are to:
- 1.2.1 ensure that the Services are of a consistently high quality; and
  - 1.2.2 incentivise the Provider to meet the Service Levels and to remedy any failure to meet Service Levels expeditiously.
- 1.3 The Provider shall provide accurate, complete and up-to-date reports on the Service Levels in accordance with the provisions set out in this Agreement, including any relevant Schedules.

## GENERAL PRINCIPLES

### 2. Service Levels

- 2.1 The Provider shall at all times during the Term provide the Services to meet or exceed the Service Level Performance Measure for each Service Level as set out in Annex 1 to this Schedule.
- 2.2 A failure to meet or exceed the Target Performance Level for each Service Level shall constitute a Service Level Failure.
- 2.3 Service Level Failures shall result in:
- 2.3.1 the accumulation of Service Points; and/or
  - 2.3.2 Service Credits; and/or
  - 2.3.3 the implementation of additional measures.

### 3. Service Points

- 3.1 Where there is a Service Level Failure, the Provider shall accumulate Service Points in respect of the specific Service Level Failure.
- 3.2 The number of Service Points that shall accumulate shall be calculated as follows:

$$SP = P \times M$$

Where:

**SP** = the number of Service Points that shall accumulate in respect of a Service Level Failure;

**P** = the number of Service Points accumulated in accordance with Annex 1 to this Schedule 3; and

**M** = the Repeat Multiplier as shown in Table 1 below.

- 3.3 In respect of Service Levels with a Monthly Service Measurement Period, Service Points shall accumulate as identified in Annex 1 to this Schedule 3.
- 3.4 In respect of Service Levels with an Annual Service Measurement Period, Service Points shall accumulate as identified in Annex 1 to this Schedule 3.

#### **4. Repeat Service Level Failure**

##### **4.1 Service Levels with Monthly Service Measurement Period**

4.1.1 Where the Provider fails to meet or exceed a particular Service Level Performance Measure in respect of a Monthly Service Level more than once in any given three (3) Month Rolling Period, the Service Points accumulated by the Provider in respect of that particular Service Level Performance Measure failure shall be subject to the Repeat Failure Multiplier set out in Table 1 below.

##### **4.2 Service Levels with an Annual Service Measurement Period**

4.2.1 Where the Provider fails to meet or exceed a particular Service Level Performance Measure in respect of an Annual Service Level in a Service Measurement Period and then fails to meet or exceed the same Service Level Performance Measure in the subsequent Service Measurement Period, the Service Points accumulated by the Provider in respect of that particular Service Level Performance Measure failure shall be subject to the Repeat Failure Multiplier set out in Table 1 below.

- 4.3 The Repeat Failure Multiplier applicable for Service Levels referenced in either paragraphs 4.1 or 4.2 shall be reset to one (1) once there have been two (2) consecutive Service Measurement Periods in which the Service Level Performance Measure has been met.

**Table 1** Repeat Failure Multipliers

<b>Repeat Failure count</b>	<b>Repeat Failure Multiplier</b>
0	1
1	1.3
2	2.1
3 and above	3

## 5. Service Credits

- 5.1 The Service Points Threshold set out in Table 2 shall be applied to the sum total of all Service Points accumulated in any given Service Measurement Period, and Service Credits shall then be applied as shown opposite the applicable Service Points Threshold.
- 5.2 Service Credits shall be calculated as a percentage of, and deducted from, the sum of the Provider's Agreed Operating Costs plus Provider Profit, in accordance with Annex 1 of this Schedule 3, and the principles set out in Schedule 5 (Financial Model and Gain Share).
- 5.3 Service Points and Service Credits are calculated monthly or annually for each individual Service Level as set out in Annex 1 to this Schedule 3.

**Table 2** Service Credits

<b>Service Points Threshold</b>	<b>Service Credit (%)</b>
Up to 5	0
5.01 – 15.00	1
15.01 – 30.00	2
30.01 – 40.00	3
40.01 – 50.00	4
50.01 – 60.00	5
60.01 – 70.00	6
70.01 – 80.00	8
80.01 – 90.00	9
90.01 – 100.00	10
100+	20

## 6. Additional Measures

- 6.1 HSE requires additional action to be taken in respect of any and all Service Level Failures. Nothing described in this paragraph 6 of Schedule 3 has any impact on the amount of Service Points applied in the event of Service Level Failure(s).
- 6.2 Service Level Failures or repeat Service Level Failures shall be categorised in accordance with Table 3 below.
- 6.3 For Service Levels with a Monthly Service Measurement Period, a Rolling Period of 3 months is used when calculating Repeat Service Level Failures.
- 6.4 For Service Levels with an Annual Service Measurement Period, a Rolling Period of 2 years is used when calculating Repeat Service Level Failures.
- 6.5 In the event that any individual Service Level fails on more than one occasion in any rolling Service Measurement Period to differing degrees, the extent of the failures will

be determined by the greatest level of failure, i.e. where one is a Minor Service Level Failure and one is a Moderate Service Level Failure, for the purposes of this paragraph 6 both will be determined to be Moderate Service Level Failures.

**Table 3** Categorisation of Service Level Failures

		<b>Number of failures (of any individual Service Level) in a rolling Service Measurement Period</b>		
		1	2	3 or more
<b>Extent of Service Level Failure</b>	Minor	Minor	Moderate	Major
	Moderate	Moderate	Major	Major
	Major	Major	Major	Major

- 6.6 In the event of a Service Level Failure, the Provider shall comply with the provisions of Clause 11 (Improvement Plan) of the SCA.

**ANNEX 1 – SERVICE LEVELS**

<b>SL01</b>	<b>Total number of inspections</b>
Service Level description	<p>The total number of inspections is a fixed target set at the start of year, in accordance with the provisions of Schedule 1.</p> <p>The required number of inspections in each category will be defined in the annual inspection target breakdown calculated by application of the Risk Model.</p> <p>'One inspection' is as defined in paragraphs 4.22 – 4.27 of Schedule 1.</p> <p><u>The number of inspection event attendees, each counting as one inspection for this Service Level, is capped at the low-risk inspection target number as specified for Year 1 or as calculated by the Risk Model for Years 2–5. Any inspection event attendees above this number are discounted from the overall total number of inspections for the purpose of the Service Level calculation.</u></p>
Service Level calculation	<p>= A + B + C</p> <p>Where:</p> <p>A = Number of site-based inspections, which is the sum of the total inspections carried out in the following categories:</p> <ul style="list-style-type: none"> <li>A1 = Risk-based inspections of medium-risk businesses</li> <li>A2 = Risk-based inspections of higher-risk businesses</li> <li>A3 = Risk-based inspections of targeted higher-risk businesses (site based and attendance at mandatory attendance events)</li> <li>A4 = Probationary inspections</li> <li>A5 = Complaint inspections</li> <li>A6 = Illegal Gas Work inspections</li> <li>A7 = Support to HSE and local authority inspections</li> </ul> <p>B = Number of large business inspections</p> <p>C = Number of Risk-based inspections of low-risk businesses (capped at the target for low-risk business inspections)</p>
Reporting frequency	Performance is reported monthly.
Service Measurement Period	Service Credits are calculated annually.
Service Point Application Period	Service Points are applied annually against the Provider's annual agreed Operating Costs plus Profit.
Data capture	<p>Number of inspections carried out in each category:</p> <ul style="list-style-type: none"> <li>• Large business inspections</li> <li>• Risk-based inspections of low-risk businesses (site-based inspections and inspection event attendees)</li> <li>• Risk-based inspections of medium-risk businesses</li> <li>• Risk-based inspections of higher-risk businesses</li> <li>• Risk-based inspections of targeted businesses (site-based inspections and mandatory attendance event attendees)</li> <li>• Probationary inspections</li> <li>• Complaint inspections</li> </ul>

<b>SL01</b>	<b>Total number of inspections</b>	
	<ul style="list-style-type: none"> <li>• Illegal Gas Work inspections</li> <li>• Support to HSE/LA inspections</li> </ul>	
Impact	High	
Criticality	A	
Service Level Performance Measure	100% of inspection target achieved	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	100%	0
Minor Service Level Failure	Less than 100% but greater than 99%	3.0
Moderate Service Level Failure	Between 99% and 98% inclusive	6.0
Major Service Level Failure	Less than 98%	9.0

<b>SL02</b>	<b>Number of businesses unseen since start of SCA</b>	
Service Level description	<p>All Registered Businesses should be seen (inspected) at least once every five years. Therefore one fifth of unique business registrations should be seen per year.</p> <p>A Registered Business is counted as 'seen' if it has had a site-based inspection visit; for large businesses, a management audit inspection; or attended an inspection event.</p> <p>The target number of unseen businesses at the end of the SCA is zero (excluding any probationary businesses registered after 1 January 2024).</p> <p>Overachievement in Years 1 to 4 can be offset against the target for the following year.</p>	
Service Level calculation	<p><math>A / B = \text{unseen Registered Businesses target}</math></p> <p>Where:</p> <p>A = The number of Registered Businesses unseen at the start of the Contract Year</p> <p>B = The number of years remaining in the Term, as at the start of the Contract Year being measured</p>	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated annually.	
Service Point Application Period	Service Points are applied annually against the Provider's annual agreed Operating Costs plus Profit.	
Data capture	<ul style="list-style-type: none"> <li>The number of inspections of unseen Registered Businesses carried out in the Contract Year</li> <li>The number of Registered Businesses that have not yet been seen since the start of the SCA</li> </ul>	
Impact	Medium	
Criticality	A	
Service Level Performance Measure	100% of unseen Registered Businesses target met	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	100%	0
Minor Service Level Failure	Less than 100% but greater than 98%	3.0
Moderate Service Level Failure	Between 98% and 95% inclusive	6.0
Major Service Level Failure	Less than 95%	9.0

<b>SL03</b>	<b>% of complaint visits carried out within 10 Working Days of complaint being received</b>	
Service Level description	<p>All complaints against Registered Businesses should be offered an inspection visit. Where a visit is accepted by the complainant, the site should be visited within 10 Working Days.</p> <p>The Service Level is the number of complaint visits carried out within 10 Working Days of a complaint against a Registered Business being logged, expressed as a percentage of the total number of complaints against Registered Businesses received where an inspection visit is accepted.</p> <p>For the purpose of this Service Level, a visit is counted as carried out when the Provider visits the relevant property at the date and time agreed with the complainant, including each occasion where the complainant, their representative or another responsible person is not available. A failed complaint visit does not count towards the inspection target in SL01.</p> <p>A request is counted as received when a phone call is taken, or letter or email received during service hours. Where a visit is cancelled by the customer or attending Registered Business, the visit must be rescheduled within the next 10 Working Days.</p>	
Service Level calculation	$A / B \times 100$ <p>Where:</p> <p>A = The number of complaints visited within 10 Working Days  B = The number of complaints where an inspection visit was accepted</p> <p>Complaints where the Service Level is not met due to extenuating circumstances may be discounted from the calculation with HSE's agreement</p>	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated monthly.	
Service Point Application Period	Service Points are applied monthly against the Provider's monthly agreed Operating Costs plus Profit.	
Data capture	<ul style="list-style-type: none"> <li>• The number of complaints logged where an inspection visit is accepted</li> <li>• The number of these sites which are visited within 10 Working Days</li> <li>• Date and time each complaint is logged</li> <li>• Date of site visit</li> </ul>	
Impact	Medium	
Criticality	B	
Service Level Performance Measure	100% of complaint visits carried out within 10 Working Days of complaint being logged	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	100%	0

<b>SL03</b>	<b>% of complaint visits carried out within 10 Working Days of complaint being received</b>	
Minor Service Level Failure	Less than 100% but greater than 98%	1.0
Moderate Service Level Failure	Between 95% and 98% inclusive	2.0
Major Service Level Failure	Less than 95%	3.0

<b>SL04</b>	<b>Support to HSE: % of urgent requests responded to within 1 hour</b>	
Service Level description	<p>Number of urgent requests for support to HSE, local authorities and other enforcement agencies responded to within 1 Working Hour of receipt, expressed as a percentage of the total number of urgent requests received.</p> <p>For a request to be counted as 'responded to', it must be logged, acknowledged and a date and time offered for site visit.</p> <p>If initial request is made by telephone, the hour to respond starts with the time the phone call is received.</p> <p>(Reference to HSE below includes local authorities and other enforcement agencies.)</p>	
Service Level calculation	$A / B \times 100$  Where: A = Number of urgent requests for support responded to within 1 Working Hour B = Number of urgent requests for support made by HSE	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated annually.	
Service Point Application Period	Service Points are applied annually against the Provider's agreed Operating Costs plus Profit for the final month of the Contract Year.	
Data capture	<ul style="list-style-type: none"> <li>• Number of urgent requests for support from HSE</li> <li>• Number of urgent requests responded to within 1 Working Hour</li> <li>• Date and time request received</li> <li>• Date and time request responded to</li> </ul>	
Impact	High	
Criticality	A	
Service Level Performance Measure	100% of urgent requests responded to within 1 Working Hour	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	100%	0
Minor Service Level Failure	Less than 100% but greater than 95%	3.0
Moderate Service Level Failure	Between 95% and 90% inclusive	6.0
Major Service Level Failure	Less than 90%	9.0

<b>SL05</b>	<b>Support to HSE: % of urgent requests actioned within 3 Working Days</b>	
Service Level description	<p>Number of urgent requests for support to HSE, local authorities and other enforcement agencies actioned (such as site visit) within the next 3 Working Days.</p> <p>For a request to be counted as actioned, the required action (such as site visited and report submitted) must be completed.</p> <p>(Reference to HSE below includes local authorities and other enforcement agencies.)</p>	
Service Level calculation	<p><math>A / B \times 100</math></p> <p>Where:</p> <p>A = Number of urgent requests for support actioned within 3 Working Days</p> <p>B = Number of urgent requests for support made by HSE</p> <p>Urgent requests for support which cannot be actioned within 3 Working Days due to extenuating circumstances (including, but not limited to, the site has not been made safe) can be discounted from calculation with HSE's agreement.</p>	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated annually.	
Service Point Application Period	Service Points are applied annually against the Provider's agreed Operating Costs plus Profit for the final month of the Contract Year.	
Data capture	<ul style="list-style-type: none"> <li>• Number of urgent requests for support from HSE</li> <li>• Number of urgent requests actioned within 3 Working Days</li> <li>• Date and time request received</li> <li>• Date request actioned</li> </ul>	
Impact	High	
Criticality	A	
Service Level Performance Measure	100% of urgent requests actioned within 3 Working Days	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	100%	0
Minor Service Level Failure	Less than 100% but greater than 95%	3.0
Moderate Service Level Failure	Between 95% and 90% inclusive	6.0
Major Service Level Failure	Less than 90%	9.0

<b>SL06</b>	<b>Support to HSE: % of on-site requests (other than urgent) responded to within 24 hours</b>	
Service Level description	<p>Number of requests for on-site support from HSE, local authorities and other enforcement agencies (other than urgent requests) responded to within 24 hours of receipt by the Provider, expressed as a percentage of the total number of requests for on-site support received.</p> <p>(Reference to HSE includes local authorities and other enforcement agencies.)</p> <p>The request counted as received when the relevant form is received from HSE.</p> <p>Where the 24 hours falls across days that are not Working Days (eg weekends or public holidays), the calculation of 24 hours shall discount those days that are not Working Days.</p> <p>For a request to be counted as 'responded to', it must be logged, acknowledged and a date and time offered to visit site.</p>	
Service Level calculation	$A / B \times 100$ <p>Where:</p> <p>A = Number of requests for on-site support responded to within 24 hours</p> <p>B = Number of requests for on-site support made</p>	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated annually.	
Service Point Application Period	Service Points are applied annually against the Provider's agreed Operating Costs plus Profit for the final month of the Contract Year.	
Data capture	<ul style="list-style-type: none"> <li>• Number of requests for on-site support made</li> <li>• Number of requests for on-site support responded to within 24 hours</li> <li>• Date and time request (form) received</li> <li>• Date request actioned</li> </ul>	
Impact	High	
Criticality	A	
Service Level Performance Measure	100% of on-site requests responded to within 24 hours	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	100%	0
Minor Service Level Failure	Less than 100% but greater than 95%	3.0
Moderate Service Level Failure	Between 95% and 90% inclusive	6.0
Major Service Level Failure	Less than 90%	9.0

<b>SL07</b>	<b>Support to HSE: % of on-site requests actioned within 10 Working Days</b>	
Service Level description	<p>Number of requests for on-site support from HSE, local authorities and other enforcement agencies actioned within 10 Working Days of receipt by the Provider, expressed as a percentage of the total number of requests for on-site support received.</p> <p>(Reference to HSE includes, where appropriate, local authorities and other enforcement agencies.)</p> <p>The request counted as received when the relevant form is received from HSE during service hours.</p> <p>For a request to be counted as actioned the site visit must be completed and report submitted to HSE.</p>	
Service Level calculation	<p><math>A / B \times 100</math></p> <p>Where:</p> <p>A = Number of requests for on-site support actioned within 10 Working Days</p> <p>B = Number of requests for on-site support made</p> <p>Urgent requests for support which cannot be actioned within 10 Working Days due to extenuating circumstances can be discounted from calculation with HSE's agreement.</p>	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated annually.	
Service Point Application Period	Service Points are applied annually against the Provider's agreed Operating Costs plus Profit for the final month of the Contract Year.	
Data capture	<ul style="list-style-type: none"> <li>• Number of requests for on-site support made</li> <li>• Number of requests for on-site actioned within 10 Working Days</li> <li>• Date and time request (form) received</li> <li>• Date site visited</li> <li>• Date report submitted to HSE</li> </ul>	
Impact	High	
Criticality	A	
Service Level Performance Measure	100% of requests for on-site support actioned within 10 Working Days	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	100%	0
Minor Service Level Failure	Less than 100% but greater than 95%	3.0
Moderate Service Level Failure	Between 95% and 90% inclusive	6.0
Major Service Level Failure	Less than 90%	9.0



<b>SL08</b>	<b>% of illegal gas sites visited within 10 Working Days of illegal work being reported</b>	
Service Level description	<p>Illegal gas sites are sites where it is believed that Gas Work has been carried out by an unregistered gas fitter, or a Registered Engineer working outside of their competencies.</p> <p>This Service Level measures the number of illegal gas sites visited within 10 Working Days of being reported, expressed as a percentage of the number of illegal gas sites reported.</p> <p>'Illegal gas sites reported' are those sites that can be identified and where permission by the homeowner, tenant or landlord is given to visit the site.</p> <p>Illegal work is counted as reported when a phone call or email is received during service hours. When a report of potential illegal Gas Work is submitted outside service hours, it is counted as received when service hours next resume.</p> <p>For the purpose of this Service Level, a visit is counted as carried out when the Provider visits the relevant property at the date and time agreed with the complainant, including each occasion where the complainant, their representative or another responsible person is not available. A failed complaint visit does not count towards the inspection target in SL01.</p>	
Service Level calculation	$A / B \times 100$  Where: A = Number of illegal gas sites visited within 10 Working Days B = Number of illegal gas sites reported where access is granted	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated annually.	
Service Point Application Period	Service Points are applied annually against the Provider's agreed Operating Costs plus Profit for the final month of the Contract Year.	
Data capture	<ul style="list-style-type: none"> <li>• Number of illegal gas sites reported where access is granted</li> <li>• Number of illegal gas sites visited within 10 Working Days</li> <li>• Date and time report completed</li> <li>• Date of site inspection</li> </ul>	
Impact	Medium	
Criticality	B	
Service Level Performance Measure	95% of illegal gas sites visited within 10 Working Days of illegal Gas Work being reported	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	95%	0
Minor Service Level Failure	Less than 95% but greater than 90%	2.0

<b>SL08</b>	<b>% of illegal gas sites visited within 10 Working Days of illegal work being reported</b>	
Moderate Service Level Failure	Between 90% and 85% inclusive	4.0
Major Service Level Failure	Less than 85%	6.0

<b>SL09</b>	<b>Total number of justified complaints about the service</b>		
Service Level description	<p>The total number of justified complaints against service from all sources – Consumers and Registered Businesses or Engineers.</p> <p>A complaint is justified if:</p> <ul style="list-style-type: none"> <li>the Provider has not followed its policies, procedures or service level response times</li> <li>the Provider has inaccurately recorded, reported or relayed information</li> <li>the Provider's staff have behaved in an unprofessional manner (as defined in the Customer Charter)</li> </ul>		
Service Level calculation	<p>A + B</p> <p>Where:  A = Number of justified complaints about the service from consumers  B = Number of justified complaints about the service from registered engineers or businesses</p>		
Reporting frequency	Performance is reported monthly.		
Service Measurement Period	Service Credits are calculated annually.		
Service Point Application Period	Service Points are applied annually against the Provider's agreed Operating Costs plus Profit for the final month of the Contract Year.		
Data capture	<ul style="list-style-type: none"> <li>Number of justified consumer complaints about the service</li> <li>Number of justified registrant complaints about the service or renewal</li> </ul>		
Impact	Medium		
Criticality	B		
Service Level Performance Measure	No more than 20 complaints in year 1 No more than 10 complaints per year in Years 2 – 5		
	<b>Service Level Performance Measure</b>		<b>Service points</b>
	Year 1	Years 2 – 5	
Service Level met	No more than 20 complaints	No more than 10 complaints	0
Minor Service Level Failure	More than 20 and up to and including 25 complaints	More than 10 and up to and including 15 complaints	2.0
Moderate Service Level Failure	More than 25 and up to and including 30 complaints	More than 15 and up to and including 20 complaints	4.0
Major Service Level Failure	More than 30 complaints	More than 20 complaints	6.0

<b>SL10</b>	<b>% of all complaints about the service responded to within 5 Working Days</b>	
Service Level description	<p>The number of complaints about the service responded to within 5 Working Days of receipt, expressed as a percentage of the total number of complaints about service.</p> <p>The request counted as received when a phone call, email or letter is received during service hours. When a complaint about service is submitted outside service hours, it is counted as received when service hours next resume.</p> <p>'Responded to' is defined as providing a response and findings to the complainant after an investigation into the complaint.</p> <p>This Service Level measures response time to all complaints – justified and unjustified.</p>	
Service Level calculation	<p><math>A / B \times 100</math></p> <p>Where:</p> <p>A = Number of complaints about the service responded to within 5 Working Days of receipt</p> <p>B = Number of complaints about the service received</p> <p>Complaints which cannot be investigated and closed within 5 Working Days due to circumstances outside of the control of the Provider can be discounted from the calculation subject to Approval by HSE.</p> <p>Complaints received in month are counted for the monthly reporting figures – resolution may take place in the following month.</p>	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated annually.	
Service Point Application Period	Service Points are applied annually against the Provider's agreed Operating Costs plus Profit for the final month of the Contract Year.	
Data capture	<ul style="list-style-type: none"> <li>• Number of complaints about the service received from consumers</li> <li>• Number of complaints about the service received from registered businesses</li> <li>• Number of complaints about the service received from consumers responded to within 5 Working Days</li> <li>• Number of complaints about the service received from registered businesses responded to within 5 Working Days</li> <li>• Date and time complaint received</li> <li>• Date complaint responded to</li> </ul>	
Impact	Medium	
Criticality	B	
Service Level Performance Measure	95% of all complaints about service responded to within 5 Working Days of receipt	
	<b>Service Level Performance Measure</b>	<b>Service points</b>

<b>SL10</b>	<b>% of all complaints about the service responded to within 5 Working Days</b>	
Service Level met	95%	0
Minor Service Level Failure	Less than 95% but greater than 90%	2.0
Moderate Service Level Failure	Between 90% and 85% inclusive	4.0
Major Service Level Failure	Less than 85%	6.0

<b>SL11</b>	<b>% of contact centre telephone calls answered within 60 seconds by contact centre staff</b>	
Service Level description	The number of calls to the contact centre answered within 60 seconds by a member of the contact centre staff (not machine) expressed as a percentage of the number of contact centre calls answered.	
Service Level calculation	$A / B \times 100$  Where: A = Number of calls answered by contact centre staff within 60 seconds B = Number of calls answered by contact centre staff	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated monthly.	
Service Point Application Period	Service Points are applied monthly against the Provider's monthly agreed Operating Costs plus Profit.	
Data capture	Number of calls answered by contact centre staff Number of calls answered by contact centre staff within 60 seconds	
Impact	Medium	
Criticality	B	
Service Level Performance Measure	90% of telephone calls to the contact centre answered by contact centre staff within 60 seconds	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	90%	0
Minor Service Level Failure	Less than 90% but greater than 85%	1.0
Moderate Service Level Failure	Between 85% and 80%	2.0
Major Service Level Failure	Less than 75%	3.0

<b>SL12</b>	<b>% of technical calls answered within 180 seconds by technical staff</b>	
Service Level description	The number of calls to the technical helpline answered within 180 seconds by a member of technical staff expressed as a percentage of the total number of technical calls answered.	
Service Level calculation	$A / B \times 100$  Where: A = Number of technical calls answered by technical staff within 180 seconds B = Total number of technical calls answered by technical staff	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated monthly.	
Service Point Application Period	Service Points are applied monthly against the Provider's monthly agreed Operating Costs plus Profit.	
Data capture	<ul style="list-style-type: none"> <li>• Number of calls answered by technical helpline staff</li> <li>• Number of calls answered by technical helpline staff within 180 seconds</li> </ul>	
Impact	Medium	
Criticality	B	
Service Level Performance Measure	90% of technical calls answered within 180 seconds	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	90%	0
Minor Service Level Failure	Less than 90% but greater than 85%	1.0
Moderate Service Level Failure	Between 85% and 80% inclusive	2.0
Major Service Level Failure	Less than 80%	3.0

<b>SL13</b>	<b>% of correspondence (letter &amp; email) responded to within 5 Working Days – combined response target for contact centre and technical</b>	
Service Level description	The number of letters and emails to the contact centre and technical helpline responded to within 5 Working Days, expressed as a percentage of the total number of letters and emails received.	
Service Level calculation	$A / B \times 100$  Where: A = Number of letters and emails responded to within 5 Working Days B = Total number of letters and emails received	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated monthly.	
Service Point Application Period	Service Points are applied monthly against the Provider's monthly agreed Operating Costs plus Profit.	
Data capture	<ul style="list-style-type: none"> <li>• Number of letters and emails responded to within 5 Working Days</li> <li>• Total number of letters and emails received</li> <li>• Date correspondence received</li> <li>• Date response sent</li> </ul>	
Impact	Medium	
Criticality	B	
Service Level Performance Measure	100% of correspondence (letter & email) responded to within 5 Working Days of receipt	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	100%	0
Minor Service Level Failure	Less than 100% but greater than 98%	1.0
Moderate Service Level Failure	Between 95% and 98% inclusive	2.0
Major Service Level Failure	Less than 95%	3.0

<b>SL14</b>	<b>Availability of systems and infrastructure (with the exception of scheduled downtime) – phone lines</b>	
Service Level description	The availability of telephone lines to receive calls (answered by contact centre operatives) during the contracted hours of service. The phone lines shall be deemed to be available where they can be accessed during the defined hours of service and calls can be responded to by a member of staff. With the exception of scheduled down time.	
Service Level calculation	A / B x 100  Where: A = Number of minutes during the hours of service on service days when the contact centre and technical helpline are available B = Total number of minutes during hours of service on service days during the service measurement period in question	
Reporting frequency	Performance is reported monthly.	
Service Measurement Period	Service Credits are calculated monthly.	
Service Point Application Period	Service Points are applied monthly against the Provider's monthly agreed Operating Costs plus Profit.	
Hours of service	07.30 – 19.00 hours, Monday – Friday 08.00 hours – 13.00 hours Saturday 52 weeks per year, excluding Bank Holidays	
Data capture	<ul style="list-style-type: none"> <li>Number of minutes during the hours of service on service days when the contact centre and technical helpline are available</li> <li>Total number of minutes during hours of service on service days during the service measurement period in question</li> </ul>	
Impact	High	
Criticality	A	
Service Level Performance Measure	99.8% availability of telephone lines	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	99.8%	0
Minor Service Level Failure	Less than 99.8% but greater than 99% of inspection target met	1.5
Moderate Service Level Failure	Between 98% and 99% inclusive of inspection target met	3.0
Major Service Level Failure	Less than 98% of inspection target met	4.5

<b>SL15</b>	<b>Availability of systems and infrastructure (with the exception of scheduled downtime) – website</b>		
Service Level description	The availability of the website, expressed as a percentage of the period of time within the service measurement period in question. With the exception of scheduled down time.		
Service Level calculation	$A / B \times 100$  Where: A = Number of minutes when the website is available B = Total number of minutes during the service measurement period in question (minus any <b>scheduled</b> downtime)		
Reporting frequency	Performance is reported monthly.		
Service Measurement Period	Service Credits are calculated monthly.		
Service Point Application Period	Service Points are applied monthly against the Provider's monthly agreed Operating Costs plus Profit.		
Hours of service	24 hours a day, 7 days a week, 365 days per year		
Data capture	<ul style="list-style-type: none"> <li>Number of minutes when the website is available</li> <li>Total number of minutes during the service measurement period in question</li> </ul>		
Impact	High		
Criticality	A		
Service Level Performance Measure	99.8% availability of website		
	<b>Service Level Performance Measure</b>		<b>Service points</b>
	01/04/2019 to 02/08/2019	02/08/2019 to 31/03/2024	
Service Level met	99%	99.8%	0
Minor Service Level Failure	Less than 99% but greater than 98%	Less than 99.8% but greater than 99%	1.5
Moderate Service Level Failure	Between 97% and 98%	Between 98% and 99% inclusive	3.0
Major Service Level Failure	Less than 97%	Less than 98%	4.5

<b>SL16</b>	<b>Availability to Customers of systems and infrastructure (with the exception of scheduled downtime) – database</b>		
Service Level description	The availability of the Registration Database, expressed as a percentage of the period of time within the service measurement period in question. With the exception of scheduled down time.		
Service Level calculation	A / B x 100  Where: A = Number of minutes when the database is available B = Total number of minutes during the service measurement period in question (minus any <b>scheduled</b> downtime)		
Reporting frequency	Performance is reported monthly.		
Service Measurement Period	Service Credits are calculated monthly.		
Service Point Application Period	Service Points are applied monthly against the Provider's monthly agreed Operating Costs plus Profit.		
Hours of service	24 hours a day, 7 days a week, 365 days per year		
Data capture	<ul style="list-style-type: none"> <li>• Number of minutes when the database is available</li> <li>• Total number of minutes during the service measurement period in question</li> </ul>		
Impact	High		
Criticality	A		
Service Level Performance Measure	99.8% availability of Registration Database		
	<b>Service Level Performance Measure</b>		<b>Service points</b>
	01/04/2019 to 02/08/2019	02/08/2019 to 31/03/2024	
Service Level met	99%	99.8%	0
Minor Service Level Failure	Less than 99% but greater than 98%	Less than 99.8% but greater than 99%	1.5
Moderate Service Level Failure	Between 97% and 98%	Between 98% and 99% inclusive	3.0
Major Service Level Failure	Less than 97%	Less than 98%	4.5

<b>SL17</b>	<b>% of applications &amp; registration changes processed and ID cards issued within 5 Working Days during April to January, and 10 Working Days during February and March</b>
Service Level description	<p>The number of:</p> <ul style="list-style-type: none"> <li>• Registration applications (new and renewal; business &amp; engineer)</li> <li>• Registration changes (trading title, qualifications etc)</li> <li>• New and replacement ID cards issued</li> </ul> <p>processed and completed within five Working Days of receipt of request, expressed as a percentage of the total number of applications, change requests received and ID cards required.</p> <p>When applications and changes are submitted outside service hours, it is counted as received when service hours next resume.</p>
Service Level calculation	<p><math>(A + B + C) / (D + E + F) \times 100</math></p> <p>Where:</p> <p>A = the number of registration applications processed in 5 Working Days during April to January and 10 Working Days during February and March</p> <p>B = the number of registration change requests processed in 5 Working Days during April to January and 10 Working Days during February and March</p> <p>C = the number of ID cards (new and replacement) issued in 5 Working Days during April to January and 10 Working Days during February and March</p> <p>D = the total number of registration applications received</p> <p>E = the total number of registration change requests received</p> <p>F = the total number of ID cards (new and replacement) requested</p>
Reporting frequency	Performance is reported monthly.
Service Measurement Period	Service Credits are calculated monthly.
Service Point Application Period	Service Points are applied monthly against the Provider's monthly agreed Operating Costs plus Profit.
Data capture	<p>During the Service Measurement Period:</p> <ul style="list-style-type: none"> <li>• Number of <ul style="list-style-type: none"> <li>○ registration applications received</li> <li>○ registration change requests received</li> <li>○ ID cards requests – new, replacement required</li> </ul> </li> <li>• During the months April to January, the number of <ul style="list-style-type: none"> <li>○ registration applications processed within 5 Working Days</li> <li>○ registration change requests processed within 5 Working Days</li> <li>○ ID cards issued within 5 Working Days</li> </ul> </li> <li>• During the months February and March, the number of:</li> </ul>

<b>SL17</b>	<b>% of applications &amp; registration changes processed and ID cards issued within 5 Working Days during April to January, and 10 Working Days during February and March</b>	
	<ul style="list-style-type: none"> <li>○ registration applications processed within 10 Working Days</li> <li>○ registration change requests processed within 10 Working Days</li> <li>○ ID cards issued within 10 Working Days</li> <li>● Date and time application or registration change received</li> </ul>	
Impact	Medium	
Criticality	B	
Service Level Performance Measure	100% of applications and registration changes processed and ID cards issued within 5 Working Days for the months April to January 100% of applications and registration changes processed and ID cards issued within 10 Working Days for the months February and March	
	<b>Service Level Performance Measure</b>	<b>Service points</b>
Service Level met	100%	0
Minor Service Level Failure	Less than 100% but greater than 98%	1.0
Moderate Service Level Failure	Between 95% and 98%	2.0
Major Service Level Failure	Less than 95%	3.0

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**SCHEDULE 4: CHARGES**

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## 1. Overview

- 1.1 The purpose of this Schedule is to set out the provisions relating to and mechanisms for calculating:
- 1.1.1 Concession Charges;
  - 1.1.2 Indexation;
  - 1.1.3 HSE recovery of Outstanding Renewal Charges.

## 2. Concession Charges – General Principles

- 2.1 With effect from the Services Start Date, the Provider may levy the following charges on Businesses, approved third parties and Awarding Bodies, as appropriate:
- 2.1.1 the New Registration Charge;
  - 2.1.2 the Engineer Charge;
  - 2.1.3 the Business Renewal (Telephone & Post) Charge;
  - 2.1.4 the Business Renewal (Online) Charge;
  - 2.1.5 the Late Renewal Charge;
  - 2.1.6 the Notification of Work Under the Building Regulations (Telephone and Post) Charge;
  - 2.1.7 the Notification of Work Under the Building Regulations (Online) Charge;
  - 2.1.8 the Notification of Work Under the Building Regulations (Third Party) Charge;
  - 2.1.9 the Notification of Work Under the Building Regulations (Reprint) Charge;
  - 2.1.10 the ACS / Qualification Reporting Charge;
  - 2.1.11 the Lost Identity Card Charge;
  - 2.1.12 the Updated Identity Card Charge;
  - 2.1.13 Access to Standards – 1 year subscription fee for businesses with 1–5 registered engineers;
  - 2.1.14 Access to Standards – 3 year subscription fee for businesses with 1–5 registered engineers;
  - 2.1.15 Access to Standards – 1 year subscription fee for businesses with 6–10 registered engineers; and
  - 2.1.16 Access to Standards – 3 year subscription fee for businesses with 6–10 registered engineers,
- together the "**Concession Charges**".
- 2.2 The Provider shall not levy any charges other than the Concession Charges on any person in respect of the Concession Services without Approval in accordance with the Change Control Procedure.
- 2.3 All Concession Charges are expressed exclusive of value added tax, which shall be payable in addition at the prevailing rate.

- 2.4 The Provider may vary the Concession Charges in accordance with paragraph 4 of this Schedule 4 (Charges).
- 2.5 The Provider shall put in place suitable arrangements with Awarding Bodies for the reporting of qualifications and the payment of the ACS / Qualification Reporting Charge.
- 2.6 The Provider shall not refuse to include a Business or Engineer on the Register solely for the reason that an Awarding Body has not paid the appropriate ACS / Qualification Reporting Charge.

### 3. Concession Charges to be Levied

- 3.1 Subject to paragraph 4, the maximum Concession Charges applicable for each Contract Year are set out in the table below.

**Table 1** Concession Charges £

	Year 1	Year 2	Year 3	Year 4	Year 5
New Registration Charge	362.00	362.00	362.00	362.00	362.00
Engineer Charge	25.98	25.98	25.98	25.98	25.98
Business Renewal (Telephone & Post) Charge	172.00	172.00	172.00	172.00	172.00
Business Renewal (Online) Charge	152.00	152.00	152.00	152.00	152.00
Late Renewal Charge	100.00	100.00	100.00	100.00	100.00
Notification of Work Under the Building Regulations (Telephone & Post) Charge	3.50	3.50	3.50	3.50	3.50
Notification of Work Under the Building Regulations (Online) Charge	2.20	2.20	2.20	2.20	2.20
Notification of Work Under the Building Regulations (Third Party) Charge	1.05	1.05	1.05	1.05	1.05
Notification of Work Under the Building Regulations (reprint) Charge	5.00	5.00	5.00	5.00	5.00
ACS / Qualification Reporting Charge	5.00	5.00	5.00	5.00	5.00
Lost Identity Card Charge	15.00	15.00	15.00	15.00	15.00
Updated Identity Card Charge	10.00	10.00	10.00	10.00	10.00
Access to Standards – 1 year subscription fee for businesses with 1–5 registered engineers	5.00	5.00	5.00	5.00	5.00
Access to Standards – 3 year subscription fee for businesses with 1–5 registered engineers	15.00	15.00	15.00	15.00	15.00
Access to Standards – 1 year subscription fee for businesses with 6–10 registered engineers	5.00	5.00	5.00	5.00	5.00

	Year 1	Year 2	Year 3	Year 4	Year 5
Access to Standards – 3 year subscription fee for businesses with 6–10 registered engineers	15.00	15.00	15.00	15.00	15.00

- 3.2 Subject to paragraph 3.3 the Provider may only levy a New Registration Charge:
- 3.2.1 on the occasion of the Registration of a Business:
- 3.2.1(a) for the first time; or
- 3.2.1(b) where it has previously been a Registered Businesses but its Registration ceased for any reason; or
- 3.2.2 where any information about that Registered Business included on the Register has changed significantly so as to require the Provider to consider whether that Business should continue to be a Registered Business.
- 3.3 Where a proposed Registered Business engages:
- 3.3.1 one (1) Engineer, the Provider shall not levy an Engineer Charge in respect of that proposed Registered Business; or
- 3.3.2 more than one (1) Engineer, the Provider may levy an Engineer Charge in respect of all but one (1) of the Engineers employed by that proposed Registered Business.
- 3.4 Subject to paragraph 3.5, the Provider may levy Renewal Charges in advance of the Registration Year to which such Renewal Charges relate.
- 3.5 Where a Registered Business engages:
- 3.5.1 one (1) Engineer, the Provider shall not levy an Engineer Charge in respect of that Registered Business; or
- 3.5.2 more than one (1) Engineer, the Provider may levy an Engineer Charge in respect of all but one of the Engineers employed by that Registered Business.
- 3.6 A Business shall have twelve (12) weeks from the date of expiry of its Registration to submit an application to renew its Registration.
- 3.7 If a Business renews its Registration within six (6) weeks of the expiry date the Provider may levy the Business Renewal Charge. If a Business renews its registration between six (6) and twelve (12) weeks of the expiry date, the Provider shall be entitled to levy a Late Renewal Charge in addition to the Business Renewal Charge. After twelve (12) weeks the Registration will be cancelled and the Business will be required to apply for a new registration.
- 3.8 The Provider may restrict the Business Renewal (Online) Charge only to Businesses that undertake to conduct all communications electronically and agree to make payment by direct debit.
- 3.9 Subject to paragraph 5.4 of this Schedule 4, the Provider will not be obliged for any reason to make refunds of Concession Charges paid in advance.
- 3.10 The Provider shall:
- 3.10.1 allow Registered Businesses to pay the appropriate Renewal Charge in equal monthly instalments by direct debit; and

- 3.10.2 with effect from the Services Start Date, allow a Business seeking Registration for the first time to pay the appropriate New Registration Charge in equal monthly instalments by direct debit.
- 3.11 Where a Registered Business pays the appropriate Concession Charge in equal monthly instalments by direct debit the Provider may make it a condition of such means of payment that the Registered Business make such payments for a minimum period of time as the Provider may from time to time specify.
- 3.12 The Provider shall offer a range of payment mechanisms including those specified in paragraph 3.24 of Schedule 1 (Concession Services Requirements) and shall from time to time review such mechanisms to ensure payment may be made to and received by the Provider efficiently and economically.

#### **4. Indexation**

- 4.1 All Concession Charges, Additional Charges and Ancillary Charges, including the Day Rates set out in Part D of Schedule 2 (Additional and Ancillary Services), shall be adjusted annually, with effect from 1<sup>st</sup> April 2020 and each 1<sup>st</sup> April thereafter in accordance with paragraph 4.2 in line with increases in the Consumer Price Index (CPI) subject to a maximum of two (2) percent variation per annual adjustment. Such adjustment shall not take account of any other factor or element which might otherwise increase the cost to the Provider including inflation, change to exchange rate, or change to interest rate.
- 4.2 In respect of each of the Concession Charges, Additional Charges, Ancillary Charges and Day Rates, the Provider shall, by the 15<sup>th</sup> of November 2019 and the 15<sup>th</sup> of November in each subsequent Contract Year (each such date being an "Indexation Date") calculate such adjustment by multiplying the relevant amount or sum by any percentage increase in the CPI index (subject to the cap imposed by paragraph 4.1) for the period of twelve (12) months ending on the 31<sup>st</sup> October immediately preceding the relevant Indexation Date.
- 4.3 Where the CPI index:
- 4.3.1 used to carry out an indexation calculation is updated (for example due to it being provisional) then the indexation calculation shall also be updated unless HSE and the Provider agree otherwise;
- 4.3.2 is no longer published, HSE and the Provider shall agree a fair and reasonable replacement that will have substantially the same effect.
- 4.4 The Provider shall, after having calculated variations to the Concession Charges, Additional Charges, Ancillary Charges and Day Rates in accordance with the provisions of paragraph 4.1 above, be entitled to round up to the nearest pence.
- 4.5 The Provider shall no later than the 15<sup>th</sup> of January following each indexation date inform Businesses of variations to be made to Concession Charges in accordance with this paragraph 4.
- 4.6 The Provider shall, no later than one (1) Month prior to the date referred to in paragraph 4.5, provide sufficient information to demonstrate to HSE that any variations to Concession Charges as a result of indexation have been calculated properly in accordance with the provisions of this Schedule 4. The Provider shall not notify Registered Businesses of any change in the Concession Charges until it has received written agreement from HSE that the changes have been correctly calculated, such agreement not to be unreasonably withheld or delayed.

- 4.7 In respect of any Concession Charges payable by monthly direct debit by any person, the Provider shall be entitled to vary such monthly payment with effect from each relevant Indexation Date notwithstanding that the relevant Indexation Date may be part way through a Registration Year applicable to that person.

## 5. HSE recovery of Outstanding Renewal Charges

- 5.1 In the event of expiry or earlier termination of the Agreement for any reason, HSE may require the Provider to return any Outstanding Renewal Charges to HSE or such other party as may be nominated in writing by HSE in accordance with the following provisions of this paragraph 5.

- 5.2 At the date of expiry or earlier termination, the Provider shall provide HSE with details of Businesses that have paid their annual Renewal Charges in full in advance and those that have apportioned the payment of the annual Renewal Charges through, for example, monthly direct debits.

- 5.3 The Outstanding Renewal Charges will be calculated for each individual Registered Business on the appropriate basis as described in paragraph 5.3.1 or 5.3.2 below. The sum total of all Outstanding Renewal Charges for all Registered Businesses shall be returned to HSE.

- 5.3.1 In respect of Business Renewal Charges and New Registration Charges paid in full at point of registration or renewal, as applicable:

$$A = B/365 \times C$$

Where:

A = the Outstanding Renewal Charges for each individual Registered Business

B = the number of paid-for days of registration remaining on the day immediately following the date of termination or expiry of this Agreement

C = the Business Renewal Charges or the New Registration Charge, as applicable.

In a leap year, 366 is to be used in the calculation instead of 365.

- 5.3.2 In respect of Business Renewal Charges and New Registration Charges paid in monthly instalments by Direct Debit, Outstanding Renewal Charges shall be calculated in accordance with the following formula:

$$A = B/C \times D$$

Where:

A = the Outstanding Renewal Charges for each individual Registered Business

B = the number of paid-for days of registration remaining on the day immediately following the date of termination or expiry

C = the number of days in the month that the Agreement is terminated or expires

D = the amount paid by the Registered Business, **in the month** that the Agreement is terminated or expires, of (i) the Business Renewal Charge paid by that Registered Business or, (ii) New Registration Charge

- 5.3.3 For the purpose of the calculations in 5.3.1 and 5.3.2, the new Registration Charge excludes the Application Fee because this does not relate to any period that falls after the date of expiry or earlier termination.
- 5.4 If HSE terminates the Agreement for convenience pursuant to Clause 41.7 (Termination Without Cause) and does not appoint a third party to undertake the Concession Services or services substantially similar to the Concession Services in the period of twelve (12) Months following the date of expiry or earlier termination of this Agreement, the Provider shall subject to payment of a reasonable administration costs to be agreed with HSE, return the Outstanding Renewal Charges to Businesses in proportion to the Renewal Charges originally paid by such Business in respect of the relevant Contract Year.
- 5.5 Any payment of Outstanding Renewal Charges by the Provider pursuant to this paragraph 5 shall be made net of any tax due in respect of such payment.

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**SCHEDULE 5: FINANCIAL MODEL AND GAIN  
SHARE**

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## PURPOSE AND GENERAL OBLIGATION UPON PROVIDER

### 1. Purpose and effect

- 1.1 The purpose of this Schedule is to enable HSE to ensure that throughout the Term:
- 1.1.1 the provision of Services continues to represent value for money for Registered Businesses and Engineers;
  - 1.1.2 the Provider receives value for money in respect of Intra-group Services it purchases;
  - 1.1.3 the Provider provides Intra-group Services on commercially reasonable terms; and
  - 1.1.4 an appropriate mechanism is in place to monitor and apportion the Gain Share Fund as further set out in paragraph 4 below.

### 2. Provider's general obligation

- 2.1 Provider shall, as further set out in this Schedule, put mechanisms in place and take measures to ensure, from the Effective Date and throughout the Term, that the value for money and quality of the Services provided to Customers increases over time.
- 2.2 This Schedule covers:
- 2.2.1 Financial Model;
  - 2.2.2 Gain Share;
  - 2.2.3 Open Book Accounting;
  - 2.2.4 Benchmarking; and
  - 2.2.5 Continuous Service Improvement.

## FINANCIAL MODEL

### 3. Financial Model

#### 3.1 General Principles

- 3.1.1 The Provider shall receive Revenue throughout the Term in accordance with the Terms and Conditions of this Agreement.
- 3.1.2 The Provider Profit will be calculated as a percentage of their Agreed Operating Costs.

#### 3.2 Distribution of Revenue

- 3.2.1 The Provider shall deduct from Revenue, in order of precedence:

- 3.2.1(a) Fifty Thousand Pounds (£50,000) (such amount to be reviewed annually) payable to HSE quarterly in arrears to cover HSE's costs related to the management of this Agreement;
  - 3.2.1(b) One Hundred Thousand Pounds (£100,000.00) payable to HSE within one (1) Month of the end of each Contract Year to cover HSE's costs related to the procurement of this Agreement; and
  - 3.2.1(c) Sixteen Thousand and Six Hundred and Sixty-Six Pounds and Sixty-Seven Pence (£16,666.67) (or such other amount as is payable to the SSF service delivery provider pursuant to the procurement exercise described in paragraph 16 (Standards Setting Body) of Schedule 1) payable to EU Skills Limited (or its replacement) pursuant to such exercise on the first day of every Month to fund the Standards Setting Function;
  - 3.2.1(d) Four Hundred and Eighty Thousand Pounds (£480,000) payable to the Gas Safe Charity within one (1) Month of the end of each Contract Year;
  - 3.2.1(e) Provider's Agreed Operating Costs;
  - 3.2.1(f) Provider Profit.
- 3.2.2 The Provider shall be required to pay the following from the Provider's Agreed Operating Costs and Provider Profit:
- 3.2.2(a) Into Funds For Distribution (see paragraph 4.3 of this Schedule):
    - 3.2.2(a)(i) Service Credits in accordance with paragraph 4.3.2 of this Schedule and the Service Point Application Period for each individual Service Level as defined in Schedule 3 Service Levels;
    - 3.2.2(a)(ii) Default Management Charges in accordance with paragraph 2.5.4 of Schedule 11;
  - 3.2.2(b) To HSE:
    - 3.2.2(b)(i) Admin Fees, in accordance with paragraph 2.6 of Schedule 11).
- 3.2.3 Unless specified otherwise, the amounts listed in paragraph 3.2.1 and 3.2.2 shall be deducted on the last day of every Month throughout the Term. Where the amounts are not payable monthly, the Provider shall deduct and set aside a pro-rata amount.
- 3.2.4 All surplus Revenue remaining after the payments made pursuant to paragraph 3.2.1 shall be calculated annually at the end of each Contract Year (and in the event of termination, on termination) and shall constitute the Gain Share Fund.
- 3.2.5 In the event of early termination or for any partial termination, the amounts payable in accordance with paragraphs 3.2.1(a) to 3.2.1(d) and 3.2.4, along with the impact on the Charges, shall be revised in accordance with the Change Control Procedure.
- 3.2.6 The Provider's marketing budget, as stated in Annex 1 to this Schedule 5, is ring-fenced for the purpose of marketing expenditure, and such expenditure is subject to HSE approval in the form of a high-level budget and marketing plan, which shall be presented to HSE three (3) months before the start of each Contract Year. Any such marketing budget not spent in the planned

Contract Year (pro-rated for any partial year), or allocated for expenditure in the following Contract Year, shall be paid into Funds For Distribution.

3.2.7 Any increase to the sums detailed in 3.2.1(a) to 3.2.1(d) will be funded by way of any one or combination of the options listed below which HSE at its sole discretion may determine:

3.2.7(a) a Funds For Distribution subsidy in accordance with paragraph 4.3.5(c) of Schedule 5 (Financial Model and Gainshare);

3.2.7(b) reapportioning the distribution of the sums detailed in paragraph 3.2.1(a) to 3.2.1(d) above;

3.2.7(c) an increase in the Charges.

### 3.3 Form and Content of Financial Model

3.3.1 No later than two (2) months before the Service Start Date, the Provider shall provide HSE with a copy of the Financial Model.

3.3.2 The Financial Model shall:

3.3.2(a) provide sufficient detail for HSE to have visibility of the Agreed Operating Costs, Provider Profit and the Concession Charges to be levied in respect of the provision of the Services for every Contract Year;

3.3.2(b) provide a full analysis of the Provider's estimated costs and the assumptions used to develop the Charges;

3.3.2(c) quote all costs, prices and revenues based on current prices;

3.3.2(d) describe any indexation assumptions relating to operating costs;

3.3.2(e) provide details of Provider Profit (and the calculation of Provider Profit as both a value and percentage).

3.3.3 The Financial Model and operating costs shall be reviewed annually:

3.3.3(a) operating costs shall be agreed with HSE annually and HSE's agreement shall not be unreasonably withheld;

3.3.3(b) the Provider shall propose operating costs for the next Contract Year two months before the start of the next Contract Year;

3.3.3(c) HSE will review the proposals and respond within four weeks.

3.3.4 The Agreed Operating Costs may be amended in-year subject to the application of the Contract Change Procedure.

3.3.5 In respect of paragraphs 3.3.3 and 3.3.4 of this Schedule 5, where any proposal from the Provider to increase the Agreed Operating Costs is linked to an increase in Business Changes, the request will be considered and HSE's agreement will not be withheld subject to the following:

3.3.5(a) the provision of satisfactory evidence supporting the request;

3.3.5(b) any increase being limited to the proposed increase in the Agreed Operating Costs;

3.3.5(c) the proposed increase in Agreed Operating Costs not exceeding the increase in Revenue; and

- 3.3.5(d) the Parties recognising that an increase in Revenue does not automatically result in a corresponding increase in Agreed Operating Costs.

## GAIN SHARE FUND

### 4. Gain Share Fund

#### 4.1 General principles

4.1.1 The Gain Share Fund shall be apportioned as follows:

4.1.1(a) to the Funds For Distribution – and

4.1.1(b) to the Provisional Provider Gain Share Funds –

#### 4.2 Provider Gain Share Funds

4.2.1 For each relevant Contract Year, the Provisional Provider Gain Share Funds shall be subject to the Provider's performance against the following KPIs:

4.2.1(a) KPI 1;

4.2.1(b) KPI 2; and

4.2.1(c) KPI 3,

(together the "Gain Share KPIs").

#### Deductions for KPI Failures

4.2.2 Each of the Gain Share KPIs listed in paragraph 4.2.1 shall be apportioned a percentage of the total value of the Provisional Provider Gain Share Funds as set out in Table 1 below:

**Table 1 KPI Deductions**

KPI number	% Total Provisional Provider Gain Share Funds apportioned to KPI	Deduction from apportioned amount of Provisional Provider Gain Share Funds		
		KPI failure level		
		Minor	Moderate	Major
1	40%	25%	50%	100%
2	30%	25%	50%	100%
3	30%	25%	50%	100%

4.2.3 The Provider shall review its performance against the Gain Share KPIs in accordance with Schedule 8 (Key Performance Indicators) and determine the amount to be deducted from the Provisional Provider Gain Share Funds in accordance with Table 1 above and transferred to the Funds For

Distribution where the Provider fails, or partly fails, any of the Gain Share KPIs (the “**KPI Deductions**”).

#### **Transferrable Gain Share Funds**

- 4.2.4 The total KPI Deductions made in relation to performance during a Contract Year of the Gain Share KPIs shall be the “**Transferrable Gain Share Funds**” applicable for that Contract Year.

#### **Agreed Provider Gain Share Funds**

- 4.2.5 In respect of each Contract Year the Agreed Provider Gain Share Funds shall be calculated as follows:

$$A - B = X$$

Where:

A = Provisional Provider Gain Share Funds

B = Transferrable Gain Share Funds

X = Agreed Provider Gain Share Funds

- 4.2.6 The Provider shall perform the calculation set out in paragraph 4.2.5 and notify HSE of the Agreed Provider Gain Share Funds as part of the Annual Service Report in accordance with paragraph 3.2 of Schedule 11.

- 4.2.7 Following notification pursuant to paragraph 4.2.6, and subject to HSE’s agreement that the calculation of the Agreed Provider Gain Share Funds is correct, the Provider shall, within one (1) Month of being notified by HSE of its Approval of the Annual Service Report, and subject to the requirements to Table 2:

4.2.7(a) transfer the Transferrable Gain Share Funds to the Funds For Distribution; and

4.2.7(b) be entitled to the Agreed Provider Gain Share Funds.

### 4.3 Funds For Distribution

- 4.3.1 In respect of each Contract Year the Funds For Distribution will comprise:

4.3.1(a) the share of the Gain Share Funds for such Contract Year designated as the Funds for Distribution, apportioned in accordance with the provisions of paragraph 4.1.1 of this Schedule 5; and

4.3.1(b) the Transferrable Gain Share Funds transferred from the Provisional Provider Gain Share Funds as a result of KPI Failures;

4.3.1(c) funds resulting from any Service Credits (see Paragraph 4.3.2 of this Schedule and Schedule 3 (Service Levels));

4.3.1(d) any Default Charge applied in accordance with Schedule 11 (Management Information, Reporting and Records).

#### **Deductions as a result of Service Credits**

- 4.3.2 The Provider shall monitor its performance against the Service Levels in accordance with Schedule 3 (Service Levels) and determine the amount to

be deducted where Service Credits are applied (the “**Service Credit Deductions**”).

- 4.3.3 Service Credits shall be calculated as a percentage of, and deducted from, the sum of the Provider’s Agreed Operating Costs plus Profit.

#### **Distribution**

- 4.3.4 The Provider shall transfer the following funds to the HSE nominated Funds For Distribution bank account within the timescales indicated in the right hand column of the table below:

**Table 2** Timetable for calculation and transfer of funds

<b>Fund</b>	<b>When calculated</b>	<b>When transferred</b>
Apportioned share of Gain Share Funds to Funds For Distribution as specified in paragraph 4.1.1(a)	Annually	Subject to paragraph 4.3.6, annually within three (3) calendar months of the end of the Contract Year
Transferrable Gain Share Funds	Annually	Annually within three (3) calendar months of the end of the Contract Year
Default Management Charge	Annually	Annually within two (2) calendar months of the end of the Contract Year
Service Credit Deductions that are calculated annually	Annually	Annually within two (2) calendar months of the end of the Contract Year
Service Credit Deductions that are calculated monthly	Monthly	Monthly, within six (6) weeks of the end of the Service Management Period to which they apply

- 4.3.5 HSE shall only distribute Funds For Distribution to:
- 4.3.5(a) the Gas Safety Charity; or
  - 4.3.5(b) such other recipients as agreed or directed by HSE for purposes connected to gas safety; or
  - 4.3.5(c) subsidise future Concession Charges (and if HSE decide to so distribute any Funds For Distribution, it shall issue a Change Request in accordance with the Change Control Procedure),
- as HSE may in its sole discretion decide.
- 4.3.6 Within two (2) calendar month of the Expiry Date or earlier date of termination of this Agreement, the Provider shall transfer any **Funds For Distribution** to the HSE nominated Funds For Distribution bank account.

### **OPEN BOOK ACCOUNTING**

## **5. Financial visibility**

- 5.1 In order to maintain financial visibility and support the value for money mechanism used in respect of this Agreement, the Provider shall maintain comprehensive accounts in respect of its provision of the Services.
- 5.2 These accounts noted in paragraph 5.1 above shall:
- 5.2.1 detail the associated costs and revenue arising from and/or associated with the provision by Provider of the Services;
  - 5.2.2 be prepared in accordance with UK generally accepted accounting principles / International Financial Reporting Standards; and
  - 5.2.3 shall be made available for review by HSE upon reasonable request from time to time with access to supporting source documentation.

## **BENCHMARKING**

### **6. Benchmark Review**

- 6.1 HSE may, by written notice to the Provider (and only twice during the Term) require, in accordance with this paragraph 6, a Benchmark Review of the Services and/or the Intra-group Services.
- 6.2 HSE shall not require a Benchmark Review during the 18 month period from the Effective Date.
- 6.3 HSE may require a Benchmark Review only where HSE has previously required the Provider to initiate an Internal Benchmark Review and such review has provided reasonable grounds to HSE to believe Services did not provide good value for money.

### **7. Purpose and Scope of Benchmark Review**

- 7.1 The purpose of a Benchmark Review will be to establish whether the Benchmarked Services as a whole are Good Value.
- 7.2 The Services and/or Intra-group Services that are to be the Benchmarked Services will be identified by HSE in the written notice given under paragraph 6.1.

### **8. Appointment of Benchmarker**

- 8.1 The Parties shall, acting reasonably and within ten (10) Working Days of the notice given under paragraph 6.1, appoint the Benchmarker to carry out the Benchmark Review. In the absence of agreement within ten (10) Working Days, either party may require the appointment of an Expert in accordance with the provisions of Clause 28 (Dispute Resolution) who shall appoint the Benchmarker.
- 8.2 HSE will, at the written request of Provider, require the Benchmarker to enter into an appropriate confidentiality undertaking with Provider.
- 8.3 The costs and expenses of the Benchmarker shall be borne by Provider.

### **9. Benchmarking Process**

- 9.1 HSE shall require the Benchmarker to produce, and to send to each party for approval, a draft plan for the Benchmark Review within ten (10) Working Days after the date of the appointment of the Benchmarker, or such longer period as the Benchmarker shall reasonably request in all the circumstances. The plan must include:
- 9.1.1 a proposed timetable for the Benchmark Review;
  - 9.1.2 a description of the information that the Benchmarker requires each party to provide;
  - 9.1.3 a description of the benchmarking methodology to be used; and
  - 9.1.4 details of any entities which the Benchmarker proposes to include within the Comparison Group based on the Benchmarker's professional judgement taking into consideration:
    - 9.1.4(a) information from other service providers to HSE;
    - 9.1.4(b) survey information;
    - 9.1.4(c) market intelligence;
    - 9.1.4(d) the Benchmarker's own data and experience;
    - 9.1.4(e) relevant published information; and
    - 9.1.4(f) information from consultancies and/or other vendors or purchasers of Comparable Services.
- 9.2 Each party must give notice in writing to the Benchmarker and to the other party within ten (10) Working Days after receiving the draft plan, advising whether it approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan. Neither party may unreasonably withhold or delay its approval of the draft plan, and any suggested amendments must be reasonable.
- 9.3 Where a party suggests amendments to the draft plan under paragraph 9.2, the Benchmarker must produce an amended draft plan. Paragraph 9.2 shall apply to any amended draft plan.
- 9.4 Failure by a party to give notice under paragraph 9.2 will be treated as approval of the draft plan by that party.
- 9.5 Once the plan is approved by both parties, the Benchmarker will carry out the Benchmark Review in accordance with the plan. Each party shall procure that all the information described in the plan, together with any additional information reasonably required by the Benchmarker, including information held by members of the Provider's Group, is provided to the Benchmarker without undue delay.
- 9.6 Each party shall co-operate fully with the Benchmarker, including by providing access to records, technical documentation, premises, equipment, systems and personnel at times reasonably requested by the Benchmarker, provided that the Benchmarker shall be instructed to minimise any disruption to the Services.
- 9.7 Either party may provide additional material to the Benchmarker to assist the Benchmarker in conducting the Benchmark Review.
- 9.8 Once it has received the information it requires, the Benchmarker shall collect data relating to Comparable Services by:
- 9.8.1 applying the adjustment factors listed in paragraph 9.9 and from an analysis of the Comparable Services derive the Equivalent Services Data;

- 9.8.2 using the Equivalent Services Data calculate the Average Price and/or median Service Levels;
  - 9.8.3 comparing the Charges attributable to the Benchmarked Services (having regard in particular to the Service Levels and Service Credits regime) with the Average Price using the Equivalent Services Data;
  - 9.8.4 comparing the Service Levels attributable to the Benchmarked Services (having regard to the Charges and Service Credits) with the mean average service levels using the Equivalent Services Data; and
  - 9.8.5 determining whether or not each Benchmarked Service is and/or the Benchmarked Services as a whole are, Good Value.
- 9.9 In carrying out the benchmarking analysis the Benchmarking shall have regard to the following matters when performing a comparative assessment of the Benchmarked Services and the Comparable Services in order to derive Equivalent Services Data:
- 9.9.1 the contractual and business environment under which the Services are being provided (including the scope, scale, complexity and geographical spread of the Services and Intra-group Services and any particular requirements of HSE as set out in this Agreement in respect of how Provider should operate and how the Services are required to be delivered);
  - 9.9.2 any front-end investment and development costs of Provider;
  - 9.9.3 Provider's risk profile including the financial, performance or liability risks associated with the provision of the Services and Intra-group Services as a whole;
  - 9.9.4 the extent of Provider's management and contract governance responsibilities; and
  - 9.9.5 any other factors reasonably identified by Provider, which, if not taken into consideration, could unfairly cause Provider's pricing to appear non-competitive (such as erroneous costing or over-aggressive pricing).

## **10. Benchmarking report**

- 10.1 The Benchmarking shall be required to prepare a Benchmarking Report, at the time specified in the plan approved under paragraph 9 of this Schedule, setting out its findings. Those findings shall be required to:
- 10.1.1 identify whether or not each Benchmarked Service is and/or whether the Benchmarked Services as a whole are, Good Value;
  - 10.1.2 include other findings (if any) regarding the quality and competitiveness or otherwise of those Services and Intra-group Services; and
  - 10.1.3 if the Benchmarked Services as a whole are not Good Value, specify the changes that would be required to the Charges or Service Levels, that would be required to make that Benchmarked Service or those Benchmarked Services as a whole Good Value.
- 10.2 The Benchmarking shall act as an expert and not as an arbitrator.
- 10.3 For the avoidance of doubt, Benchmark Reviews shall not result in any increase to the Charges or any decrease in the performance of any Services.
- 10.4 If the Benchmarking Report states that the Benchmarked Services as a whole are not Good Value then the Parties shall agree a set of actions (as soon as practicable,

but in any event in no more than two months) to address the recommendations set out in the Benchmarking Report, so that the Benchmarked Services are Good Value. These actions shall be implemented through the Change Control Procedure.

- 10.5 The Provider shall not be obliged to implement any Benchmarking Report to the extent this would cause the Provider to provide the Services or and Intra-group Services at a loss or below the Profit Margin (in accordance with paragraph 3.1.2 of this Schedule 5 (Financial Model and Gain Share), or to the extent the Provider cannot technically or without the risk of disruption to the Registration Scheme implement the recommended changes.

## **CONTINUOUS SERVICE IMPROVEMENT**

### **11. Continuous Service Improvement**

- 11.1 To provide a dedicated focus on continual service improvement, the Provider shall establish a business improvement team following the Effective Date that will be tasked with identifying and developing tangible business improvement initiatives. To provide independence and autonomy, the business improvement team shall not form part of the operational structure and will report directly to the Provider's business director responsible for sustaining the long-term relationship with HSE and the wider gas industry.
- 11.2 Provider shall seek to align such initiatives with HSE goals including those that address policy change, increased operational efficiency, reduced cost and those that enrich customer experience.
- 11.3 The Parties acknowledge and agree that as at the Effective Date the Charges and the Services and Service Levels to be delivered by Provider incorporate and reflect the principle of continuous service improvement. In the event that, during the Term, the Provider becomes aware of emergence of significant new technologies or business process developments that have the potential to enable material improvement in the Services for the benefit of Businesses or other stakeholders in respect of the Scheme, the Provider shall bring such technologies, business process developments and potential improvement to the attention of HSE as part of Provider's Annual Service Review for the Contract Review Board.
- 11.4 If HSE wishes to adopt any improvement referred to in paragraph 11 the Provider and HSE shall agree the terms of such improvement under the relevant Change Control Procedure.

**ANNEX 1 – MARKETING BUDGET****12. Marketing budget**

12.1 The agreed marketing budget is as stated in Table 3.

**Table 3 Marketing budget**

<b>Contract Year</b>	<b>Budget</b>
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	

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**SCHEDULE 6: CHANGE CONTROL  
PROCEDURE**

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## PURPOSE

### 1. Purpose and effect

- 1.1 The purpose of this Schedule is to set out the Change Control Procedure for dealing with Changes to the Services.
- 1.2 This Schedule shall have effect throughout the Term.

## OPERATIVE PROVISIONS

### 2. Overview

- 2.1 Under this Change Control Procedure either Party may request a variation to this Agreement provided that such variation does not amount to an impermissible modification of the Agreement under the Concession Contracts Regulations 2016. Such a variation once implemented is hereinafter called a “**Change**”.
- 2.2 Until such time as a Change is made in accordance with the procedure set out in this Schedule 6, the Provider shall continue to perform the Services and to levy the Charges as if the request for a Change had not been made. Any work undertaken or services provided to Customers by the Provider which have not been authorised shall be undertaken entirely at the expense and liability of the Provider and shall not result in any increase to the Charges.
- 2.3 All discussions which take place between the Parties concerning a request for a Change shall be undertaken in good faith but without prejudice to the rights of either Party.

### 3. Change Procedure

- 3.1 A Party may request a Change by completing, signing and sending a Change Control Note (in the form set out in Annex 1) to the other Party giving sufficient information for the receiving Party to assess the extent of the proposed Change and any financial implications.
- 3.2 The Change Control Note shall be valid for a period of at least twenty (20) Working Days from the date of the Change Control Note and shall expire at the date set out therein (the “**Period Of Validity**”).
- 3.3 The Parties may agree to adjust any time limits specified in the Change Control Note, including the Period of Validity.
- 3.4 Subject to paragraph 3.3, the receiving Party shall respond to the request within fifteen (15) Working Days or any such longer time limits specified in the Change Control Note, having regard to the nature of the Services and the proposed Change.
- 3.5 Each Change Control Note shall contain the following information:
  - 3.5.1 the title of the change;
  - 3.5.2 the originator of the request for a Change and the date on which it was made;
  - 3.5.3 the reason for the change;

- 3.5.4 full details of the proposed Change, including any specifications;
- 3.5.5 the anticipated cost impact of the proposed Change calculated in accordance with paragraph 4;
- 3.5.6 the anticipated increase or decrease in the Charges or any element thereof, calculated in accordance with paragraph 4;
- 3.5.7 a timetable for the implementation of the proposed Change;
- 3.5.8 if appropriate, a schedule of additional payments;
- 3.5.9 details of the likely impact, if any, of changes to the Services, including:
  - 3.5.9(a) any changes to this Agreement or its Schedules required;
  - 3.5.9(b) the personnel affected;
  - 3.5.9(c) the quality of service provided to Customers; and
  - 3.5.9(d) the effect the Change will have on Service Levels, if any.
- 3.6 Upon receipt of a Change Control Note the receiving Party shall, within the Period Of Validity, evaluate the Change Control Note and, where appropriate:
  - 3.6.1 request further information from the other Party (and amend by agreement the Period of Validity where appropriate);
  - 3.6.2 approve the Change Control Note; or
  - 3.6.3 reject the Change Control Note.
- 3.7 In the event that the Parties are unable to agree the Change within the Period Of Validity, where:
  - 3.7.1 HSE has requested the Change:
    - 3.7.1(a) the Parties shall continue to perform their obligations under this Agreement without the Change; or
    - 3.7.1(b) HSE may terminate this Agreement with immediate effect, except where the Provider has already fulfilled part or all of the provision of the Services in accordance with this Agreement or where the Provider can show evidence of undertaking Transition Activities to provide the Services under this Agreement, and in such a case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure;
  - 3.7.2 the Provider has requested the Change, the Provider shall continue to perform its obligations under this Agreement without the Change provided that, where the Provider has requested the change as a result of Clause 8.5, the Parties shall attempt to agree upon a resolution to the matter and where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure;
- 3.8 In the event that the Change Control Note is agreed, the Change shall only become effective where the Change Control Note is signed by both Parties.
- 3.9 Where a Change Control Note relates to Additional Services or Ancillary Services the details shall be recorded in Schedule 2 (Additional and Ancillary Services).

#### **4. Costs**

- 4.1 Each Party shall bear its own costs in relation to the preparation and agreement of each Change Control Note.
- 4.2 Where the Change relates to Additional Services or Ancillary Services, the cost of all Changes shall be calculated on a time and materials basis, based on the rates set in Schedule 2 (Additional and Ancillary Services).
- 4.3 Where charges are not based on a known rate, they should be calculated on the basis of the principles of open book accounting and Schedule 5 (Financial Model and Gain Share).

**ANNEX 1 – CHANGE CONTROL NOTE**

CCN NO.:	TITLE OF CHANGE:		
ORIGINATOR:	DATE RAISED:	DATE OF EXPIRY:	DATE REQUIRED BY:
REASON FOR CHANGE:			
TIMETABLE FOR IMPLEMENTATION:			
DESCRIPTION OF CHANGE:			
COST IMPACT / PROPOSED ADJUSTMENT TO CHARGES / PAYMENTS PROFILE:			
IMPACT ON SERVICES:			
APPROVALS			
SIGNED ON BEHALF OF HSE:		SIGNED ON BEHALF OF PROVIDER:	
Signature: _____		Signature: _____	
Name: _____		Name: _____	
Position: _____		Position: _____	
Date: _____		Date: _____	

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**SCHEDULE 7: POLICIES**

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## 1. Overview

- 1.1 The Provider shall comply with the Policies set out in paragraph 2 when performing the Services.

## 2. Policies

### 2.1 Consultation Principles

- 2.1.1 The Provider must follow the Consultation Principles as updated from time to time and set out at <https://www.gov.uk/government/publications/consultation-principles-guidance> in all its consultations with registered Engineers.

### 2.2 Welsh Language Scheme

- 2.2.1 Where the Services are to be provided to Wales, the Provider shall adhere to the Welsh Language Scheme <http://www.hse.gov.uk/consult/condocs/welshlangdual.pdf> as updated from time to time.

### 2.3 Patching Policy

- 2.3.1 The Provider must follow HSE's Patching Policy.

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**SCHEDULE 8: KEY PERFORMANCE  
INDICATORS**

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## INTRODUCTION

### 1. Overview

- 1.1 This Schedule sets out:
  - 1.1.1 the Key Performance Indicators (KPIs) that the Provider shall be measured against and the KPI Targets it is required to achieve when delivering the Services;
  - 1.1.2 the methodology by which KPIs will be measured;
  - 1.1.3 the financial implications arising from a KPI Failure; and
  - 1.1.4 any additional measures that may be required where there is a KPI Failure.
- 1.2 The objectives of the KPIs are to:
  - 1.2.1 ensure that the Services are of a consistently high quality; and
  - 1.2.2 incentivise Provider to meet the KPIs and to remedy KPI Failures expeditiously.
- 1.3 The Provider shall provide accurate, complete and up-to-date reports on the KPIs in accordance with the provisions set out in this Agreement, including Schedule 10 (Governance and Contract Management).
- 1.4 The parties acknowledge that, as at the Effective Date, Annex 1 – Key Performance Indicators is not complete and shall be completed as follows, no later than two (2) months before the Services Start Date:
  - 1.4.1 details of KPI Targets and the timing of calculation of KPIs shall be as set out in sections 40 and 41 of Schedule 25; and
  - 1.4.2 the Parties shall, acting reasonably, agree methodologies and approaches to be taken to data capture and the calculation of performance for KPIs. HSE acknowledges that the Provider's proposals relating to KPI methodologies, data capture and calculations, including baselining, are set out in sections 40 and 41 of Schedule 25.

## GENERAL PRINCIPLES

### 2. Key Performance Indicators

- 2.1 The KPIs and KPI Targets applicable to this Agreement are set out in Annex 1 to this Schedule 8.
- 2.2 The Provider's performance against the KPIs shall be measured in accordance with the methodology set out in Annex 1 to this Schedule 8.
- 2.3 The Provider's achievement of KPIs shall be reviewed as part of the contract management process set out in Schedule 10 (Governance and Contract Management).

### 3. Gain Share Funds and KPIs

- 3.1 The Provider's access to the Provisional Provider Gain Share Funds is subject to its performance against the KPI Targets and any KPI Failures shall result in a reduction of the total value of the Provider Gain Share Funds in accordance with paragraph 4.2.2 of Schedule 5 (Financial Model and Gain Share).
- 3.2 Taking into account any reductions made as set out in paragraph 3.1:
- 3.2.1 the Agreed Provider Gain Share Funds can be accessed by the Provider; and
- 3.2.2 any Transferrable Gain Share Funds shall be transferred to Funds For Distribution,
- in accordance with Schedule 5 (Financial Model and Gain Share).

#### **4. Additional Measures**

- 4.1 Pursuant to Clause 11.1.2 of the Agreement, KPI Failures:
- 4.1.1 shall be categorised as set out in Annex 1 of this Schedule 8;
- 4.1.2 shall give rise to additional measures as set out in Clause 11.3 of the Agreement; and
- 4.1.3 shall result in a reduction of Provisional Provider Gain Share Funds as set out in Annex 1.

#### **5. High-level requirements for the KPIs**

- 5.1 In developing the KPI measures, benchmarks and targets, the Provider shall take into account the following high-level requirements.
- 5.2 KPI1 – Consumer awareness
- 5.2.1 KPI1 shall measure consumer awareness of gas safety and the risks from carbon monoxide, and consumer awareness of the Gas Safe Register.
- 5.2.2 Consumer awareness of gas safety and the risks from carbon monoxide shall include, but not be limited to, awareness of:
- 5.2.2(a) the risks to consumers from gas and carbon monoxide, in particular in relation to the types of appliances that consumers would have in their own home;
- 5.2.2(b) what action consumers should take to prevent appliances from becoming unsafe;
- 5.2.2(c) the signs that might indicate that an appliance is not safe; and
- 5.2.2(d) what action consumers could/should take if they believe an appliance is unsafe.
- 5.2.3 Consumer awareness of the Gas Safe Register shall include, but not be limited to, awareness of:
- 5.2.3(a) the Gas Safe Register and associated brand;
- 5.2.3(b) the intention of the Gas Safe Register; and
- 5.2.3(c) the consumer services the Gas Safe Register provides.
- 5.3 KPI2 – Consumer satisfaction with the Service

- 5.3.1 KPI2 measures shall encompass the full range of services and channels available to consumers.
- 5.3.2 As well as specific questions which are informed by customer insight, measurement of satisfaction shall include, but not be limited to, the following areas:
  - 5.3.2(a) delivery;
  - 5.3.2(b) timeliness;
  - 5.3.2(c) information;
  - 5.3.2(d) access; and
  - 5.3.2(e) quality of customer service.
- 5.4 KPI3 – Engineer satisfaction with the Service
  - 5.4.1 KPI3 measures shall encompass the full range of services and channels available to engineers.
  - 5.4.2 As well as specific questions which are informed by engineer insight, measurement of satisfaction shall include, but not be limited to, the following areas:
    - 5.4.2(a) delivery;
    - 5.4.2(b) timeliness;
    - 5.4.2(c) information;
    - 5.4.2(d) access; and
    - 5.4.2(e) quality of customer service.
- 5.5 KPI4 – Client (HSE) satisfaction with the Service
  - 5.5.1 KPI4 shall measure client (HSE) satisfaction with the Provider's behaviours in delivering the service by means of a quarterly survey. An example of the sorts of behaviours and how the survey may look is included at Annex 2 of Schedule 8.
  - 5.5.2 The survey will be completed by HSE staff that work with the Register (eg contract management and service recipients). Both the sample size and who will complete the survey shall be determined by HSE.
  - 5.5.3 This measure shall also include results from a quarterly audit of Gas Safe Register inspection reports to ensure they meet appropriate quality standards. Audit will be carried out by HSE, sample size to be advised.

**ANNEX 1 – KEY PERFORMANCE INDICATORS**

<b>KPI 01</b>	<b>Consumer Awareness</b>																																
KPI description	Increasing and sustaining consumer awareness of the importance of Gas Safety, including the risk of Carbon Monoxide poisoning, and awareness of the Gas Safe Register brand and the consumer services provided by GSR.																																
KPI methodology	<p>Undertake quarterly surveys of gas consumers using our approved, independent third-party, specialist marketing research partner, to ensure the expected quality standards of the research.</p> <p>The quarterly survey will be undertaken in line with the guidelines set out by the market research quality International Standard ISO 20252.</p> <p>The market research partner will have access to a database that allows them to select a balance of consumers to take part in a survey. An email is sent to selected participants that includes a link to an online survey. The market research partner will collect 750 online surveys in this way. The remaining 50 surveys will be conducted by on-street colleagues questioning consumers face to face in order to include consumers who are less likely to have access to the internet, typically older consumers and those in socio-economic groups D and E.</p> <p>The sample is balanced to make sure it is representative of the population by geographic region, socio demographic group, age and home ownership status, as illustrated in the tables below:</p> <table border="1" data-bbox="565 1094 1256 1478"> <thead> <tr> <th>Social Group</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>4%</td> </tr> <tr> <td>B</td> <td>23%</td> </tr> <tr> <td>C1</td> <td>30%</td> </tr> <tr> <td>C2</td> <td>20%</td> </tr> <tr> <td>D</td> <td>16%</td> </tr> <tr> <td>E</td> <td>7%</td> </tr> <tr> <td>Total</td> <td>100%</td> </tr> </tbody> </table> <table border="1" data-bbox="565 1524 1256 1900"> <thead> <tr> <th>Region</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>North East</td> <td>5%</td> </tr> <tr> <td>North West</td> <td>13%</td> </tr> <tr> <td>Yorkshire / Humberside</td> <td>8%</td> </tr> <tr> <td>East Midlands</td> <td>8%</td> </tr> <tr> <td>West Midlands</td> <td>9%</td> </tr> <tr> <td>East</td> <td>8%</td> </tr> <tr> <td>London</td> <td>14%</td> </tr> </tbody> </table>	Social Group	%	A	4%	B	23%	C1	30%	C2	20%	D	16%	E	7%	Total	100%	Region	%	North East	5%	North West	13%	Yorkshire / Humberside	8%	East Midlands	8%	West Midlands	9%	East	8%	London	14%
Social Group	%																																
A	4%																																
B	23%																																
C1	30%																																
C2	20%																																
D	16%																																
E	7%																																
Total	100%																																
Region	%																																
North East	5%																																
North West	13%																																
Yorkshire / Humberside	8%																																
East Midlands	8%																																
West Midlands	9%																																
East	8%																																
London	14%																																

	<table border="1"> <tr> <td>South East</td> <td>14%</td> </tr> <tr> <td>South West</td> <td>8%</td> </tr> <tr> <td>Wales</td> <td>5%</td> </tr> <tr> <td>Scotland</td> <td>8%</td> </tr> <tr> <td>Total</td> <td>100%</td> </tr> </table> <p>This is combined with soft quotas by age and home ownership status.</p> <table border="1"> <tr> <td>Age</td> <td>%</td> </tr> <tr> <td>Under 25</td> <td>2%</td> </tr> <tr> <td>25-34</td> <td>7%</td> </tr> <tr> <td>35-54</td> <td>46%</td> </tr> <tr> <td>55-64</td> <td>27%</td> </tr> <tr> <td>65 to 74</td> <td>12%</td> </tr> <tr> <td>75+</td> <td>6%</td> </tr> <tr> <td>Total</td> <td>100%</td> </tr> </table> <table border="1"> <tr> <td>Home Ownership Status</td> <td>%</td> </tr> <tr> <td>Own</td> <td>77%</td> </tr> <tr> <td>Rent – private landlord</td> <td>7%</td> </tr> <tr> <td>Rent – private agency</td> <td>1%</td> </tr> <tr> <td>Rent – housing association</td> <td>5%</td> </tr> <tr> <td>Rent – council run accommodation</td> <td>9%</td> </tr> <tr> <td>Part own – Part rent</td> <td>1%</td> </tr> <tr> <td>Total</td> <td>100%</td> </tr> </table> <p>The online survey is undertaken using a sample provided by the independent market research company.</p>	South East	14%	South West	8%	Wales	5%	Scotland	8%	Total	100%	Age	%	Under 25	2%	25-34	7%	35-54	46%	55-64	27%	65 to 74	12%	75+	6%	Total	100%	Home Ownership Status	%	Own	77%	Rent – private landlord	7%	Rent – private agency	1%	Rent – housing association	5%	Rent – council run accommodation	9%	Part own – Part rent	1%	Total	100%
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Data capture	<p>750 surveys will be captured online. 50 survey will be conducted face to face and documented by the market research partner.</p>																																										
KPI calculation	<p>Actual performance will be used against the baselined targets to calculate an overall score for KPI 1. The proportion of each target that is achieved is multiplied by the weighting for that area. The overall score is then calculated as the sum of the individual scores.</p> <p>An example of how this will work is set out in the table below:</p> <table border="1"> <tr> <td>KPI 1 Example</td> <td>Weighting</td> <td>Year 2</td> <td>Year 2</td> <td>Score</td> </tr> </table>	KPI 1 Example	Weighting	Year 2	Year 2	Score																																					
KPI 1 Example	Weighting	Year 2	Year 2	Score																																							

			Target	Achieved			
	Brand Awareness Unprompted	20%	30%	31%	+0.67		
	Brand Awareness Prompted	20%	35%	28%	-4.00		
	Gas Risk Understanding Survey	20%	80%	81%	0.25		
	Carbon Monoxide Risk Understanding Survey	20%	80%	80%	0.00		
	GSR Services Provided	20%	80%	82%	0.50		
	<b>TOTAL</b>				<b>-2.58</b>		
Timing of calculation	Performance is reported on a quarterly basis.						
	Performance is calculated annually for gain share purposes.						
KPI Target	<p><i>[Bench mark to be measured and targets set and agreed with HSE in transition period]</i></p> <p>To be measured monthly and evaluated across three months i.e. quarterly. Performance will be reported on a quarterly basis.</p> <p><i>To be agreed following benchmarking exercise.</i></p>						
	<b>KPI 1</b>	<b>Weighting</b>	<b>Year 1 Target</b>	<b>Year 2 Target</b>	<b>Year 3 Target</b>	<b>Year 4 Target</b>	<b>Year 5 Target</b>
	Brand Awareness Unprompted (PI Basis)	20%	25%	30%	35%	39%	42%
	Brand Awareness Prompted (PI Basis)	20%	30%	35%	39%	43%	47%
	Gas Risk Understanding Survey	20%	80%	80%	81%	81%	82%
	Carbon Monoxide Risk Understanding Survey	20%	80%	80%	81%	81%	82%
	GSR Services	20%	80%	80%	81%	81%	82%

	Provided						
	TOTAL	100%					
	<b>KPI outcome</b>					<b>Reduction in Provisional Provider Gain Share Funds</b>	
KPI target met	<i>[to be proposed by Provider and agreed by HSE]</i>					0	
Minor KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>					25%	
Moderate KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>					50%	
Major KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>					100%	

<b>KPI 02</b>	<b>Consumer Satisfaction with the Service</b>										
KPI description	Measuring levels of consumer satisfaction with the GSR service to ensure consistently good levels of satisfaction are maintained across all consumer touchpoints.										
KPI methodology	<p>An independent market research partner will conduct the KPI 2 survey for all touchpoints. At the end of each non-website interaction the Provider will send consumer contact details to the agency. The agency will call around 500 customers each quarter shortly after the customer has interacted with Gas Safe Register to ensure the interaction is still fresh in the consumers' mind. They will also send a survey to additional customers to ask them to complete an online questionnaire regarding their recent interaction.</p> <p>The Provider will review and revise the survey questions during the transition period to make sure the scope of the survey continues to accurately reflect consumer satisfaction.</p> <p>The quarterly GSR survey will be undertaken in line with the guidelines set out by the market research quality International Standard ISO 20252.</p> <p>For website measures there will be a pop-up GSR website survey on the website, seeking the views of site visitors.</p>										
Data capture	<p>For each contact channel customers will be asked how satisfied they were with specific aspects of their recent interaction, as set out in the table below:</p> <table border="1"> <thead> <tr> <th>Contact Channel</th> <th>Aspect</th> </tr> </thead> <tbody> <tr> <td>Telephone</td> <td> <p>Satisfaction with the promptness with which the call was answered</p> <p>Satisfaction that the call was an appropriate duration</p> <p>Satisfaction with the telephone manner of the member of staff</p> <p>Satisfaction that the reason for calling was resolved.</p> </td> </tr> <tr> <td>Letter / Email</td> <td> <p>Satisfaction with the promptness with which the query was answered</p> <p>Satisfaction with the tone and clarity of the response</p> <p>Satisfaction that the reason for writing was satisfied.</p> </td> </tr> <tr> <td>Inspection</td> <td> <p>Satisfaction with knowledge of what to do in the case of follow up action</p> <p>Agreement that the inspector arrived on time</p> <p>Satisfaction that the inspector was polite and professional.</p> </td> </tr> <tr> <td>Website</td> <td> <p>Satisfaction with ease of use of the website</p> <p>Satisfaction with time taken to find information</p> </td> </tr> </tbody> </table>	Contact Channel	Aspect	Telephone	<p>Satisfaction with the promptness with which the call was answered</p> <p>Satisfaction that the call was an appropriate duration</p> <p>Satisfaction with the telephone manner of the member of staff</p> <p>Satisfaction that the reason for calling was resolved.</p>	Letter / Email	<p>Satisfaction with the promptness with which the query was answered</p> <p>Satisfaction with the tone and clarity of the response</p> <p>Satisfaction that the reason for writing was satisfied.</p>	Inspection	<p>Satisfaction with knowledge of what to do in the case of follow up action</p> <p>Agreement that the inspector arrived on time</p> <p>Satisfaction that the inspector was polite and professional.</p>	Website	<p>Satisfaction with ease of use of the website</p> <p>Satisfaction with time taken to find information</p>
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	<p>sought on the website</p> <p>Satisfaction with presentation and clarity of the information sought on the website</p> <p>Satisfied that the reason for visiting the website was satisfied.</p>																																											
KPI calculation	<p>The Provider will use actual performance against the baselined targets to calculate an overall score for KPI 2. The proportion of each target that is achieved is multiplied by the weighting for that area. The overall score is then calculated as the sum of the individual scores. An example of how this will work is set out in the table below:</p> <table border="1"> <thead> <tr> <th>KPI 2 Example</th> <th>Weighting</th> <th>Year 2 Target</th> <th>Year 2 Achieved</th> <th>Score</th> </tr> </thead> <tbody> <tr> <td>Website</td> <td>55%</td> <td>81%</td> <td>80%</td> <td>-0.68</td> </tr> <tr> <td>Telephone</td> <td>20%</td> <td>81%</td> <td>85%</td> <td>+0.99</td> </tr> <tr> <td>Correspondence (Letters / emails)</td> <td>10%</td> <td>81%</td> <td>79%</td> <td>-0.25</td> </tr> <tr> <td>Inspections</td> <td>15%</td> <td>81%</td> <td>82%</td> <td>+0.19</td> </tr> <tr> <td colspan="4" style="text-align: right;">TOTAL</td> <td>+0.25</td> </tr> </tbody> </table>		KPI 2 Example	Weighting	Year 2 Target	Year 2 Achieved	Score	Website	55%	81%	80%	-0.68	Telephone	20%	81%	85%	+0.99	Correspondence (Letters / emails)	10%	81%	79%	-0.25	Inspections	15%	81%	82%	+0.19	TOTAL				+0.25												
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Minor KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>	25%
Moderate KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>	50%
Major KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>	100%

<b>KPI 03</b>	<b>Engineer Satisfaction with the Service</b>																												
KPI description	Measure engineer satisfaction with their experience of the Gas Safe Register.																												
KPI methodology	<p>An independent marketing research agency will conduct a quarterly online survey of a sample of gas engineers.</p> <p>The quarterly sample will be taken from an extract of the list of registered gas engineers. The extract from the database is provided to the partner each month to ensure the most up-to-date contact details are available for them to construct their sample.</p> <p>The quarterly GSR survey will be undertaken in line with the guidelines set out by the market research quality International Standard ISO 20252.</p>																												
Data Capture	<p>For KPI 3 measures, the market research partner will survey a sample of approximately 400 participants. The sample will include GSR engineers throughout Great Britain, including Northern Ireland. The online survey will be conducted on a rolling basis. Using rolling surveys will provide an early indication of trends and highlight if any urgent remedial action is required.</p> <p>KPI 3 will measure engineer satisfaction with their experience of the Gas Safe Register and will be based on questioning engineers about their satisfaction in the following areas:</p> <ul style="list-style-type: none"> <li>• Satisfaction that the Register ensures that those who are registered are competent</li> <li>• Satisfaction with the ease of registering</li> <li>• Satisfaction with time taken to register</li> <li>• Satisfaction with information supplied in order to complete the registration</li> <li>• Satisfaction that the Register provides value for money</li> <li>• Overall satisfaction with the Register.</li> </ul>																												
KPI calculation	<p>The Provider will use actual performance against the baselined targets to calculate an overall score for KPI 3. The proportion of each target that is achieved will be multiplied by the weighting for that area. The overall score is then calculated as the sum of the individual scores. An example of how this will work is set out in the table below:</p> <table border="1" data-bbox="483 1402 1377 1881"> <thead> <tr> <th>KPI 3 Example</th> <th>Weighting</th> <th>Year 2 Target</th> <th>Year 2 Achieved</th> <th>Score</th> </tr> </thead> <tbody> <tr> <td>Satisfaction that the Register ensures that those who are registered are competent gas installers</td> <td>20%</td> <td>81%</td> <td>82%</td> <td>+0.25</td> </tr> <tr> <td>Satisfaction with ease of registering</td> <td>10%</td> <td>81%</td> <td>79%</td> <td>-0.25</td> </tr> <tr> <td>Satisfaction with time taken to register</td> <td>10%</td> <td>81%</td> <td>75%</td> <td>-0.74</td> </tr> <tr> <td>Satisfaction with information supplied in</td> <td>10%</td> <td>81%</td> <td>81%</td> <td>0.00</td> </tr> </tbody> </table>				KPI 3 Example	Weighting	Year 2 Target	Year 2 Achieved	Score	Satisfaction that the Register ensures that those who are registered are competent gas installers	20%	81%	82%	+0.25	Satisfaction with ease of registering	10%	81%	79%	-0.25	Satisfaction with time taken to register	10%	81%	75%	-0.74	Satisfaction with information supplied in	10%	81%	81%	0.00
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Satisfaction with information supplied in	10%	81%	81%	0.00																									

	order to complete the registration						
	Satisfaction that the Register provides value for money	10%	81%	82%	+0.12		
	Overall satisfaction with the Register	40%	81%	85%	+1.98		
	TOTAL					+1.36	
Timing of calculation	Performance will be reported on a quarterly basis. <i>[frequency of reporting to be proposed by Provider and agreed by HSE]</i> . Performance is calculated annually for gain share purposes.						
KPI Target	The table below summarises the proposed survey performance targets.						
	<b>KPI 3 Measures</b>	<b>Weighting</b>	<b>Year 1 Target</b>	<b>Year 2 Target</b>	<b>Year 3 Target</b>	<b>Year 4 Target</b>	<b>Year 5 Target</b>
	Satisfaction that the Register ensures that those who are registered are competent gas installers	20%	80%	81%	82%	83%	84%
	Satisfaction with ease of registering	10%	80%	81%	82%	83%	84%
	Satisfaction with time taken to register	10%	80%	81%	82%	83%	84%
	Satisfaction with information supplied in order to complete the registration	10%	80%	81%	82%	83%	84%
	Satisfaction that the Register provides value for	10%	80%	81%	82%	83%	84%

	money						
	Overall satisfaction with the Register	40%	80%	81%	82%	83%	84%
	TOTAL	100%					
	<b>KPI outcome</b>					<b>Reduction in Provisional Provider Gain Share Funds</b>	
KPI target met	<i>[to be proposed by Provider and agreed by HSE]</i>					0	
Minor KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>					25%	
Moderate KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>					50%	
Major KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>					100%	

<b>KPI 04</b>	<b>HSE Satisfaction with the Service</b>					
KPI description	This KPI will measure HSE satisfaction with the Provider’s behaviours in delivering the service via; <ol style="list-style-type: none"> <li>An assessment of Provider’s behaviours in managing the contract</li> <li>An assessment of the quality of the Provider’s reporting on Gas Safe Register inspections</li> </ol>					
KPI methodology	<ol style="list-style-type: none"> <li>Quarterly survey of HSE satisfaction with the Register, see Annex 2. The survey will be completed by HSE staff that work with the Register (eg contract management and service recipients). Both the sample size and who will complete the survey will be determined by HSE.</li> <li>Quarterly audit of Gas Safe Register inspection reports to ensure they meet appropriate quality standards. Audit will be carried out by HSE, sample size to be advised. <i>[Provider to propose audit structure, to be agreed by HSE]</i> HSE colleagues to provide feedback on key aspects of GSR performance every quarter of the Agreement using the 5-point Likert scale set out below. Scores which indicate performance which is less than good would be supported by narrative feedback, with sufficient detail to inform and direct prompt remedial action by us. This form of constructive criticism would encourage our approach of open dialogue and help support our policy of continuous improvement. 1 - Poor – the relevant services or behaviours consistently failed to meet HSE expectations. 2 - Unsatisfactory – the relevant service or behaviours were occasionally adequate, but regularly failed to meet expectations during this quarter. 3 - Adequate – the relevant service and behaviours consistently meets the minimum expected standard during this quarter. 4 - Good - the relevant service and behaviours were consistently adequate and sometimes exceeded expectations during this quarter. 5 - Excellent - the relevant service and behaviour consistently exceed expectations during this quarter.</li> </ol>					
Data Capture	<ol style="list-style-type: none"> <li>Results of quarterly satisfaction surveys of HSE staff engaged with the Register</li> <li>Results of the quarterly HSE quality audits of Gas Safe Register inspection reports</li> </ol> <p>HSE to measure GSR on the following 5 key organisational behaviours:</p> <table border="1" data-bbox="490 1675 1357 1890"> <thead> <tr> <th data-bbox="490 1675 1198 1780"><b>Operational Service / Organisational Behaviour</b></th> <th data-bbox="1198 1675 1357 1780"><b>Proposed Weighting</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="490 1780 1198 1890">Behaviour 1 - Flexibility The Provider adapts to changing conditions, requirements and priorities, and makes changes to</td> <td data-bbox="1198 1780 1357 1890">20%</td> </tr> </tbody> </table>		<b>Operational Service / Organisational Behaviour</b>	<b>Proposed Weighting</b>	Behaviour 1 - Flexibility The Provider adapts to changing conditions, requirements and priorities, and makes changes to	20%
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Behaviour 1 - Flexibility The Provider adapts to changing conditions, requirements and priorities, and makes changes to	20%					

	<p>solutions and delivery to meet those challenges</p> <p>Behaviour 2 - Supportive The provider understands and responds to the challenges, political drivers and parameters that HSE and the Gas Safe Register operate within</p> <p>Behaviour 3 - Technically expert partner The Provider provides people and resources demonstrating expert, relevant and thorough knowledge of the Gas Safe Register and the wider downstream gas industry</p> <p>Behaviour 4 - Forward thinking The Provider considers future challenges, is progressive in planning or any future changes that may make a difference to the Register and presents analysis to HSE ahead of the challenge</p> <p>Behaviour 5 - Client Relationship The Provider continually improves by recognising the wider landscape and consulting with HSE to deliver effective, value for money services</p> <p>Total</p>	<p>20%</p> <p>20%</p> <p>20%</p> <p>20%</p> <p>100%</p>																																																							
KPI calculation	<p>50% of score derived from satisfaction surveys &amp; 50% of score derived from quality surveys  <math>(A + B)/2 = \text{KPI score}</math>                      A = average client satisfaction survey score expressed as %                      B = average quality audit score expressed as a %</p> <p>Provider to ask at least 5 HSE colleagues to rate Provider performance against the 5 behaviours using the Likert scale set out above. The total score for each behaviour will be used to calculate the percentage of a maximum score that was achieved for that behaviour.                      For example:</p> <table border="1"> <thead> <tr> <th rowspan="2"></th> <th colspan="5">Colleague Scores</th> <th rowspan="2">Total Score</th> <th rowspan="2">% Score</th> <th rowspan="2">Weighting</th> <th rowspan="2">Score</th> </tr> <tr> <th>A</th> <th>B</th> <th>C</th> <th>D</th> <th>E</th> </tr> </thead> <tbody> <tr> <td>Behaviour 1</td> <td>4</td> <td>5</td> <td>5</td> <td>3</td> <td>4</td> <td>21</td> <td>84%</td> <td>20%</td> <td>16.8%</td> </tr> <tr> <td>Behaviour 2</td> <td>5</td> <td>5</td> <td>5</td> <td>4</td> <td>3</td> <td>22</td> <td>88%</td> <td>20%</td> <td>17.6%</td> </tr> <tr> <td>Behaviour 3</td> <td>2</td> <td>3</td> <td>3</td> <td>3</td> <td>3</td> <td>14</td> <td>56%</td> <td>20%</td> <td>11.2%</td> </tr> <tr> <td>Behaviour 4</td> <td>4</td> <td>3</td> <td>4</td> <td>5</td> <td>4</td> <td>20</td> <td>80%</td> <td>20%</td> <td>16.0%</td> </tr> </tbody> </table>			Colleague Scores					Total Score	% Score	Weighting	Score	A	B	C	D	E	Behaviour 1	4	5	5	3	4	21	84%	20%	16.8%	Behaviour 2	5	5	5	4	3	22	88%	20%	17.6%	Behaviour 3	2	3	3	3	3	14	56%	20%	11.2%	Behaviour 4	4	3	4	5	4	20	80%	20%	16.0%
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	4									
	Behaviour 5	2	4	3	4	5	18	72%	20%	14.4%
	<b>Total</b>									<b>76.0%</b>
Timing of calculation	First quarter performance to be used to set baseline and KPI target. Performance is reported quarterly thereafter. Performance is calculated annually.									
KPI Target	<i>[to be agreed following benchmarking exercise in first quarter of contract]</i>									
	<b>KPI outcome</b>							<b>Reduction in Provisional Provider Gain Share Funds</b>		
KPI target met	<i>[to be proposed by Provider and agreed by HSE]</i>							N/A		
Minor KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>							N/A		
Moderate KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>							N/A		
Major KPI Failure	<i>[to be proposed by Provider and agreed by HSE]</i>							N/A		

**ANNEX 2 – QUARTERLY CLIENT SATISFACTION SURVEY**

<b>Flexibility</b> The Provider adapts to changing conditions, requirements and priorities, and makes changes to solutions and delivery to meet those challenges	Oct to Dec	Jan to March	April to June	July to Sept
	/5	/5	/5	/5
<b>Supportive</b> The Provider understands and responds to the challenges, political drivers and parameters that HSE and the Gas Safe Register operate within	Oct to Dec	Jan to March	April to June	July to Sept
	/5	/5	/5	/5
<b>Technically expert partner</b> The Provider provides people and resources demonstrating expert, relevant and thorough knowledge of the Gas Safe Register and the wider downstream gas industry	Oct to Dec	Jan to March	April to June	July to Sept
	/5	/5	/5	/5
<b>Forward thinking</b> The Provider considers future challenges, is progressive in planning for any future changes that may make a difference to the Register and presents analysis to HSE ahead of the challenge	Oct to Dec	Jan to March	April to June	July to Sept
	/5	/5	/5	/5
<b>Client Relationship</b> The Provider continually improves by recognising the wider landscape and consulting with HSE to deliver effective, value for money services	Oct to Dec	Jan to March	April to June	July to Sept
	/5	/5	/5	/5
<b>Total</b>	<b>/25</b>	<b>/25</b>	<b>/25</b>	<b>/25</b>

The five behaviours will be rated from 1 to 5, on the following basis:

**1 = Poor** – the relevant Service or behaviours consistently failed to meet expectations during the quarter.

**2 = Unsatisfactory** – the relevant Service or behaviours were occasionally adequate but regularly failed to meet expectations during this quarter.

**3 = Adequate** – the relevant Service and behaviours consistently met the minimum expected standard during this quarter.

**4 = Good** - the relevant Service and behaviours were consistently adequate and regularly exceeded expectations during this quarter.

**5 = Excellent** - the relevant Service and behaviours consistently exceeded expectations during this quarter.

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**SCHEDULE 9: STAFF TRANSFER**

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## PURPOSE

### 1. Definitions

- 1.1 This Schedule shall be interpreted in accordance with Schedule 00 (Glossary).

### 2. Interpretation

- 2.1 Where a provision in this Schedule imposes any obligation on the Provider including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Provider shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to HSE, Previous Provider, Replacement Provider or Replacement Sub-Contractor, as the case may be and where the Sub-Contractor fails to satisfy any claims under such indemnities the Provider will be liable for satisfying any such claim as if it had provided the indemnity itself.

### 3. Application of this Schedule

- 3.1 The Parts of this Schedule which shall apply to the Agreement shall be so specified to the Provider at the Effective Date.

**PART A: [NOT USED]**

**PART B: [NOT USED]**

**PART C: NO STAFF TRANSFER ON START DATE (OPTIONAL)****1. Procedure in the event of Transfer**

- 1.1 HSE and the Provider 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 HSE and/or any Previous Provider.
- 1.2 Subject to paragraphs 1.2.5(b), 1.3.2 and 1.4, if any employee of HSE and/or a Previous Provider claims, or it is determined in relation to any employee of HSE and/or a Previous Provider, that his/her contract of employment has been transferred from HSE and/or the Previous Provider to the Provider and/or any Sub-Contractor pursuant to the Employment Regulations then:
  - 1.2.1 the Provider will, within five (5) Working Days of becoming aware of that fact, notify HSE in writing;
  - 1.2.2 HSE may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within ten (10) Working Days of receipt of notice from the Provider;
  - 1.2.3 if such offer of employment is accepted, the Provider shall immediately release the person from its employment;
  - 1.2.4 if after the period referred to in paragraph 1.2.1 no such offer has been made, or such offer has been made but not accepted, the Provider may within five (5) Working Days give notice to terminate the employment of such person;
  - 1.2.5 and subject to the Provider's compliance with paragraphs 1.2 to 1.2.3:
    - 1.2.5(a) HSE will indemnify the Provider and/or the relevant Sub-Contractor against all Employee Liabilities arising out of the termination of the employment of any of HSE's employees referred to in paragraph 1.1; and
    - 1.2.5(b) HSE will procure that the Previous Provider indemnifies the Provider and/or any Sub-Contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Previous Provider referred to in paragraph 1.1.
- 1.3 The indemnities in paragraph 1.1 shall not apply to any claim:
  - 1.3.1 for 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 equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Provider and/or Sub-Contractor; or
  - 1.3.2 any claim that the termination of employment was unfair because the Provider and/or any Sub-Contractor neglected to follow a fair dismissal procedure.
- 1.4 The indemnities in paragraph 1.1 shall not apply to any termination of employment occurring later than 3 Months from the Effective Date.
- 1.5 If the Provider and/or the Sub-Contractor does not comply with paragraph 1.1, all Employee Liabilities in relation to such employees shall remain with the Provider and/or the Sub-Contractor and the Provider shall (i) comply with the provisions of

Part D: Pensions of this Schedule, and (ii) indemnify HSE and any Previous Provider against any Employee Liabilities that either of them may incur in respect of any such employees of the Provider and/or employees of the Sub-Contractor.

## **2. Procurement obligations**

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

## PART D: PENSIONS

### 1. Definitions

In this Part D, the following words have the following meanings and they shall supplement Schedule 00 (Glossary):

"Actuary"	a Fellow of the Institute and Faculty of Actuaries;
"Broadly Comparable"	<p>(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and</p> <p>(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,</p> <p>and "Broad Comparability" shall be construed accordingly;</p>
"CSPS"	the schemes as defined in Annex 1 to this Part D;
"Fair Deal Employees"	<p>those:</p> <p>(i) Transferring HSE Employees who at the date of a Relevant Transfer are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by HSE; and/or</p> <p>(ii) Transferring Previous Provider Employees to include any employee who transfers and is offered employment under Part C above who at the date of a Relevant Transfer are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by HSE; and/or</p> <p>(iii) where the Previous Provider becomes the Provider those employees who at the Commencement Date are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by HSE;</p>
"Fair Deal Schemes"	means the relevant Statutory Scheme or a Broadly Comparable pension scheme;
"Fund Actuary"	means Fund Actuary as defined in Annex 3 to this Part D;
"LGPS"	the schemes as defined in Annex 3 to this Part D;
"NHSPS"	the schemes as defined in Annex 2 to this Part D;
"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:

(i) any amendments to that document immediately prior to the Relevant Transfer Date; and

(ii) any similar pension protection in accordance with the subsequent Annex 1-3 inclusive as notified to the Provider by or Buyer; and

"Statutory Schemes" means the CSPS, NHSPS or LGPS.

## **2. Participations**

- 2.1 In respect of all or any Fair Deal Employees each of Annex 1: CSPS, Annex 2: NHSPS and/or Annex 3: LGPS shall apply, as appropriate.
- 2.2 The Provider undertakes to do all such things and execute any documents (including any relevant Admission Agreement) as may be required to enable the Provider to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.

## **3. Provision of information**

- 3.1 The Provider undertakes to HSE:
- 3.1.1 to provide all information which HSE may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and
- 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of HSE (such consent not to be unreasonably withheld or delayed).

## **4. Indemnities**

- 4.1 The Provider undertakes to HSE to indemnify and keep indemnified NHS Pensions, HSE and/or any Replacement Provider and/or any Replacement Sub-Contractor on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Provider of this Part D, and/or the CSPS Admission Agreement and/or the Direction Letter and/or the LGPS Admission Agreement or relates 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 Fair Deal Schemes.
- 4.2 The Provider hereby indemnifies, NHS Pensions, HSE and/or any Replacement Provider and/or Replacement Sub-Contractor from and against all Losses suffered or incurred by it or them which arise from claims by Fair Deal Employees of the Provider and/or of any Sub-Contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:
- 4.2.1 relate to pension rights in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Agreement; or

- 4.2.2 arise out of the failure of the Provider and/or any relevant Sub-Contractor to comply with the provisions of this Part D before the date of termination or expiry of this Agreement.
- 4.3 The indemnities in this Part D and its Annexes:
  - 4.3.1 shall survive termination of this Agreement; and
  - 4.3.2 shall not be affected by the caps on liability contained in Clause 35 of this agreement (Liability).

## **5. Disputes**

- 5.1 The Dispute Resolution Procedure will not apply to this Part D and any dispute between and/or HSE and/or the Provider or between their respective actuaries or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between and/or HSE and/or the Provider be referred to an independent Actuary:
  - 5.1.1 who will act as an expert and not as an arbitrator;
  - 5.1.2 whose decision will be final and binding on and/or HSE and/or the Provider; and
  - 5.1.3 whose expenses shall be borne equally by and/or HSE and/or the Provider unless the independent Actuary shall otherwise direct.

## **6. Third Party rights**

- 6.1 The Parties agree that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Provider under this Part D, in his or her or its own right under section 1(1) of the CRTPA.
- 6.2 Further, the Provider must ensure that the CRTPA will apply to any Sub-Agreement to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Sub-Contractor in his or her or its own right under section 1(1) of the CRTPA.

## **7. Breach**

- 7.1 The Provider agrees to notify HSE should it breach any obligations it has under this Part D and agrees that HSE shall be entitled to terminate its Agreement for material Default in the event that the Provider:
  - 7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or
  - 7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from HSE giving particulars of the breach and requiring the Provider to remedy it.

## **8. Transfer to another employer/Sub-contractor**

- 8.1 Save on expiry or termination of this Agreement, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under the Employment

Regulations) the Provider shall and shall procure that any relevant Sub-Contractor shall:

- 8.1.1 consult with and inform those Fair Deal Employees of the pension provisions relating to that transfer; and
- 8.1.2 procure that the employer to which the Fair Deal Employees are transferred (the "New Employer") complies with the provisions of this Part D and its Annexes provided that references to the "Provider" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Employees so transferred to the New Employer.

## **9. Pension issues on expiry or termination**

- 9.1 The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of this Agreement.

## **10. Broadly comparable pension schemes**

- 10.1 If HSE in its sole discretion (having considered the exceptional cases provided for in New Fair Deal) agrees that the Provider (and/or its Sub-Contractors, if any) need not provide the Fair Deal Employees with access to the appropriate Statutory Scheme, the Provider must (and must, where relevant, procure that each of its Sub-Contractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the Fair Deal Employees will be eligible for membership of a Retirement Benefits Scheme under which the Pension Benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by HSE.
- 10.2 Where the Provider has set up a Broadly Comparable pension scheme or schemes pursuant to the provisions of paragraph 10.1, the Provider shall (and shall procure that any of its Sub-Contractors shall):
  - 10.2.1 supply to HSE details of its (or its Sub-Contractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability covering all relevant Fair Deal Employees, as soon as it is able to do so and in any event no later than twenty eight (28) days before the Relevant Transfer Date;
  - 10.2.2 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 for the period ending on the Service Transfer Date;
  - 10.2.3 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 Provider and/or NHS Pension and/or HSE may reasonably require, to enable the Replacement Provider to participate in the appropriate Statutory Scheme in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;
  - 10.2.4 provide a replacement Broadly Comparable pension scheme with immediate effect for those Fair Deal Employees who are still employed by the Provider

and/or relevant Sub-Contractor and are still eligible for New Fair Deal protection in the event that the Provider and/or Sub-Contractor's Broadly Comparable pension scheme is terminated;

- 10.2.5 allow and make all necessary arrangements to effect, 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 relevant Statutory Scheme and as is relevant 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 appropriate Statutory Scheme to fund day for day service ("Shortfall"), the Provider or the Sub-Contractor (as agreed between them) must pay the Statutory Scheme, as required, provided that in the absence of any agreement between the Provider and any Sub-Contractor, the Shortfall shall be paid by the Provider; and
- 10.2.6 indemnify HSE on demand for any failure to pay the Shortfall as required under paragraph (e) above.

**ANNEX 1 – CSPS [NOT USED]**

**ANNEX 2 – NHSPS [NOT USED]**

**ANNEX 3 – LGPS [NOT USED]**

## **PART E: STAFF TRANSFER ON EXIT (MANDATORY)**

### **1. Pre-service transfer obligations**

- 1.1 The Provider agrees that within twenty (20) Working Days of the earliest of:
- 1.1.1 receipt of a notification from HSE 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 the relevant Agreement;
  - 1.1.3 the date which is 12 Months before the end of the Term; and
  - 1.1.4 receipt of a written request of HSE at any time (provided that HSE shall only be entitled to make one such request in any 6 Month period),
- it shall provide in a suitably anonymised format so as to comply with the Data Protection Laws, the Provider's Provisional Provider Personnel List, together with the Staffing Information in relation to the Provider's Provisional Provider Personnel List and it shall provide an updated Provider's Provisional Provider Personnel List at such intervals as are reasonably requested by HSE.
- 1.2 At least twenty (20) Working Days prior to the Service Transfer Date, the Provider shall provide to HSE or at the direction of HSE to any Replacement Provider and/or any Replacement Sub-Contractor (i) the Provider's Final Provider Personnel List, which shall identify the basis upon which they are Transferring Provider Employees and (ii) the Staffing Information in relation to the Provider's Final Provider Personnel List (insofar as such information has not previously been provided).
- 1.3 HSE shall be permitted to use and disclose information provided by the Provider under paragraphs 1 and 2 for the purpose of informing any prospective Replacement Provider and/or Replacement Sub-Contractor.
- 1.4 The Provider warrants, for the benefit of HSE, any Replacement Provider, and any Replacement Sub-Contractor that all information provided pursuant to paragraphs 1 and 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, 1.1.1 and 1.1.2, the Provider agrees that it shall not assign any person to the provision of the Services who is not listed on the Provider's Provisional Provider Personnel List and shall, unless otherwise instructed by HSE (acting reasonably):
- 1.5.1 not replace or re-deploy any Provider Staff listed on the Provider Provisional Provider 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 not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Provider Staff (including any payments connected with the termination of employment);

- 1.5.3 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Provider Staff save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.4 not 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 Provider's Provisional Provider Personnel List;
- 1.5.5 not 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);
- 1.5.6 not terminate or give notice to terminate the employment or contracts of any persons on the Provider's Provisional Provider Personnel List save by due disciplinary process;
- 1.5.7 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to HSE and/or the Replacement Provider and/or Replacement Sub-Contractor;
- 1.5.8 give HSE and/or the Replacement Provider and/or Replacement Sub-Contractor reasonable access to Provider Staff and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by HSE, Replacement Provider and/or Replacement Sub-Contractor in respect of persons expected to be Transferring Provider Employees;
- 1.5.9 co-operate with HSE and the Replacement Provider to ensure an effective consultation process and smooth transfer in respect of Transferring Provider Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
- 1.5.10 promptly notify the Buyer or, at the direction of HSE, any Replacement Provider and any Replacement Sub-Contractor of any notice to terminate employment given by the Provider or received from any persons listed on the Provider's Provisional Provider Personnel List regardless of when such notice takes effect;
- 1.5.11 not for a period of 12 Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Sub-Contractors whose employment or engagement is transferred to HSE and/or the Replacement Provider (unless otherwise instructed by HSE (acting reasonably) or where the employee applies in response to a public advertisement of a vacancy to suppliers or Sub-contractors for purposes other than the Register);
- 1.5.12 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
- 1.5.13 fully fund any Broadly Comparable pension schemes set up by the Provider;
- 1.5.14 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Provider or any Sub-Contractor in the provision of the Services on the expiry or termination of this Agreement (including without limitation identification of the Fair Deal Employees);
- 1.5.15 promptly provide to HSE such documents and information mentioned in paragraph 3.1 of Part D: Pensions which HSE may reasonably request in advance of the expiry or termination of this Agreement; and

- 1.5.16 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Provider relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Provider or any Sub-Contractor in the provision of the Services on the expiry or termination of this Agreement.
- 1.6 On or around each anniversary of the Effective Date and up to four times during the last 12 months of the Term, HSE may make written requests to the Provider for information relating to the manner in which the Services are organised. Within twenty (20) Working Days of receipt of a written request the Provider shall provide such information as HSE may reasonably require 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 Fair Deal Schemes (as defined in Part D: Pensions); and
- 1.6.4 a description of the nature of the work undertaken by each employee by location.
- 1.7 The Provider shall provide all reasonable cooperation and assistance to HSE, any Replacement Provider and/or any Replacement Sub-Contractor to ensure the smooth transfer of the Transferring Provider 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 Provider 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 Provider shall provide to HSE or, at the direction of HSE, to any Replacement Provider and/or any Replacement Sub-Contractor (as appropriate), in respect of each person on the Provider's Final Provider Personnel List who is a Transferring Provider 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 A change in the identity of the Provider of the Services (or part of the Services), howsoever arising, may constitute a Relevant Transfer to which the Employment Regulations will apply. HSE and the Provider agree that where a Relevant Transfer occurs, the contracts of employment between the Provider and the Transferring Provider 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 Provider and/or a Replacement Sub-Contractor (as the case may be) and each such Transferring Provider Employee.

- 2.2 The Provider shall comply with all its obligations in respect of the Transferring Provider Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Fair Deal Schemes (as defined in Part D: Pensions).
- 2.3 Subject to paragraph 2.4, the Provider shall indemnify HSE and/or the Replacement Provider and/or any Replacement Sub-Contractor against any Employee Liabilities arising from or as a result of any act or omission of the Provider or any Sub-Contractor in respect of any Transferring Provider Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Provider Employee whether occurring before, on or after the Service Transfer Date.
- 2.4 The indemnity 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 Provider and/or any Replacement Sub-Contractor whether occurring or having its origin before, on or after the Service Transfer Date.
- 2.5 Subject to paragraphs 2.6 and 2.7, if any employee of the Provider who is not identified in the Provider's Final Transferring Provider Employee List claims, or it is determined in relation to any employees of the Provider, that his/her contract of employment has been transferred from the Provider to the Replacement Provider and/or Replacement Sub-Contractor pursuant to the Employment Regulations then .
- 2.5.1 the Replacement Provider and/or Replacement Sub-Contractor will, within five (5) Working Days of becoming aware of that fact, notify HSE and the Provider in writing;
- 2.5.2 the Provider may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within ten (10) Working Days of receipt of notice from the Replacement Provider and/or Replacement Sub-Contractor;
- 2.5.3 if such offer of employment is accepted, the Replacement Provider and/or Replacement Sub-Contractor shall immediately release the person from its employment;
- 2.5.4 if after the period referred to in paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, the Replacement Provider and/or Replacement Sub-Contractor may within five (5) Working Days give notice to terminate the employment of such person;
- and subject to the Replacement Provider's and/or Replacement Sub-Contractor's compliance with paragraphs 2.5.1 to 2.5.4 the Provider will indemnify the Replacement Provider and/or Replacement Sub-Contractor against all Employee Liabilities arising out of the termination of the employment of any of the Provider's employees referred to in this paragraph 2.5.
- 2.6 The indemnity in paragraph 2.5 shall not apply to:
- 2.6.1 any claim for 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 equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of the Replacement Provider and/or Replacement Sub-Contractor, or

- 2.6.2 any claim that the termination of employment was unfair because the Replacement Provider and/or Replacement Sub-Contractor neglected to follow a fair dismissal procedure.
- 2.7 The indemnity in paragraph 2.5 shall not apply to any termination of employment occurring later than 3 Months from the Service Transfer Date.
- 2.8 If at any point the Replacement Provider and/or Replacement Sub-contract accepts the employment of any such person as is described in paragraph 2.4, such person shall be treated as a Transferring Provider Employee and paragraph 2.4 shall cease to apply to such person.
- 2.9 The Provider shall promptly provide HSE and any Replacement Provider and/or Replacement Sub-Contractor, in writing such information as is necessary to enable HSE, the Replacement Provider and/or Replacement Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations. HSE shall procure that the Replacement Provider and/or Replacement Sub-Contractor, shall promptly provide to the Provider and each Sub-Contractor in writing such information as is necessary to enable the Provider and each Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.10 Subject to paragraph 2.9, HSE shall procure that the Replacement Provider indemnifies the Provider 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 any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Provider and/or Replacement Sub-Contractor in respect of any Transferring Provider Employee or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Provider Employee.
- 2.11 The indemnity in paragraph 2.10 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Provider 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 Provider and/or any Sub-Contractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Provider's Final Provider Personnel List in accordance with paragraph 2.4 (and subject to the limitations set out in paragraphs 2.6 and 2.7 above).

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**SCHEDULE 10: GOVERNANCE AND  
CONTRACT MANAGEMENT**

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## PURPOSE

### 1. Purpose and effect

- 1.1 The purpose of this Schedule is to describe the procedures that will be used to manage the relationship between HSE and the Provider under the Agreement.
- 1.2 This Schedule shall have effect throughout the Term.

## OPERATIVE PROVISIONS

### 2. Obligations of both parties under this Agreement

- 2.1 Both parties shall seek to participate and cooperate fully and in good faith in discharging the obligations under this Schedule.
- 2.2 The performance of the Services will be managed at the day-to-day level through the Provider Contract Manager and the HSE Contract Manager, in accordance with the terms of this Agreement, including this Schedule 10 (Governance and Contract Management), and within the framework established by the Concordat.

### 3. HSE's obligations under the Agreement

- 3.1 HSE shall:
  - 3.1.1 use its reasonable endeavours to provide the Provider with access to appropriate members of HSE's staff, as such access is reasonably requested by the Provider in order for the Provider to discharge its obligations throughout the Term;
  - 3.1.2 provide sufficient and suitably qualified staff to fulfil HSE's roles and duties under this Agreement including as defined in the Transition Plan;
  - 3.1.3 use its reasonable endeavours to provide such documentation, data and/or other information that the Provider reasonably requests that is necessary to perform its obligations under the terms of this Agreement provided that such documentation, data and/or information is available to HSE or could reasonably be requested by HSE and is authorised for release by HSE;
  - 3.1.4 be entitled to, after notifying the Provider in writing, permit, from time to time, HSENI to:
    - 3.1.4(a) take any actions;
    - 3.1.4(b) perform any obligations; and
    - 3.1.4(c) assume any roles and responsibilities,arising under this Agreement, where such permissions are relevant to the Services being performed in or which relate to Northern Ireland and/or any Business whose business address or registered office address is in Northern Ireland.
  - 3.1.5 carry out any agreement, approval or authorisation procedures in relation to the Services in accordance with any agreed timescales.
- 3.2 The permissions set out in paragraph 3.1.4 may be cancelled by HSE at any time and HSE shall notify the Provider accordingly.

#### 4. Governance structure

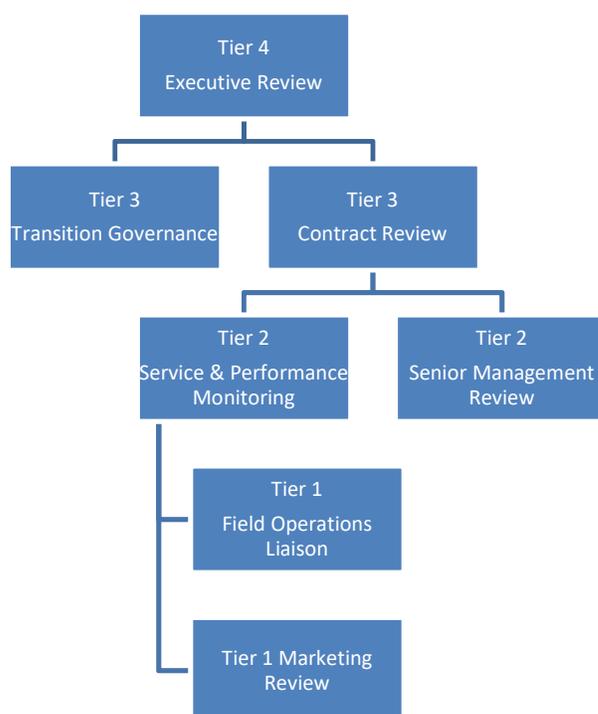
- 4.1 To ensure performance is regularly reviewed and any risks are identified and proactively managed, a four-tier management structure (as outlined in Table 1 and Figure 1 below, and described in more detail in Annex A) will be adopted involving both parties. The purpose will be to:
- 4.1.1 ensure a consistently high-level of service delivery is achieved;
  - 4.1.2 oversee management reporting arrangements through joint monitoring of activities and performance indicators;
  - 4.1.3 budget monitoring and analysis and escalation as appropriate of risks and issues;
  - 4.1.4 meet regularly to ensure the smooth running of this Agreement;
  - 4.1.5 propose changes to this Agreement. The HSE Contract Manager shall consult internally on all such proposals for change and refer to HSE senior management for decisions on matters of significant or strategic importance; and
  - 4.1.6 maintain and keep up to date the Concordat between HSE and the Provider.
- 4.2 Boards and management teams shall be established by HSE and the Provider under this Agreement on which both the Provider and HSE shall be represented.
- 4.3 The Provider and HSE shall each appoint a Contract Manager. Both parties shall ensure that their respective Contract Manager is of sufficient seniority within each respective party's organisation and is sufficiently empowered to take decisions of the day-to-day operation of the Agreement and performance of the Services within the framework established by the Concordat.
- 4.4 HSE shall, acting reasonably, be entitled to propose a change to the Contract Manager of the Provider where HSE has reasonable concerns about his/her performance. In the event that HSE proposes such a replacement:
- 4.4.1 HSE shall notify Provider of such concerns, stating its reasons and providing details supporting such concerns;
  - 4.4.2 the Provider shall have ten (10) Working Days (unless a longer period is reasonably necessary) in which to investigate matters stated in the notice and to discuss its findings with HSE and its proposal to address these concerns. HSE shall cooperate with the investigations and do all it reasonably can to facilitate the discussions; and
  - 4.4.3 following such discussion, if HSE is not reasonably satisfied, HSE may require the Provider to replace the Provider Contract Manager with another individual with suitable training, experience and skills.

**Table 1** Governance structure

<b>Tier</b>	<b>Forum</b>	<b>Frequency</b>
Tier 1	Field Operations Liaison Team	Quarterly
Tier 1	Marketing Review Team	Quarterly, with additional project or campaign meetings as required

Tier	Forum	Frequency
Tier 2	Service and Performance Monitoring Team	Monthly
Tier 2	Senior Management Review	Fortnightly
Tier 3	Contract Review Board	6-monthly (mid-year and annual service reviews)
Tier 3	Transition Governance Board	Fortnightly
Tier 4	Executive Review Board	Escalation only

**Figure 1** Governance structure



**5. Contract management mechanisms**

- 5.1 Both parties will proactively manage risks attributed to them under the terms of this Agreement.
- 5.2 The Provider will develop, operate, maintain and amend, as agreed with HSE, processes for:

- 5.2.1 the identification and management of risks. The risk register will be completed by the Provider and submitted for review by both parties at the Service and Performance Monitoring meetings;
- 5.2.2 the identification and management of issues;
- 5.2.3 monitoring and controlling project plans; and
- 5.2.4 document control and management.

## **6. Contract Manager: role and responsibility**

- 6.1 As set out in 4.3, to ensure that risks are proactively managed both parties shall appoint Contract Managers whose roles and responsibilities are:
  - 6.1.1 oversee management reporting arrangements through joint monitoring of activities and performance indicators;
  - 6.1.2 budget monitoring and analysis and escalation as appropriate of risks and issues;
  - 6.1.3 to meet regularly to ensure the smooth running of the agreement;
  - 6.1.4 propose changes to the Agreement. The HSE Contract Manager shall consult internally on all such proposals for change and remit to the Contract Review Board for decision those matters of significant or strategic importance; and
  - 6.1.5 maintain and keep up to date the Concordat between HSE and the Provider.
- 6.2 The HSE Contract Manager shall:
  - 6.2.1 institute a timely and comprehensive process of contract audit;
  - 6.2.2 approve Ancillary Services proposals and authorise payments for work done.
- 6.3 The Provider Contract Manager shall:
  - 6.3.1 prepare reports and submit monthly and annual performance reports to the HSE Contract Manager;
  - 6.3.2 respond to queries raised by the HSE Contract Manager.

## **7. Performance monitoring**

- 7.1 The Provider will monitor and measure its performance of the Services in relation to each of the performance measures detailed in Schedule 3 (Service Levels) and Schedule 8 (Key Performance Indicators).
- 7.2 The Provider is responsible for the calculation and application of all Service Credits but shall provide HSE with all relevant information and reports to allow verification of all calculations.

## ANNEX 1 – GOVERNANCE STRUCTURE ROLES AND RESPONSIBILITIES

### 1. Introduction

- 1.1 The tables below set out the proposed Governance Structure, the expected representation and roles and responsibilities at each tier of the structure.

### 2. Field Operations Liaison

**Table 2** Tier 1 Field Operations Liaison

Forum	Field Operations Liaison Team
Performance governance tier	Tier 1
HSE attendees	HSE sector lead Field operations representative from HSE and equivalent from HSENI
Service Provider attendees	Provider head of field operations and senior members of field team
Responsibilities and functions	<ul style="list-style-type: none"> <li>• Review operational issues (inspections and investigations)</li> <li>• Review enforcement issues</li> <li>• Identify issues for escalation to Tier 2</li> </ul>
Frequency	Quarterly face-to-face meetings
Escalation point	Tier 2

- 2.1 HSE and the Provider will attend quarterly meetings to review operational liaison. The meetings will (unless agreed otherwise):
- 2.1.1 take place within fifteen (15) Working Days of the end of each quarter of a Contract Year;
- 2.1.2 be chaired by the Provider head of field operations;
- 2.1.3 take place at a mutually agreed location within normal business hours;
- 2.1.4 be attended by the representatives detailed in Table 2 of this Schedule; and
- 2.1.5 follow an agreed agenda, be fully minuted with Provider providing the full secretariat function which will include as a minimum organising the meeting, including location, and issuing the meeting invitations.

### 3. Service and Performance Monitoring

**Table 3** Tier 2 Service and Performance Monitoring

Forum	Service and Performance Monitoring Team
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<b>Forum</b>	<b>Service and Performance Monitoring Team</b>
Performance governance tier	Tier 2
HSE attendees	Contract Manager (chair) Head of Gas Safe Register Team Sector lead (downstream gas) Other team members as required
Service Provider attendees	Provider contract manager Provider CEO (or equivalent) Other disciplines on an ad hoc basis as required
Responsibilities and functions	<ul style="list-style-type: none"> <li>• Ensure effective contract management of day-to-day operational processes for delivery of the Services</li> <li>• Review performance in line with the provisions of the contract</li> <li>• Monitor performance &amp; trends</li> <li>• Initiate and review service improvement initiatives</li> <li>• Receive and review reports on risks and mitigation measures</li> <li>• Where issues are identified, consider whether an improvement plan is required</li> <li>• Identify and progress any contract changes required</li> <li>• Oversee individual projects</li> <li>• Address issues escalated from Tier 1</li> <li>• Identify any matters for escalation to the Contract Review Board</li> </ul>
Frequency	Monthly <ul style="list-style-type: none"> <li>• Monthly meeting (video conference)</li> <li>• Monthly management information/performance reporting and summary report, to be issued in advance of meeting</li> </ul>
Escalation point	Tier 3

3.1 HSE and the Provider will attend monthly meetings to review the Monthly Performance Report (Tier 2 of the formal governance structure detailed in Figure 1 above). The meetings will (unless agreed otherwise):

- 3.1.1 take place within fifteen (15) Working Days of the end of the Service Measurement Period;
- 3.1.2 be chaired by the HSE Contract Manager;
- 3.1.3 take place at an HSE location, or via video conference, within normal business hours;
- 3.1.4 be attended by the representatives detailed in Table 3 of this Schedule; and

- 3.1.5 follow an agreed agenda, be fully minuted with HSE providing the full secretariat function which will include as a minimum organising the meeting, including location, and issuing the meeting invitations.
- 3.2 HSE may raise additional questions regarding any aspect of performance and/or Service Level or any KPI Failure. The Provider will meet the cost of investigating and addressing these questions.

#### 4. Senior management liaison

**Table 4** Tier 2 Senior Management

Forum	Senior Management Review
Performance governance tier	Tier 2
HSE attendees	Head of Gas Safe Register Team
Service Provider attendees	Provider CEO (or equivalent)
Responsibilities and functions	<ul style="list-style-type: none"> <li>• Discuss wider performance of Provider</li> <li>• Discuss relationships between Provider and HSE</li> <li>• Identify and resolve any performance issues</li> <li>• Consider and resolve disputes in the first instance and if necessary escalate the dispute to the Contract Review Board</li> </ul>
Frequency	Fortnightly <ul style="list-style-type: none"> <li>• Telephone / video conference Keep-In-Touch</li> </ul>
Escalation point	Tier 3

#### 5. Contract Review Board

**Table 5** Tier 3 Contract Review

Forum	Contract Review Board
Performance governance tier	Tier 3
HSE attendees	HSE contract management team: Contract manager Head of Gas Safe Register Team Head of Unit (Chair) Finance business partner HSENI contract management team representative
Service Provider attendees	Provider senior management team

Forum	Contract Review Board
Responsibilities and functions	<ul style="list-style-type: none"> <li>• Ensure delivery of services by the Provider is aligned to HSE's strategy</li> <li>• Review overall performance of services provided in line with contractual requirements</li> <li>• Review contract changes and significant service delivery issues over the reporting period</li> <li>• Address issues escalated from Tier 2</li> <li>• Identify any matters for escalation to Executive Review (Tier 4)</li> <li>• Ensure that this Agreement is operated throughout the Term in a manner which optimises:               <ul style="list-style-type: none"> <li>○ improvements in gas Consumer safety</li> <li>○ transparency of the Register for Consumers</li> <li>○ Consumer awareness and good reputation of the Brand</li> <li>○ the value for money received by Registered Businesses and Engineers</li> <li>○ the operational benefit derived by HSE</li> <li>○ industry's contribution to gas safety</li> <li>○ the commercial benefit derived by the Provider</li> </ul> </li> <li>• Responsible for overseeing the continuous improvement of the Services throughout the Term</li> </ul>
Frequency	6-monthly: <ul style="list-style-type: none"> <li>• Mid-year review – face-to-face meeting at HSE Head Office, Redgrave Court, Bootle</li> <li>• Annual service review – face-to-face meeting at Redgrave Court with Annual Service Report from the Provider provided ten (10) working days in advance of meeting</li> </ul>
Escalation point	Tier 4

- 5.1 The Contract Review Board shall undertake an annual service review within three (3) months of the end of each Contract Year. It shall review the Annual Service Report, produced in accordance with clause 5.2 of Schedule 11 (Management Information, Reporting and Records).
- 5.2 HSE shall at the annual service review undertake a thorough review of the Services and Provider's performance of them, performance against Service Levels, and the KPIs in order to determine whether any changes are necessary to the Agreement in order to ensure that the Agreement continues to improve gas safety and provide value for money for Registered Businesses and Engineers.
- 5.3 Agenda items for each meeting of the Contract Review Board will be suggested by both parties and will include approval of policy and standard setting, monitoring of strategic risks or high-level issues, any performance related issues that have been escalated from the Service & Performance Monitoring Team.

- 5.4 The Contract Review Board shall at all times endeavour to work by consensus and the members of the Contract Review Board shall perform their duties in good faith, save that where the Chairperson reasonably considers that it is not possible to reach a consensus on an issue, they may defer consideration of the matter to the next meeting of the Contract Review Board (and for the purposes of this paragraph the Chairperson may call a special meeting of the Contract Review Board to consider the matter).
- 5.5 The Provider shall co-operate fully with HSE as it conducts the review and provide all assistance reasonably required by HSE.

## 6. Transition Governance Board

**Table 6** Tier 3 Transition Governance

<b>Forum</b>	<b>Transition Governance Board</b>
Performance governance tier	Tier 3
HSE Members	HSE Transition Manager HSE Contract Manager Head of Unit IT & Facilities representative Other members TBC
Provider Members	Provider Managing Director (Chairperson) Provider Transition Director Provider Stakeholder Director and or Communications Director
Previous Provider Members	Previous Provider Senior Management Team

Responsibilities and functions	<ul style="list-style-type: none"> <li>Oversee the fulfilment of the requirements and delivery of the Deliverables set out in the Outline Transition Plan</li> <li>Review the progress of each work-stream involved in the delivery of the Outline Transition Plan</li> <li>Including premises, development of brand and registration services, investigation activity, training, IT, and governance</li> <li>Receive reports from the implementation teams involved in delivery of the Outline Transition Plan and determine the appropriate action to take in the event that either Party considers there to be sufficient risk to the achievement of the Outline Transition Plan</li> <li>Ensure the Provider operation has the appropriate staffing capability to fulfil the contractual obligations of the Provider ahead of the Services Start Date</li> <li>Monitor the successful TUPE transfer of people from the Previous Provider in accordance with Schedule 9 (Staff Transfer)</li> </ul>
Start Date	Effective Date
Frequency	Fortnightly during the Transition Period
Escalation point	Tier 4 Executive Review Board

6.1 HSE and the Provider will attend regular meetings during the Transition Period to review transition progress (Tier 3 of the formal governance structure detailed in Figure 1 above). The meetings will (unless agreed otherwise):

- 6.1.1 take place fortnightly;
- 6.1.2 be chaired by the HSE Transition Manager;
- 6.1.3 take place at an agreed location or via Video Conference within normal business hours;
- 6.1.4 be attended by the representatives detailed in Table 6 of this Schedule; and
- 6.1.5 follow an agreed agenda and be fully minuted with the Provider providing the full secretariat function which will include as a minimum organising the meeting, including location, and issuing the meeting invitations.

## 7. Executive Review

**Table 7** Tier 4 Executive Review

Forum	Executive Review Board
Performance governance tier	Tier 4

<b>Forum</b>	<b>Executive Review Board</b>
HSE attendees	HSE Head of Unit
Service Provider attendees	Provider senior executive officer / [Provider Parent Company representative]
Responsibilities and functions	Address issues escalated from Tier 3 Contract Review or Tier 3 Transition Governance and mutually agree a strategy to address the issues. Provide direction to the Transition Governance Board and the Contract Review Board on strategic issues and priorities.
Frequency	When required
Escalation point	-

7.1 HSE and the Provider may escalate any issues not resolved at Tier 3 to the Executive Review Board.

## 8. Marketing Review

**Table 8** Tier 1 Marketing Review

<b>Forum</b>	<b>Marketing Review Team</b>
Performance governance tier	Tier 1
HSE attendees	Contract Manager (or deputy) HSE Communications representative(s)
Service Provider attendees	Provider head of marketing Member(s) of marketing team (as required) Provider marketing agency representative(s) (as required)
Responsibilities and functions	<ul style="list-style-type: none"> <li>• Provider to provide to HSE high-level budget proposals and campaign plans</li> <li>• Provide assurance to HSE that funds will be appropriately spent and that campaigns will achieve value for money</li> <li>• Provider to present results of any campaign &amp; evaluation activity</li> <li>• Identify issues for escalation to Tier 2</li> </ul>
Frequency	Quarterly face-to-face or video conference meetings
Escalation point	Tier 2

8.1 HSE and the Provider will attend quarterly meetings to review marketing plans and activity. The meetings will (unless agreed otherwise):

8.1.1 take place within fifteen (15) Working Days of the end of each quarter of a Contract Year;

- 8.1.2 be chaired by the Provider head of marketing;
- 8.1.3 take place at a mutually agreed location within normal business hours;
- 8.1.4 be attended by the representatives detailed in Table 2 of this Schedule; and
- 8.1.5 follow an agreed agenda, be fully minuted with Provider providing the full secretariat function which will include as a minimum organising the meeting, including location, and issuing the meeting invitations.

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**SCHEDULE 11: MANAGEMENT INFORMATION,  
REPORTING AND RECORDS**

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## **1. Introduction**

- 1.1 The purpose of this Schedule 11 is to set out the provisions and requirements relating to:
- 1.1.1 Management Information; and
  - 1.1.2 the detail and nature of reporting.

## **2. Management Information**

### **2.1 General Requirements**

- 2.1.1 The Provider shall operate and maintain appropriate systems, processes and records (the "Management Information System" or "MIS") to ensure that it can, at all times, deliver timely and accurate Management Information to HSE in accordance with the provisions of this Schedule 11.
- 2.1.2 The Provider shall grant HSE access to the MIS so that HSE may generate its own reports and view Management Information at any time.

### **2.2 Management Information and Format**

- 2.2.1 The Provider agrees to provide timely, full, accurate and complete MI Reports to HSE which incorporates the data, in the correct format, required by the MI Reporting Template. The initial MI Reporting Template is set out in Annex 1 to this Schedule 11.
- 2.2.2 HSE may from time to time make changes to the MI Reporting Template including to the data required or format of the report and issue a replacement version of the MI Reporting Template to the Provider. HSE shall give notice in writing of any such change to the MI Reporting Template and shall specify the date from which the replacement MI Reporting Template must be used for future MI Reports which date shall be at least thirty (30) calendar days following the date of the notice.
- 2.2.3 If the MI Reporting Template is amended by HSE at any time, then the Provider agrees to provide all future MI Reports in accordance with the most recent MI Reporting Template issued by HSE.
- 2.2.4 HSE may provide the Provider with supplemental guidance for completing the MI Reporting Template or submitting MI Reports from time to time which may for example indicate which fields are mandatory and which are optional. The Provider agrees to complete the Monthly MI Report in accordance with any such guidance.
- 2.2.5 The Provider may not make any amendment to the current MI Reporting Template without the prior Approval of HSE.
- 2.2.6 HSE shall have the right from time to time (on reasonable written notice) to amend the nature of the Management Information which the Provider is required to supply to HSE.

### **2.3 Frequency and Coverage**

- 2.3.1 All MI Reports must be completed by the Provider using the MI Reporting Template and returned to HSE on or prior to the MI Reporting Date every Month during the Term and thereafter, until all transactions relating to the Concession Services have permanently ceased.

- 2.3.2 The MI Report should be used (among other things) to report on transactions occurring during the Month to which the MI Report relates, regardless of when the work was actually completed. For example, if an invoice is raised for October but the work was actually completed in September, the Provider must report the invoice in October's MI Report and not September's.
- 2.3.3 The Provider must return the MI Report for each Month even where there are no transactions to report in the relevant Month (a **"Nil Return"**).
- 2.3.4 The Provider must inform HSE of any errors or corrections to the Management Information:
  - 2.3.5 in the next MI Report due immediately following discovery of the error by the Provider; or
  - 2.3.6 as a result of HSE querying any data contained in an MI Report.
- 2.4 Submission of the Monthly MI Report
  - 2.4.1 The completed MI Report shall be completed electronically and made available on the MIS.
  - 2.4.2 HSE reserves the right (acting reasonably) to specify that the MI Report be submitted by the Provider using an alternative communication to that specified in paragraph 2.4 above such as email. The Provider agrees to comply with any such instructions provided they do not materially increase the burden on the Provider.
- 2.5 Defective Management Information
  - 2.5.1 The Provider acknowledges that it is essential that HSE receives timely and accurate Management Information pursuant to this Agreement because Management Information is used by HSE to inform strategic decision making.
  - 2.5.2 Following an MI Failure HSE may issue reminders to the Provider or require the Provider to rectify defects in the MI Report provided to HSE. The Provider shall rectify any deficient or incomplete MI Report as soon as possible and not more than five (5) Working Days following receipt of any such reminder.

### **Meetings**

- 2.5.3 The Provider agrees to attend meetings between the Parties in person to discuss the circumstances of any MI Failure(s) at the request of HSE (without prejudice to any other rights HSE may have). If HSE requests such a meeting the Provider shall propose measures to ensure that the MI Failures are rectified and do not occur in the future. The Parties shall document these measures and continue to monitor the Provider's performance.

### **Admin Fees**

- 2.5.4 If, in any rolling three (3) Month period, two (2) or more MI Failures occur, the Provider acknowledges and agrees that HSE shall, subject to paragraph 2.5.4, have the right to receive the Admin Fees from the Provider's Gain Share Fund in respect of any MI Failures as they arise in subsequent Months.
- 2.5.5 If, following activation of HSE's right to charge Admin Fee(s) in respect of MI Failures pursuant to paragraph 2.5.4, the Provider submits the Monthly MI

Report for two (2) consecutive Months and no MI Failure occurs then the right to charge the Admin Fee(s) shall lapse. For the avoidance of doubt HSE shall not be prevented from exercising such right again during the Term if the conditions in paragraph 2.5.4 are met.

- 2.5.6 The Provider acknowledges and agrees that the Admin Fees are a fair reflection of the additional costs incurred by HSE as a result of the Provider failing to supply Management Information as required by this Agreement.
  - 2.5.7 HSE shall notify the Provider if any Admin Fees arise pursuant to paragraph 2.5.4 above. Any exercise by HSE of its rights under this paragraph 2.5 shall be without prejudice to any other rights that may arise pursuant to the terms of this Agreement.
- 2.6 Default Management Charge
- 2.6.1 If:
    - 2.6.1(a) Two (2) MI Failures occur in any rolling six (6) Month period; or
    - 2.6.1(b) Two (2) consecutive MI Failures occur,then a "**MI Default**" shall be deemed to have occurred.
  - 2.6.2 If an MI Default occurs HSE shall (without prejudice to any other rights or remedies available to it under this Agreement) be entitled to deduct the Default Management Charge from the Provider's Gain Share Fund for any Months in which the Default Management Charge is payable:
    - 2.6.2(a) in arrears for those Months in which an MI Failure occurred; and
    - 2.6.2(b) on an ongoing Monthly basis,until all and any MI Failures have been rectified to the reasonable satisfaction of HSE.
  - 2.6.3 Any MI Default Management Charge shall be calculated annually.

### 3. Reporting

- 3.1 Monthly Service Report
  - 3.1.1 The Provider shall submit to HSE a Monthly Service Report on or prior to the Monthly Service Report Reporting Date every Month during the Term.
  - 3.1.2 The Monthly Service Report shall include:
    - 3.1.2(a) a summary of key activities for each of the following business areas:
      - 3.1.2(a)(i) Field operations;
      - 3.1.2(a)(ii) Technical;
      - 3.1.2(a)(iii) Contact centre;
      - 3.1.2(a)(iv) Marketing & PR;
      - 3.1.2(a)(v) IT;
      - 3.1.2(a)(vi) Finance; and
      - 3.1.2(a)(vii) Stakeholder engagement;
    - 3.1.2(b) service downtime for each of the following:

- 3.1.2(b)(i) Planned;
- 3.1.2(b)(ii) Unplanned; and
- 3.1.2(b)(iii) Forecast downtime for next reporting period;
- 3.1.2(c) incidents;
- 3.1.2(d) complaints against service;
- 3.1.2(e) support to HSE, local authorities and other enforcement agencies;
- 3.1.2(f) change management for each of the following:
  - 3.1.2(f)(i) Change requests implemented; and
  - 3.1.2(f)(ii) Change requests under development;
- 3.1.2(g) recovery & improvement plans for each of the following:
  - 3.1.2(g)(i) Under development; and
  - 3.1.2(g)(ii) In flight, with summary of progress to date;
- 3.1.2(h) a copy of the Risk Register;
- 3.1.2(i) an up to date list of the items listed in paragraph 2.1 of Schedule 12 (Exit Management), indicating any additions, removals or other changes; and
- 3.1.2(j) a summary of performance against Service Levels and Key Performance Indicators, with details of any Service Credits, KPI Failures, Admin Fees and/or Default Charges incurred.

### 3.2 Annual Service Report

- 3.2.1 Within six (6) weeks of the end of each Contract Year the Provider shall submit to the Contract Review Board an Annual Service Report in a form and style to be agreed with HSE before the Services Start Date, and such report to include:
  - 3.2.1(a) the measures of performance applicable in the previous Contract Year;
  - 3.2.1(b) the actual performance achieved against each KPI and each Service Level;
  - 3.2.1(c) the Provider's views of the reason for any variance between the Provider's performance and the Service Levels and KPIs;
  - 3.2.1(d) any recommendations with supporting information and documents and Provider's proposals, if any, for changes to the KPIs or Service Levels;
  - 3.2.1(e) matters that the Provider wishes to bring to the attention of the Contract Review Board or that HSE has asked by way of clarification regarding actual performance;
  - 3.2.1(f) financial performance including volumes, revenues costs and profits associated with the provision of the Services certified by a senior financial director as a true and accurate record;
  - 3.2.1(g) details of the Total Gain Share Funds as at the end of that Contract Year separated to show the following:

- 3.2.1(g)(i) the Funds for Distribution and the Agreed Provider Gain Share Funds;
- 3.2.1(g)(ii) the total value of deductions from the Provisional Provider Gain Share Funds as a result of KPI Failures in such Contract Year;
- 3.2.1(g)(iii) the total value of Transferrable Gain Share Funds to be transferred from the Provisional Provider Gain Share Funds as a result of KPI Failures; and
- 3.2.1(g)(iv) the total value of Funds For Distribution transferred from Provider profit as a result of Service Credits;
- 3.2.1(h) any Admin Fees or Default Charges incurred;
- 3.2.1(i) a certificate of costs signed by a senior finance director of Provider, as being true and accurate, setting out:
  - 3.2.1(i)(i) details of Revenues;
  - 3.2.1(i)(ii) details of relevant operational volumes (including volumes of Registered Business and Engineers);
  - 3.2.1(i)(iii) a breakdown of costs;
  - 3.2.1(i)(iv) details of profit in absolute and percentage terms;
- 3.2.1(j) an evaluation by the Provider of current relations with Registered Businesses and Engineers, stakeholders and the gas industry and an analysis of the opportunities and threats that the state of these relations pose for the effective operation of the Register;
- 3.2.1(k) proposals by the Provider for changes in the Rules of Registration;
- 3.2.1(l) a review of any changes to the Agreement agreed during the year, those under discussion and any that the Provider is considering for the current year; and
- 3.2.1(m) a review of improvements in Services achieved during the previous Contract Year and plans for improvements during the current Contract Year.
- 3.2.2 This Annual Service Report will be supplied to the HSE Contract Manager at least ten (10) Working Days before the planned annual service review meeting.
- 3.2.3 The Provider will produce a report of the meeting within five (5) Working Days, including areas of agreement, areas of disagreement with the reasons for that disagreement. HSE shall within a further five (5) Working Days either confirm the report of the meeting or suggest amendments to that report. Provider shall, within a further five (5) Working Days prepare an updated report of the meeting either incorporating into the report HSE's comments and suggested amendments or, where it does not agree with those comments or suggested amendments, clearly indicating where HSE has comments or suggested amendments and their nature.
- 3.2.4 Provider shall deliver the completed report without delay to the HSE Contract Manager for their approval.
- 3.2.5 Upon receipt of the completed report, HSE shall, within 2 weeks of receipt either:

- 3.2.5(a) Approve the report and Annual Service Report and inform the Provider; or
  - 3.2.5(b) Inform the Provider why it does not approve the Annual Service Report and the changes that should be made to make the Annual Service Report acceptable.
- 3.2.6 Where HSE does not accept the Annual Service Report the Provider shall address HSE's concerns in a revised report which it shall submit to HSE within 1 week of its receipt of HSE's comments and paragraph 3.2.5 shall apply to the revised Annual Service Report.

#### **4. Records**

- 4.1 The Provider shall retain and maintain all the records (including superseded records) referred to in Annex 2 to this Schedule 11:
- 4.1.1 in accordance with Good Industry Practice;
  - 4.1.2 in chronological order;
  - 4.1.3 in a form that is capable of being audited; and
  - 4.1.4 at its own expense.
- 4.2 The Provider shall make these records available for inspection to HSE on request subject to HSE giving reasonable notice.
- 4.3 Wherever practical, original records shall be retained and maintained in hard copy form. True copies of the original records may be kept by the Provider where it is not practicable to retain original records.
- 4.4 The Provider shall, during the Term and for a period of at least seven (7) years following the expiry or earlier termination of this Agreement, maintain or cause to be maintained complete and accurate documents and records in relation to the provision of the Services including but not limited to all records (whether in electronic format or otherwise) referred to in Annex 2 to this Schedule 11.
- 4.5 Financial records referred to in Annex 2 to this Schedule 11 shall be retained and maintained in safe storage by the Provider for a period of at least six (6) years after the expiry or earlier termination of this Agreement.

**ANNEX 1 – MI REPORTING TEMPLATE**

<b>ID</b>	<b>Service Level</b>	<b>Management information</b>
<b>1</b>		<b>Registered businesses and engineers</b>
		<b>Registration numbers</b>
1.01		Number of registered businesses
1.02		Number of registered engineers
1.03		Number of unique registered engineers
1.04		Number of operative registrations (inc in-year changes)
		<b>Probationary businesses &amp; new engineer registrations</b>
1.05		Number of first-time registered engineers
1.06		Number of new businesses accepted on to register
1.07		Number of new businesses - previously registered
1.08		Number of new businesses - new entrants
1.09		Number of new large business registrations (employing 10+ engineers)
		<b>Sanctions</b>
1.10		Number of business suspensions issued
1.11		Number of engineer suspensions issued
1.12		Number of businesses removed
1.13		Number of engineers removed
1.14		Number of appeals against sanctions
1.15		Number of appeals against sanctions where appeal upheld
1.16		Number of appeals against sanctions where appeal rejected
<b>2</b>		<b>Building Regulations notifications</b>
		<b>Building Regulations notifications</b>
2.01		Total number of work notifications
2.02		Number of work notifications by phone
2.03		Number of work notifications via the website
2.04		Number of work notifications via third parties
2.05		Total number of duplicate notification certificates requested
2.06		Number of duplicate notification certificates requested by phone
2.07		Number of duplicate notification certificates requested online
2.08		Number of duplicate notification certificates requested by letter
2.09		Number of duplicate notification certificates requested by email
<b>3.00</b>		<b>Inspections</b>
		<b>Inspection targets</b>

ID	Service Level	Management information
3.01	SL01	Total number of inspections
3.02		Number of inspections - Risk based - low risk
3.03		Number of inspections - Risk based - medium risk
3.04		Number of inspections - Risk based - high risk
3.05		Number of inspections - Risk based - targeted intervention
3.06		Number of inspections - Probationary
3.07		Number of inspections - Complaint
3.08		Number of inspections - Large business
3.09		Number of inspection support to HSE
3.10	SL02	Number of businesses unseen since start of SCA
		<b>Probationary inspections</b>
3.11		% of new entrants (no previous registration) seen within one month
3.12		% of all probationary businesses seen within probationary period (3 months)
3.13		% of businesses with probationary inspection booked to take place within 3 months of registration
3.14		Number of businesses coming off probation this month
3.15		% of probationary businesses with probationary status lifted this month
3.16		Number of probationary businesses suspended for having shown no work in 3-month period
3.17		Average number of probationary inspections prior to probation being lifted per business
3.18		Number of businesses with extended probationary period (inspector request)
3.19		Number of probationary businesses with unsafe (AR/ID) inspection result
3.20		% of probationary businesses with unsafe (AR/ID) inspection result
3.21		Number of probationary inspections where highest defect was ID
3.22		Number of probationary inspections where highest defect was AR
3.23		Number of probationary inspections where highest defect was NCS
3.24		Number of probationary businesses suspended for unsafe work
3.25		% of probationary businesses suspended for unsafe work
		<b>Complaints about registrants &amp; complaint inspections</b>
3.26		Number of consumer complaints about registrants
3.27		Number of consumer complaints with no apparent safety issue
3.28		Number of complaints visited
3.29	SL03	% of complaint visits carried out within 10 Working Days of complaint being received
3.30		Number of complaint visits where unsafe (AR/ID) Gas Work found
3.31		% of complaint visits where unsafe AR/ID Gas Work found

ID	Service Level	Management information
3.32		Number of complaint inspections where highest defect was ID
3.33		Number of complaint inspections where highest defect was AR
3.34		Number of complaint inspections where highest defect was NCS
3.35		Number of complaint visits where NCS or Building Regulations defect found
3.36		% of complaint visits where NCS or Building Regulations defect found
		<b>Risk-based inspections (excludes complaint inspections)</b>
3.37		Total number of risk-based inspections
3.38		Total number of risk-based inspections where unsafe (AR/ID) Gas Work found
3.39		Number of risk-based inspections where unsafe (AR/ID) Gas Work found - Low risk businesses
3.40		Number of risk-based inspections where unsafe (AR/ID) Gas Work found - Medium risk businesses
3.41		Number of risk-based inspections where unsafe (AR/ID) Gas Work found - high risk and targeted businesses
3.42		% of all risk-based inspections where unsafe Gas Work (AR/ID defect) found
3.43		Number of risk-based inspections where highest defect was ID
3.44		Number of risk-based inspections where highest defect was AR
3.45		Number of risk-based inspections where highest defect was NCS
3.46		% of unsafe (AR/ID) defects attributable to the installer on installation visits - BASELINE random sample
3.47		% of unsafe (AR/ID) defects attributable to the installer on risk-based installation inspections (medium, high and targeted)
3.48		% of failed risk-based service/maintenance inspections random - BASELINE random sample
3.49		% of failed risk-based service/maintenance inspections (medium, high and targeted)
		<b>Total inspection findings (all registered business inspections - probationary, risk-based, complaint)</b>
3.50		Number of registered business inspections (probationary, complaint, risk-based) where highest defect was ID
3.51		Number of registered business inspections (probationary, complaint, risk-based) where highest defect was AR
3.52		Number of registered business inspections (probationary, complaint, risk-based) where highest defect was NCS
		<b>Inspection events</b>
3.53		Number of inspection events
3.54		Number of inspection event attendees
3.55		Number of mandatory attendance events
3.56		Number of mandatory attendance event attendees

ID	Service Level	Management information
<b>4.00</b>	<b>Illegals and support to HSE/LAs</b>	
		<b>Support to HSE</b>
4.01		Support to HSE: Number of urgent requests
4.02	SL04	Support to HSE: % of urgent requests responded to within one hour
4.03	SL05	Support to HSE: % of urgent requests actioned within 3 Working Days
4.04		Support to HSE: Number of on-site requests
4.05	SL06	Support to HSE: % of on-site request responded to within 24 hours
4.06	SL07	Support to HSE: % of on-site request actioned within 10 Working Days
4.07		Number of inspection credits - support to HSE
4.08		Incident support days
4.09		Investigation support days
4.10		Total number of support requests (HSE, LAs, other)
4.11		Number of requests from HSE
4.12		Number of requests from LAs
4.13		Number of requests from other enforcement agencies (eg police)
		<b>Illegal investigations</b>
4.14		Number of contacts logged regarding illegal Gas Work carried out (from consumers, registered engineers & other sources)
4.15		Number of non-registered / illegal gas sites inspected
4.16	SL08	% of illegal gas sites visited within 10 Working Days of illegal Gas Work being reported
4.17		Number of quality leads raised for illegal Gas Work
4.18		% of logged contacts resulting in a quality lead
4.19		Number of illegal Gas Work sites found to be ID (will include visits logged previous month)
4.20		Number of cases passed to HSE/other bodies on illegal Gas Work
4.21		Number of inspections resulting in 'out of scope' process being implemented against a registered business
<b>5.00</b>	<b>Service delivery</b>	
		<b>Complaints about service</b>
5.01		Number of consumer complaints about the service
5.02		Number of justified consumer complaints about the service
5.03		% of consumer complaints against the service responded to within 5 Working Days
5.04		Number of registrant complaints about the service (inc renewal)
5.05		Number of justified registrant complaints about service (inc renewal)
5.06		% of complaints by registered businesses against the service responded to within 5 Working Days

ID	Service Level	Management information
5.07	SL09	Total number of justified complaints about the service
5.08	SL10	% of all complaints about the service responded to within 5 Working Days
		<b>Contact centre delivery</b>
5.09		Total number of calls to contact centre
5.10		Total number of telephone calls answered by contact centre
5.11		Number of consumer enquiries received
5.12		Number of Gas Safety Advice Line calls received
5.13		Number of registration calls received
5.14		% of contact centre telephone calls answered by contact centre staff
5.15	SL11	% of contact centre telephone calls answered within 60 seconds by contact centre staff
5.16		Average call wait time - contact centre
5.17		Volume of inbound correspondence (email, letter)
5.18		% of inbound correspondence (email, letter) replied to within 5 Working Days
		<b>Technical helpline</b>
5.19		Number of technical calls received
5.20		Number of technical calls answered
5.21		% of technical calls answered by technical staff
5.22	SL12	% of technical calls answered within 180 seconds by technical staff
5.23		Average call wait time - technical helpline
5.24		Volume of inbound technical correspondence (email, letter)
5.25		% of inbound technical correspondence (email, letter) replied to within 5 Working Days
5.26		Number of technical bulletins issued
5.27	SL13	% of correspondence (letter & email) responded to within 5 Working Days - combined response target for contact centre and technical
		<b>System delivery</b>
5.28	SL14	Availability of systems and infrastructure (with the exception of scheduled downtime) - Phone lines
5.29	SL15	Availability of systems and infrastructure (with the exception of scheduled downtime) - Website
5.30	SL16	Availability of systems and infrastructure (with the exception of scheduled downtime) - Database
		<b>Renewals and applications</b>
5.31		Number of web registration applications
5.32		Number of non-web registration applications
5.33		% of new applications and changes to registration processed within 5 Working Days

<b>ID</b>	<b>Service Level</b>	<b>Management information</b>
5.34		Number of new ID cards issued
5.35		Number of replacement cards issued
5.36		Number of updated cards issued
5.37		% of new, replacement and updated ID cards issued within 5 Working Days
5.38	SL17	% of applications, registration changes processed and ID cards issued within 5 Working Days during April to January or 10 Working Days during February & March
5.39		Number of ACS/qualification downloads
5.40		Number of penalty fee charges
5.41		Number of access to standards - 1 year
5.42		Number of access to standards - 3 year
<b>6.00</b>	<b>Communications, brand management and website services</b>	
		<b>Website services</b>
6.01		Number of visitors to <a href="http://www.gassaferegister.co.uk">www.gassaferegister.co.uk</a>
6.02		Number of visits to <a href="http://www.gassaferegister.co.uk">www.gassaferegister.co.uk</a>
6.03		Number of visitors to engineer portal
6.04		Number of visits to engineer portal
6.05		Number of uses of check an installer service
6.06		Number of uses of find an installer service
6.07		Number of uses of check an engineer service
		<b>Communications</b>
6.08		Brand awareness - unprompted
6.09		Brand awareness - prompted
6.10		Distribution of RGE magazine - number of copies
		<b>Brand management</b>
6.11		Businesses contacted
6.12		Unregistered businesses
6.13		Brand compliance achieved
6.14		Cases outstanding
6.15		Cases passed to Trading Standards
6.16		Cases escalated to lawyers
<b>7.00</b>	<b>Data access</b>	
		<b>Users</b>
7.01		Total number of users
7.02		Number of internal users (Provider)
7.03		Number of external users (HSE)

<b>ID</b>	<b>Service Level</b>	<b>Management information</b>
7.04		Number of Registered Business users
7.05		Number of movers
7.06		Number of starters
7.07		Number of leavers
<b>8.00</b>	<b>Contract management</b>	
		<b>Staffing</b>
8.01		Total staff numbers
8.02		Field inspectors - in post
8.03		Field inspectors - available

## ANNEX 2 – RECORDS

### 1. Records

- 1.1 Pursuant to paragraph 4 of Schedule 11 the Provider shall maintain the following records:
- 1.1.1 The Agreement, its Schedules and all Change Control Notes and other amendments to such documents.
  - 1.1.2 All other documents which this Agreement expressly requires to be prepared.
  - 1.1.3 Records relating to the appointment and succession of the Provider Contract Manager and each member of the Key Personnel.
  - 1.1.4 Notices, reports and other documentation submitted by an expert or mediator.
  - 1.1.5 The Processes and Procedures Register.
  - 1.1.6 Documents prepared by Provider or received by Provider from a third party relating to a Force Majeure Event.
  - 1.1.7 All formal notices, reports or submissions made by Provider to HSE in connection with the provision of Services.
  - 1.1.8 All certificates, licences, registrations or warranties in each case obtained by Provider in relation to the provision of the Services.
  - 1.1.9 Documents prepared by Provider in support of claims for the Charges.
  - 1.1.10 Documents submitted by Provider in accordance with the Change Control Procedure.
  - 1.1.11 Documents submitted by Provider pursuant to invocation by it or HSE of the Dispute Resolution Procedure.
  - 1.1.12 Documents evidencing any change in ownership or any interest in any or all of the shares in Provider and/or the Guarantor.
  - 1.1.13 Financial records, including audited and unaudited accounts of the Guarantor and Provider.
  - 1.1.14 Records required to be retained by the Provider by Law, including in relation to health and safety matters and health and safety files and all consents.
  - 1.1.15 All documents relating to the insurances to be maintained under the Agreement and any claims made in respect of them.
  - 1.1.16 All other records, notices or certificates required to be produced and/or maintained by the Provider pursuant to this Agreement.

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**SCHEDULE 12: EXIT MANAGEMENT**

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## OPERATIVE PROVISIONS

### 1. Introduction

- 1.1 This Schedule 12 describes provisions that should be included in the Exit Plan, the duties and responsibilities of the Provider to HSE leading up to and covering the Expiry Date and the transfer of service provision to HSE and/or a Replacement Provider.
- 1.2 The objectives of the exit planning and service transfer arrangements are to ensure a smooth transition of the operation of the gas registration scheme from the Provider to HSE and/or a Replacement Provider at the Expiry Date.

### 2. Obligations during the Term to facilitate exit

- 2.1 During the Term, the Provider shall:
  - 2.1.1 maintain a complete list of HSE Assets for the purposes of Schedule 18 (Assets);
  - 2.1.2 maintain the lists of Third-Party Contracts in Schedule 13 (Third-Party Contracts);
  - 2.1.3 maintain the list of APIs in Schedule 20 (IT Requirements);
  - 2.1.4 create and maintain a fully annotated data model as required by Schedule 20 (IT Requirements);
  - 2.1.5 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Provider provides the Services, which shall contain sufficient detail to permit HSE and/or Replacement Provider to understand how the Provider provides the Services and to enable the smooth transition of the Services with the minimum of disruption;
  - 2.1.6 agree the format of the above lists and model and configuration database with HSE as part of the process of agreeing the Exit Plan; and
  - 2.1.7 at all times keep the lists and model and configuration database up to date, in particular in the event that Assets, Sub-Contracts or other relevant agreements are added to or removed from the Services. Each update shall be submitted to HSE for Approval, and once Approved, shall be substituted for the previous version, and the relevant Schedule shall be amended accordingly through the Change Control Procedure.
- 2.2 The Provider shall (unless otherwise agreed by HSE in writing) procure that all licences for Third Party IPR and all Sub-Contracts and all other relevant agreements referred to in paragraph 2.1.2 shall be assigned and/or novated at the request of HSE to HSE (and/or its nominee) and/or any Replacement Provider upon the Provider ceasing to provide the Services (or part of them) without restriction (including any need to obtain any consent or approval) or payment by HSE.
- 2.3 Where the Provider is unable to procure that any Sub-Contract or other agreement referred to in paragraph 2.2 of this Schedule 12 which the Provider proposes to enter into after the Effective Date is assignable and/or capable of novation to HSE (and/or its nominee) and/or any Replacement Provider without restriction or payment, the Provider shall promptly notify HSE of this and the Parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which, where

HSE so directs, may include the Provider seeking an alternative Sub-Contractor or provider of Services to which the relevant agreement relates.

- 2.4 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Schedule 12 and provide written notification of such appointment to the other Party within three (3) months of the Effective Date. The Provider's Exit Manager shall be responsible for ensuring that the Provider and its Provider Personnel comply with this Schedule 12. The Provider shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Provider as are reasonably necessary to enable the Provider to comply with the requirements set out in this Schedule 12. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Agreement and all matters connected with this Schedule 12 and each Party's compliance with it.

### **3. Obligations to assist on retendering of Services**

- 3.1 On reasonable notice at any point during the Term, the Provider shall provide to HSE and/or its potential Replacement Providers (subject to the potential Replacement Providers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by HSE of any invitation to tender and/or to facilitate any potential Replacement Providers undertaking due diligence:
- 3.1.1 details of the Service(s);
  - 3.1.2 a copy of the lists, models and configuration databases listed in paragraphs 2.1.1 to 2.1.5, updated by the Provider up to the date of delivery of such lists;
  - 3.1.3 an inventory of HSE Data in the Provider's possession or control;
  - 3.1.4 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;
  - 3.1.5 a list of ongoing and/or threatened disputes in relation to the provision of the Services;
  - 3.1.6 all information relating to Transferring Provider Employees or those who may be Transferring Provider Employees required to be provided by the Provider under this Agreement such information to include the Staffing Information as defined in Schedule 9 (Staff Transfer); and
  - 3.1.7 such other material and information as HSE shall reasonably require, (together, the "Exit Information").
- 3.2 The Provider acknowledges that HSE may disclose the Provider's Confidential Information to an actual or prospective Replacement Provider or any third party whom HSE is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that HSE may not under this paragraph 3.2 of this Schedule 12 disclose any Provider's Confidential Information which is information relating to the Provider's or its Sub-Contractors' prices or costs).
- 3.3 The Provider shall:
- 3.3.1 notify HSE within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Services and shall consult with HSE regarding such proposed material changes; and

- 3.3.2 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 HSE.
- 3.4 The Provider may charge HSE for its reasonable additional costs to the extent HSE requests more than four (4) updates in any six (6) month period.
- 3.5 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Provider shall be such as would be reasonably necessary to enable a third party to:
  - 3.5.1 prepare an informed offer for those Services; and
  - 3.5.2 not be disadvantaged in any subsequent procurement process compared to the Provider (if the Provider is invited to participate).

#### **4. Exit Plan**

- 4.1 The Provider shall, within three (3) months after the Effective Date, deliver to HSE an exit plan ("Exit Plan") which:
  - 4.1.1 sets out the Provider's proposed methodology for achieving an orderly transition from the provision of the Services by the Provider to the provision of services that are the same or substantially similar by HSE and/or its Replacement Provider ("the Services Handover") on the expiry or termination of this Agreement;
  - 4.1.2 complies with the requirements set out in paragraph 4.3 of this Schedule 12;
  - 4.1.3 is otherwise reasonably satisfactory to HSE.
- 4.2 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 in Schedule 19 (Dispute Resolution).
- 4.3 Unless otherwise specified by HSE, the Exit Plan shall set out, as a minimum:
  - 4.3.1 how the Exit Information is obtained;
  - 4.3.2 the management structure to be employed during both transfer and cessation of the Services;
  - 4.3.3 the management structure to be employed during the Termination Assistance Period;
  - 4.3.4 a detailed description of both the transfer and cessation processes, including a timetable;
  - 4.3.5 how the Services will transfer to the Replacement Provider and/or HSE, including details of the processes, documentation, data transfer, systems migration, security and the segregation of HSE's technology components from any technology components operated by the Provider or its Sub-Contractors (where applicable);
  - 4.3.6 details of the contracts and licences which will be available for assignment or novation to HSE and/or the Replacement Provider upon the Expiry Date (or upon termination of this Agreement) and proposals to effect such assignment or novation;
  - 4.3.7 proposals for the training of key members of the Replacement Provider's personnel in connection with the continuation of the provision of the

- Services following the Expiry Date charged at rates agreed between the Parties at that time;
- 4.3.8 proposals for providing HSE or a Replacement Provider with copies of all documentation:
    - 4.3.8(a) used in the provision of the Services and necessarily required for the continued use thereof, in which the Intellectual Property Rights are owned by the Provider; and
    - 4.3.8(b) relating to the use and operation of the Services;
  - 4.3.9 proposals for the identification and return of all HSE property in the possession of and/or control of the Provider or any third party (including any Sub-Contractor);
  - 4.3.10 proposals for the disposal of any redundant Services and materials;
  - 4.3.11 procedures to:
    - 4.3.11(a) deal with requests made by HSE and/or a Replacement Provider for Staffing Information pursuant to Schedule 9 (Staff Transfer);
    - 4.3.11(b) determine which Provider Personnel are or are likely to become Transferring Provider Employees; and
    - 4.3.11(c) identify or develop any measures for the purpose of the Employment Regulations envisaged in respect of Transferring Provider Employees;
  - 4.3.12 how each of the issues set out in this Schedule 12 will be addressed to facilitate the Services Handover with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period; and
  - 4.3.13 proposals for the supply of any other information or assistance reasonably required by HSE or a Replacement Provider in order to effect the transition referred to in paragraph 4.1.1 in an orderly manner.

## **5. Termination Assistance**

- 5.1 HSE shall be entitled to require the provision of Termination Assistance at any time during the Term by giving written notice to the Provider (a "Termination Assistance Notice") at least four (4) months prior to the 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:
  - 5.1.1 the date from which Termination Assistance is required;
  - 5.1.2 the nature of the Termination Assistance required; and
  - 5.1.3 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 Provider ceases to provide the Services.
- 5.2 HSE 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 Provider ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Provider 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. HSE shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Provider to such effect.

## **6. Termination Assistance Period**

- 6.1 Throughout the Termination Assistance Period, or such shorter period as HSE may require, the Provider shall:
- 6.1.1 continue to provide the Services (as applicable up to the end of the Term) and, if required by HSE pursuant to paragraph 5.1 of this Schedule 12, provide the Termination Assistance;
  - 6.1.2 in addition to the Termination Assistance, provide to HSE any reasonable assistance requested by HSE to allow the provision of services the same as or substantially similar to the Services to continue without interruption following the termination or expiry of this Agreement;
  - 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in paragraph 6.1.2 of this Schedule 12 without additional costs to HSE;
  - 6.1.4 provide 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 6.3; and
  - 6.1.5 at HSE's request and on reasonable notice, deliver up-to-date copies of the lists, models and configuration databases listed in paragraphs 2.1.1 to 2.1.5 to HSE.
- 6.2 Without prejudice to the Provider's obligations under paragraph 6.1.3 of this Schedule 12, if it is not possible for the Provider to use or reallocate resources assigned to the Services to provide such Termination Assistance and other reasonable assistance as is referred to in paragraph 6.1.2 of this Schedule 12 without additional costs to HSE, any agreed additional costs incurred by the Provider in providing such Termination Assistance and reasonable assistance shall be chargeable and subject to the Change Control Procedure.
- 6.3 If the Provider demonstrates to HSE's reasonable satisfaction that the Services Handover and provision of the Termination Assistance during the Termination Assistance Period will have a material, unavoidable adverse effect on the Provider'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.

## **7. Termination obligations**

- 7.1 The Provider shall comply with all of its obligations contained in the Exit Plan and with its obligations relating to expiry and termination including those set out in Clauses 14 and 30.
- 7.2 Upon (a) termination or expiry (as the case may be); or (b) (if later and applicable) the expiry of the Termination Assistance Period (or earlier if this does not adversely affect the Provider's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule 12), the Provider shall:

- 7.2.1 cease to use HSE Data and HSE Background IPRs;
- 7.2.2 provide HSE and/or the Replacement Provider with a complete and uncorrupted version of HSE Data in electronic form (or such other format as reasonably required by HSE);
- 7.2.3 erase from any computers, storage devices and storage media that are to be retained by the Provider after the end of the Termination Assistance Period all HSE Data and material to which Background IPRs relate and promptly certify to HSE that it has completed such deletion;
- 7.2.4 deliver or return to HSE such of the following as is in the Provider's possession or control:
  - 7.2.4(a) all materials to which Developed IPR relates;
  - 7.2.4(b) any equipment which belongs to HSE;
  - 7.2.4(c) any items that have been on-charged to HSE, such as consumables; and
- 7.2.5 vacate any HSE premises (if applicable);
- 7.2.6 remove the Provider Equipment together with any other materials used by the Provider to supply the Services and shall leave any HSE premises (if applicable) in a clean, safe and tidy condition. The Provider 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 Provider and/or any Provider Personnel;
- 7.2.7 provide access during normal working hours to HSE and/or the Replacement Provider for up to twelve (12) months after expiry or termination to:
  - 7.2.7(a) such information relating to the Services as remains in the possession or control of the Provider; and
  - 7.2.7(b) such members of the Provider Personnel as have been involved in the design, development and provision of the Services and who are still employed by the Provider, provided that HSE and/or the Replacement Provider shall pay the reasonable costs of the Provider actually incurred in responding to requests for access under this paragraph.
- 7.3 Upon (a) termination or expiry (as the case may be) or (b) (if later and applicable) the expiry of the Termination Assistance Period (or earlier if this does not adversely affect the Provider's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule 12), 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 termination services or for statutory compliance purposes.
- 7.4 Except where this Agreement provides otherwise, all licences, leases and authorisations granted by HSE to the Provider in relation to the Services shall be terminated with effect from the end of the Termination Assistance Period.

## **8. Assets and Sub-Contracts**

- 8.1 Following any notice of termination of this Agreement and during the Termination Assistance Period, the Provider shall not, without HSE's prior written consent which will not be unreasonably withheld:
- 8.1.1 terminate, enter into or vary any Sub-Contract;
  - 8.1.2 terminate, enter into or vary any licence for software in connection with the provision of Services; and
- HSE or the Replacement Provider will meet the costs of maintaining any Sub-contracts or licences referred to in 8.1.1 or 8.1.2 above beyond the Expiry or Termination of this Agreement.
- 8.2 Within twenty (20) Working Days of receipt of the up-to-date lists provided by the Provider pursuant to paragraph 6.1.5 of this Schedule 12, HSE shall provide written notice to the Provider setting out models and configuration databases:
- 8.2.1 which, if any, of the HSE Assets HSE requires to be transferred to HSE and/or the Replacement Provider;
  - 8.2.2 which, if any, of the licences and Sub-Contracts referred to in Paragraph 2.1.2 of this Schedule 12 HSE requires to be assigned or novated to HSE and/or the Replacement Provider (the "Transferring Contracts"),
- in order for HSE and/or its Replacement Provider to provide Services the same as or substantially similar to the Services from the expiry of the Termination Assistance Period. Where requested by HSE and/or its Replacement Provider, the Provider shall provide all reasonable assistance to HSE and/or its Replacement Provider to enable it to determine which Assets and Contracts HSE and/or its Replacement Provider requires to provide services the same or substantially similar to the Services or the Replacement Services.
- 8.3 With effect from (a) termination or expiry or (b) (if later and applicable) the expiry of the Termination Assistance Period (or earlier if this does not adversely affect the Provider's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule 12) the Provider shall deliver the HSE Assets as specified pursuant to paragraph 8.2.1 to HSE and/or its nominated Replacement Provider at no cost.
- 8.4 The Provider shall as soon as reasonably practicable assign or procure the novation to HSE and/or the Replacement Provider of the Transferring Contracts. The Provider shall execute such documents and provide such other assistance as HSE reasonably requires to effect this novation or assignment.
- 8.5 HSE shall:
- 8.5.1 accept assignments from the Provider or join with the Provider in procuring a novation of each Transferring Contract; and
  - 8.5.2 once a Transferring Contract is novated or assigned to HSE and/or the Replacement Provider, 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 Provider does the same.
- 8.6 The Provider shall hold any Transferring Contracts on trust for HSE until such time as the transfer of the relevant Transferring Contract to HSE and/or the Replacement Provider has been effected.
- 8.7 The Provider shall indemnify HSE (and/or the Replacement Provider, 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 HSE (and/or Replacement Provider) pursuant to paragraph 8.4 of this Schedule 12 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract.

## **9. Provider personnel**

- 9.1 HSE and Provider agree and acknowledge that in the event of the Provider ceasing to provide the Services or part of them for any reason, Schedule 9 (Staff Transfer) shall apply.
- 9.2 The Provider 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 HSE to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to HSE and/or the Replacement Provider and/or Replacement Sub-Contractor.
- 9.3 During the Termination Assistance Period, the Provider shall and shall procure that any relevant Sub-Contractor shall:
- 9.3.1 give HSE and/or the Replacement Provider and/or Replacement Sub-Contractor reasonable access to the Provider's personnel and/or their consultation representatives to present the case for transferring their employment to HSE and/or the Replacement Provider and/or to discuss or consult on any measures envisaged by HSE, Replacement Provider and/or Replacement Sub-Contractor in respect of persons expected to be Transferring Provider Employees;
- 9.3.2 co-operate with HSE and the Replacement Provider to ensure an effective consultation process and smooth transfer in respect of Transferring Provider Employees in line with good employee relations and the effective continuity of the Services.
- 9.4 The Provider shall immediately notify HSE or, at the direction of HSE, the Replacement Provider of any period of notice given by the Provider or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.
- 9.5 The Provider 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 HSE and/or the Replacement Provider (unless otherwise instructed by HSE (acting reasonably) or where the employee applies in response to a public advertisement of a vacancy and to suppliers or Sub-contractors for purposes other than the Register).

## **10. Charges**

- 10.1 Except as otherwise expressly specified in this Agreement, the Provider shall not make any charges for the services provided by the Provider pursuant to, and HSE shall not be obliged to pay for costs incurred by the Provider in relation to its compliance with, this Schedule 12 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.

## **11. Apportionments**

- 11.1 All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments or receivables in respect of the HSE Assets and Transferring Contracts shall be apportioned between HSE and the Provider and/or the Replacement Provider and the Provider (as applicable) as follows:
- 11.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;
  - 11.1.2 HSE shall be responsible for (or shall procure that the Replacement Provider 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
  - 11.1.3 the Provider 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 HSE shall procure that the Replacement Provider shall pay) any monies due under paragraph 11.1 of this Schedule 12 as soon as reasonably practicable.

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**SCHEDULE 13: THIRD-PARTY CONTRACTS**

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## 1. Purpose and effect

- 1.1 This Schedule 13 sets out a list of:
- 1.1.1 Retained Contracts transferred from the Previous Provider to the Provider in accordance with Clause 29.1 of this Agreement; and
  - 1.1.2 Contracts entered into by the Provider for the purposes of performing its obligations under this Agreement and material to the provision of the Services including Sub-Contracts.
- 1.2 The Provider agrees to keep Tables 1 and 2 of this Schedule 13 updated throughout the Term and this Schedule shall be amended accordingly through the Change Control Procedure.

## 2. Retained Contracts

- 2.1 Table 1 lists Retained Contracts transferred from the Previous Provider.

**Table 1** Retained Contracts

<b>Sub-Contractor</b>	<b>Service</b>	<b>Extent of Service Delivery</b>	<b>Duration</b>
Invomo Limited (GCI Telecoms Group)	Cloud-based Telephony	Interactive Voice Response (IVR)	Transition (Retained contract)
Puzzel Limited	Cloud-based Telephony	Automatic Call Distributor (ACD)	Transition (Retained contract)
Borough IT Ltd	Platform Support	CRM support	Transition (Retained contract)

## 3. Provider Third-Party Contracts

- 3.1 Table 2 lists those contracts entered into by the Provider for the purposes of performing its obligations under this Agreement and material to the provision of the Services including Sub-Contracts.

**Table 2** Provider Sub-Contracts

<b>Contractor/Sub-Contractor</b>	<b>Service</b>	<b>Extent of Service Delivery</b>	<b>Duration</b>
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<b>Contractor/Sub-Contractor</b>	<b>Service</b>	<b>Extent of Service Delivery</b>	<b>Duration</b>
Microsoft	Cloud Services (PaaS, SaaS)	Cloud Services, CRM, Field Services, Finance, Document Management	Term
Profisee	Data Management Services	Data transformation, validation, reporting and management	Term
theTeam	Publishing and marketing	RGE Magazine Editorial and production  Brand and integrated marketing services	Term
Accent	Market Research	Consumer and Engineer KPI surveys	Term
Capita Pay360	Payment Services	Card Payment Services, Direct Debit and Bank Account Validation Services	Term
Capita Orangebus	IT Development	Mobile App Development, Web Site Usability and Design	Term
Capita IT Enterprise Services	IT Services	IT Services including: Helpdesk Management, Desktop Services Network and telephony services including IP office telephony platform and IVR applications	Term
Capita Intelligent Communications	Inbound and Outbound Communications	Marketing Collateral, Registration Documents inc cards, Notification Certificates, Document Scanning	Term

<b>Contractor/Sub-Contractor</b>	<b>Service</b>	<b>Extent of Service Delivery</b>	<b>Duration</b>
Capita Application Services	IT Application Development and Support, and IT Consultancy	Development and support of IT applications	Term
Capita IT Professional Services	Software quality assurance and testing services	Provision of IT testing, capacity planning and security services	Transition

**Table 3** Provider Key Sub-Contracts

<b>Contractor/Sub-Contractor</b>	<b>Service</b>	<b>Extent of Service Delivery</b>	<b>Duration</b>
None			

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**SCHEDULE 14: KEY PERSONNEL**

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**1. Purpose and effect**

- 1.1 Annex 1 to this Schedule 14 sets out the Key Personnel appointed by the Provider to fulfil the Key Roles.

**ANNEX 1 – KEY ROLES AND KEY PERSONNEL**

<b>Proposed role</b>	<b>Nature and purpose of the role</b>	<b>Period of responsibility</b>	<b>Name</b>
Chief Executive/Managing Director	Overall responsibility for transition and service delivery	Transition and subsequent Term	
Service operations (Director of Customer Services)	Management of service delivery, inc marketing, contact centre, complaints Set up and transition, and ongoing operation	Transition and subsequent Term	
Marketing & communications	Managing Marketing & Communications strategy Overseeing PR relating to transition	Transition and subsequent Term	
Finance (Director of Finance)	Management of financial transition Financial oversight during operation Responsible for Management Information, Resource Management and Compliance	Transition and subsequent Term	
Transition management	Responsibility for managing service transition	Transition only	
IT – Technical Architect	System design	Transition only	
IT – Data Analyst	Manage data transfer Data management during operation	Transition and subsequent Term	
IT – Technical Project Manager (IT Manager)	Project manage IT including system design and data transfer System management during operation	Transition and subsequent Term	

<b>Proposed role</b>	<b>Nature and purpose of the role</b>	<b>Period of responsibility</b>	<b>Name</b>
Field operations (Director of Gas Services)	Management of field inspectorate and delivery of inspection targets Responsible for the technical helpline and scheduling team	Term	
Business Improvement Director	Business improvement, IT and data management	Term	

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**SCHEDULE 15: BUSINESS CONTINUITY AND  
DISASTER RECOVERY**

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## 1. BCDR Plan

- 1.1 Within 30 Working Days from the Effective Date the Provider shall prepare and deliver to HSE for HSE's written approval a plan (the BCDR Plan) in draft, which shall detail the processes and arrangements that the Provider shall follow to:
  - 1.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services; and
  - 1.1.2 the recovery of the Services in the event of a Disaster.
- 1.2 The BCDR Plan shall:
  - 1.2.1 be divided into three parts:
    - 1.2.1(a) Part A which shall set out general principles applicable to the BCDR Plan;
    - 1.2.1(b) Part B which shall relate to business continuity (the "**Business Continuity Plan**"); and
    - 1.2.1(c) Part C which shall relate to disaster recovery (the "**Disaster Recovery Plan**"); and
  - 1.2.2 unless otherwise required by HSE in writing, be based upon and be consistent with the provisions of paragraphs 2, 3 and 4.
- 1.3 Following receipt of the draft BCDR Plan from the Provider, HSE shall:
  - 1.3.1 review and comment on the draft BCDR Plan as soon as reasonably practicable; and
  - 1.3.2 notify the Provider 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 HSE.
- 1.4 If HSE rejects the draft BCDR Plan:
  - 1.4.1 HSE shall inform the Provider in writing of its reasons for its rejection; and
  - 1.4.2 the Provider shall then revise the draft BCDR Plan (taking reasonable account of HSE's comments) and shall re-submit a revised draft BCDR Plan to HSE for HSE's approval within twenty (20) Working Days of the date of HSE's notice of rejection. The provisions of paragraphs 1.3 and 1.4 of this Schedule 15 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.
- 1.5 Until the BCDR Plan to be delivered by the Provider pursuant to paragraph 1.1 has been approved by HSE, the Provider shall comply with the plan entitled "GSR Business Continuity Plan – September 2018 – v0.17".

## 2. Part A of the BCDR Plan and General Principles and Requirements

- 2.1 Part A of the BCDR Plan shall:
  - 2.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;

- 2.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the operation of the provision of the Services and any Services provided to HSE by a Related Provider;
  - 2.1.3 contain an obligation upon the Provider to liaise with HSE and (at HSE's request) any Related Providers with respect to issues concerning business continuity and disaster recovery where applicable;
  - 2.1.4 detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of HSE and any of its other Related Provider in each case as notified to the Provider by HSE from time to time;
  - 2.1.5 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 HSE;
  - 2.1.6 contain a risk analysis, including:
    - 2.1.6(a) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
    - 2.1.6(b) identification of any single points of failure within the provision of Services and processes for managing the risks arising therefrom;
    - 2.1.6(c) identification of risks arising from the interaction of the provision of Services and with the Services provided by a Related Provider; and
    - 2.1.6(d) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
  - 2.1.7 provide for documentation of processes, including business processes, and procedures;
  - 2.1.8 set out key contact details (including roles and responsibilities) for the Provider (and any Sub-Contractors) and for HSE;
  - 2.1.9 identify the procedures for reverting to "normal service";
  - 2.1.10 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;
  - 2.1.11 identify the responsibilities (if any) that HSE has agreed it will assume in the event of the invocation of the BCDR Plan; and
  - 2.1.12 provide for the provision of technical advice and assistance to key contacts at HSE as notified by HSE from time to time to inform decisions in support of HSE's business continuity plans.
- 2.2 The BCDR Plan shall be designed so as to ensure that:
- 2.2.1 the Services are provided in accordance with this Agreement at all times during and after the invocation of the BCDR Plan;
  - 2.2.2 the adverse impact of any Disaster, service failure, or disruption on the operations of HSE is minimal as far as reasonably possible;

- 2.2.3 it complies with the relevant provisions of ISO/IEC 27002 and all other industry standards from time to time in force; and
  - 2.2.4 there is a process for the management of disaster recovery testing detailed in the BCDR Plan.
- 2.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services or to the business processes facilitated by and the business operations supported by the provision of Services.
- 2.4 The Provider 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 Provider of this Agreement.

### **3. Business Continuity Plan – Principles and Contents**

- 3.1 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 Services remain supported and to ensure continuity of the business operations supported by the Services including, unless HSE expressly states otherwise in writing:
- 3.1.1 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 Services; and
  - 3.1.2 the steps to be taken by the Provider upon resumption of the provision of Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 3.2 The Business Continuity Plan shall:
- 3.2.1 address the various possible levels of failures of or disruptions to the provision of Services;
  - 3.2.2 set out the Services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such Services and steps, the “**Business Continuity Services**”);
  - 3.2.3 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 Services during any period of invocation of the Business Continuity Plan; and
  - 3.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

### **4. Disaster Recovery Plan – Principles and Contents**

- 4.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Provider ensures continuity of the business operations of HSE 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.
- 4.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 4.3 The Disaster Recovery Plan shall include the following:

- 4.3.1 the technical design and build specification of the Disaster Recovery System;
- 4.3.2 details of the procedures and processes to be put in place by the Provider 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:
  - 4.3.2(a) [data centre and disaster recovery site audits;
  - 4.3.2(b) backup methodology and details of the Provider's approach to data back-up and data verification;
  - 4.3.2(c) identification of all potential disaster scenarios;
  - 4.3.2(d) risk analysis;
  - 4.3.2(e) documentation of processes and procedures;
  - 4.3.2(f) hardware configuration details;
  - 4.3.2(g) network planning including details of all relevant data networks and communication links;
  - 4.3.2(h) invocation rules;
  - 4.3.2(i) Service recovery procedures; and
  - 4.3.2(j) steps to be taken upon resumption of the provision of Services to address any prevailing effect of the failure or disruption of the provision of Services;]
- 4.3.3 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 Services during any period of invocation of the Disaster Recovery Plan;
- 4.3.4 details of how the Provider shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 4.3.5 access controls to any disaster recovery sites used by the Provider in relation to its obligations pursuant to this Schedule 15; and
- 4.3.6 testing and management arrangements.

## **5. Review and Amendment of the BCRD Plan**

- 5.1 The Provider shall review the BCDR Plan (and the risk analysis on which it is based):
  - 5.1.1 on a regular basis and as a minimum once every six (6) months;
  - 5.1.2 within three calendar months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 7; and
  - 5.1.3 where HSE requests any additional reviews (over and above those provided for in paragraphs 5.1.1 and 5.1.2 of this Schedule 15) by notifying the Provider to such effect in writing, whereupon the Provider shall conduct such reviews in accordance with HSE's written requirements. Prior to starting its review, the Provider shall provide an accurate written estimate of the total costs payable by HSE for HSE's approval. The costs of both Parties of any such additional reviews shall be met by HSE except that the

Provider shall not be entitled to charge HSE for any costs that it may incur above any estimate without HSE's prior written approval.

- 5.2 Each review of the BCDR Plan pursuant to paragraph 5.1 of this Schedule 15 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 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 Provider within the period required by the BCDR Plan or, if no such period is required, within such period as HSE shall reasonably require. The Provider shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to HSE a report (a "**Review Report**") setting out:
- 5.2.1 the findings of the review;
  - 5.2.2 any changes in the risk profile associated with the provision of Services; and
  - 5.2.3 the Provider's proposals (the "**Provider'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 Provider 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.
- 5.3 Following receipt of the Review Report and the Provider's Proposals, HSE shall:
- 5.3.1 review and comment on the Review Report and the Provider's Proposals as soon as reasonably practicable; and
  - 5.3.2 notify the Provider in writing that it approves or rejects the Review Report and the Provider's Proposals no later than twenty (20) Working Days after the date on which they are first delivered to HSE.
- 5.4 If HSE rejects the Review Report and/or the Provider's Proposals:
- 5.4.1 HSE shall inform the Provider in writing of its reasons for its rejection; and
  - 5.4.2 the Provider shall then revise the Review Report and/or the Provider's Proposals as the case may be (taking reasonable account of HSE's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Provider's Proposals to HSE for HSE's approval within twenty (20) Working Days of the date of HSE's notice of rejection. The provisions of paragraphs 5.3 and 5.4 of this Schedule 15 shall apply again to any resubmitted Review Report and Provider's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 5.5 The Provider shall as soon as is reasonably practicable after receiving HSE's approval of the Provider'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 Provider's Proposals. Any such change shall be at the Provider's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

## **6. Testing of the BCDR Plan**

- 6.1 The Provider shall test the BCDR Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to paragraph 6.2 of this Schedule 15, HSE may require the Provider to conduct additional tests of some or all aspects of the BCDR Plan at any time where HSE considers it necessary, including where there has been any change to the 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.
- 6.2 If HSE requires an additional test of the BCDR Plan, it shall give the Provider written notice and the Provider shall conduct the test in accordance with HSE's requirements and the relevant provisions of the BCDR Plan. The Provider's costs of the additional test shall be borne by HSE unless the BCDR Plan fails the additional test in which case the Provider's costs of that failed test shall be borne by the Provider.
- 6.3 The Provider shall undertake and manage testing of the BCDR Plan in full consultation with HSE and shall liaise with HSE in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of HSE in this regard. Each test shall be carried out under the supervision of HSE or its nominee.
- 6.4 The Provider shall ensure that any use by it or any Sub-Contractor of "live" data in such testing is first approved with HSE. Copies of live test data used in any such testing shall be (if so required by HSE) destroyed or returned to HSE on completion of the test.
- 6.5 The Provider shall, within twenty (20) Working Days of the conclusion of each test, provide to HSE a report setting out:
- 6.5.1 the outcome of the test;
  - 6.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
  - 6.5.3 the Provider's proposals for remedying any such failures.
- 6.6 Following each test, the Provider shall take all measures requested by HSE, (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 Provider, at no additional cost to HSE, by the date reasonably required by HSE and set out in such notice.
- 6.7 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 Provider of any of its obligations under this Agreement.
- 6.8 The Provider shall also perform a test of the BCDR Plan in the event of any major reconfiguration of the Services or as otherwise reasonably requested by HSE.

## **7. Invocation of the BCDR Plan**

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



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**SCHEDULE 16: TRANSITION PLAN**

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## INTRODUCTION

### 1. Introduction

- 1.1 Annex 1 of this Schedule 16 sets out the Provider's Transition Plan and relevant Transition Activities to be performed pursuant to Clause 17 (Transitional Arrangements) of the Agreement.

### 2. Transition Plan Phases

- 2.1 The Transition Plan comprises:
- 2.1.1 an initial mobilisation phase; and
  - 2.1.2 four phases, the scope of which is summarised in Table 1.

**Table 1** Transition Plan Phases

Phase	Key scope
Phase 1 – Core solution	Recruitment of additional inspectors Organisational changes MI enhancement Core skills  Customer experience <ul style="list-style-type: none"> <li>• Journey design</li> <li>• Channel shift design</li> </ul> Core systems <ul style="list-style-type: none"> <li>• Core CRM</li> <li>• Document management</li> <li>• Fulfilment</li> <li>• Finance</li> <li>• MI / BI</li> <li>• Payments</li> </ul>
Phase 2 – Field systems	Field system Scheduling system Events technology

<b>Phase</b>	<b>Key scope</b>
Phase 3 – Websites	Consumer web Engineer web Engineer app
Phase 4 – third-party interfaces	Tranche 1 – internal Tranche 2 – external

### 3. Transition milestones

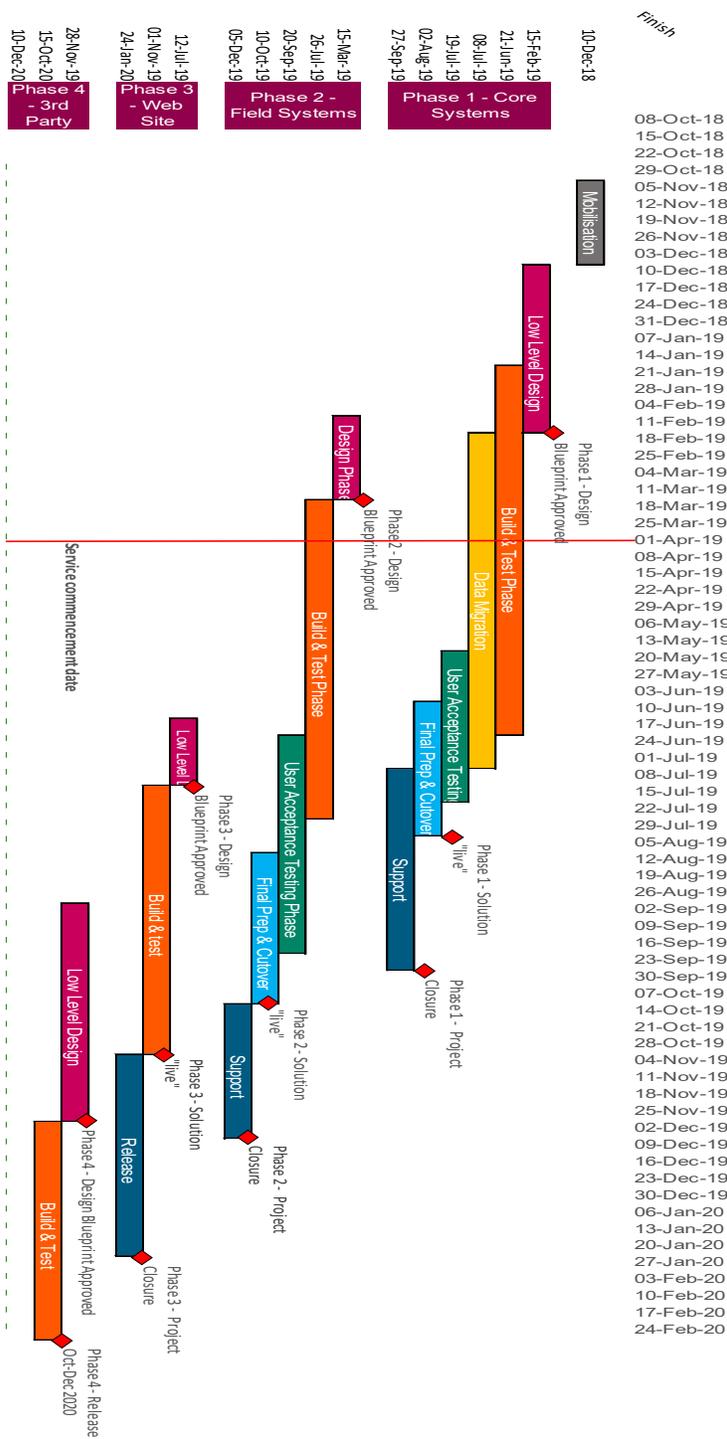
3.1 The key milestones for the implementation of the Transition Plan are set out in Table 2.

**Table 2** Transition milestones

<b>Phase</b>	<b>Task name</b>	<b>Completion date</b>
Mobilisation	Project office, resources and governance structures in place	10/12/2018
Phase 1	New ACD in place and operational	28/06/2018
Phase 1	Phase 1 – Design blueprint approved	15/02/2019
Phase 1	Existing website moved to new Azure infrastructure	10/05/2019
Phase 1	Phase 1 – Solution system integration tested	21/06/2019
Phase 1	Phase 1 – UAT test executed and approved	19/07/2019
Phase 1	Phase 1 – System end user training completed	19/07/2019
Phase 1	Phase 1 – Solution ‘live’	02/08/2019
Phase 1	Phase 1 – Project closure	27/09/2019
Phase 2	Phase 2 – Design blueprint approved	15/03/2019
Phase 2	Phase 2 – UAT test executed and approved	20/09/2019
Phase 2	Phase 2 – Solution ‘live’	10/10/2019
Phase 2	Phase 2 – Project closure	05/12/2019
Phase 3	Phase 3 – Improved website design completed	12/07/2019

<b>Phase</b>	<b>Task name</b>	<b>Completion date</b>
Phase 3	Phase 3 – Website iterative releases of completes	24/01/2020
Phase 3	Phase 3 – Project closure	24/01/2020
Phase 4	Phase 4 – Detailed design completed	28/11/2019
Phase 4	Phase 4 – Web interfaces tested for deployment (ready for UAT incl 3 <sup>rd</sup> Parties)	17/09/2020
Phase 4	Phase 4 – Go-Live complete	10/12/2020
Phase 4	Phase 4 – Project closure	10/12/2020

### ANNEX 1 – TRANSITION PLAN





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**SCHEDULE 17: PARENT COMPANY  
GUARANTEE**

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## **GENERAL**

### **1. The Guarantee**

- 1.1 Where the Provider is providing a Guarantee, it shall be in the form set out in Annex 1 to this Schedule 17 or as otherwise agreed in writing by HSE.
- 1.2 Where the Provider is providing an alternative to the Guarantee it shall be appended as Annex 2 to this Schedule 17.

## ANNEX 1 PARENT COMPANY GUARANTEE

### DEED OF GUARANTEE

**THIS DEED OF GUARANTEE** is made the                      day of November 2018

**BETWEEN:**

- (1) Capita Plc, a company incorporated in England and Wales with number 2081330, whose registered office is at 30 Berbers Street, London, W1T 3LR ("**Guarantor**"); in favour of
- (2) Health and Safety Executive who is Party to the Guaranteed Agreement] whose principal office is at Redgrave Court, Merton Road, Bootle L20 7HS ("**Beneficiary**")

**WHEREAS:**

- (A) The Guarantor has agreed, in consideration of the Beneficiary entering into the Guaranteed Agreement with the Provider, to guarantee all of the Provider's obligations under the Guaranteed Agreement.
- (B) It is the intention of the Parties that this document be executed and take effect as a deed.

Now in consideration of the Beneficiary entering into the Guaranteed Agreement, the Guarantor hereby agrees with the Beneficiary as follows:

## 2. Definitions and Interpretation

### 2.1 In this Deed of Guarantee:

- 2.1.1 unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms shall have the same meaning as they have for the purposes of the Guaranteed Agreement;
- 2.1.2 the words and phrases below shall have the following meanings:

<b>"Beneficiary"</b>	means the Health and Safety Executive;
<b>"Guaranteed Agreement"</b>	means Agreement made between the Beneficiary and the Provider on        November 2018;
<b>"Guaranteed Obligations"</b>	means all obligations and liabilities of the Provider to the Beneficiary under the Guaranteed Agreement together with all obligations owed by the Provider to the Beneficiary that are supplemental to, incurred under, ancillary to or calculated by reference to the Guaranteed Agreement;
<b>"Provider"</b>	means Capita Gas Registration and Ancillary Services Limited; and
<b>"Services"</b>	has the meaning given to it in the Guaranteed Agreement;

- 2.1.3 references to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to the Guaranteed Agreement) are to be construed as references to this Deed of Guarantee, those provisions or that document or agreement in force for the time being and as amended, varied, restated, supplemented, substituted or novated from time to time;
- 2.1.4 unless the context otherwise requires, words importing the singular are to include the plural and vice versa;
- 2.1.5 references to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
- 2.1.6 the words "other" and "otherwise" are not to be construed as confining the meaning of any following words to the class of thing previously stated where a wider construction is possible;
- 2.1.7 unless the context otherwise requires, reference to a gender includes the other gender and the neuter;
- 2.1.8 unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
- 2.1.9 unless the context otherwise requires, any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
- 2.1.10 references to Clauses and Schedules are, unless otherwise provided, references to Clauses of and Schedules to this Deed of Guarantee; and
- 2.1.11 references to liability are to include any liability whether actual, contingent, present or future.

### **3. Guarantee and indemnity**

- 3.1 The Guarantor irrevocably and unconditionally guarantees and undertakes to the Beneficiary to procure that the Provider duly and punctually performs all of the Guaranteed Obligations now or hereafter due, owing or incurred by the Provider to the Beneficiary.
- 3.2 The Guarantor irrevocably and unconditionally undertakes upon demand to pay to the Beneficiary all monies and liabilities which are now or at any time hereafter shall have become payable by the Provider to the Beneficiary under or in connection with the Guaranteed Agreement or in respect of the Guaranteed Obligations as if it were a primary obligor.
- 3.3 If at any time the Provider shall fail to perform any of the Guaranteed Obligations, the Guarantor, as primary obligor, irrevocably and unconditionally undertakes to the Beneficiary that, upon first demand by the Beneficiary it shall, at the cost and expense of the Guarantor:
  - 3.3.1 fully, punctually and specifically perform such Guaranteed Obligations as if it were itself a direct and primary obligor to the Beneficiary in respect of the Guaranteed Obligations and liable as if the Guaranteed Agreement had been entered into directly by the Guarantor and the Beneficiary; and

- 3.3.2 as a separate and independent obligation and liability, indemnify and keep the Beneficiary indemnified against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such Beneficiary may suffer, incur or sustain arising in any way whatsoever out of a failure by the Provider to perform the Guaranteed Obligations save that, subject to the other provisions of this Deed of Guarantee, this shall not be construed as imposing greater obligations or liabilities on the Guarantor than are purported to be imposed on the Provider under the Guaranteed Agreement.
- 3.4 As a separate and independent obligation and liability from its obligations and liabilities under Clauses 2.1 to 2.3 above, the Guarantor as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the Beneficiary indemnified on demand against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such Beneficiary may suffer or incur if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the Guarantor's liability shall be no greater than the Provider's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

#### **4. Obligation to enter into a new contract**

- 4.1 If the Guaranteed Agreement is terminated for any reason, whether by the Beneficiary or the Provider, or if the Guaranteed Agreement is disclaimed by a liquidator of the Provider or the obligations of the Provider are declared to be void or voidable for any reason, then the Guarantor will, at the request of the Beneficiary enter into a contract with the Beneficiary in terms mutatis mutandis the same as the Guaranteed Agreement and the obligations of the Guarantor under such substitute agreement shall be the same as if the Guarantor had been original obligor under the Guaranteed Agreement or under an agreement entered into on the same terms and at the same time as the Guaranteed Agreement with the Beneficiary.

#### **5. Demands and Notices**

- 5.1 Any demand or notice served by the Beneficiary on the Guarantor under this Deed of Guarantee shall be in writing, addressed to:
- 5.1.1 30 Berners Street, London, W1T 3LR
  - 5.1.2 Fax: 0207 799 1526
  - 5.1.3 For the Attention of Company Secretary
- or such other address in England and Wales or facsimile number as the Guarantor has from time to time notified to the Beneficiary in writing in accordance with the terms of this Deed of Guarantee as being an address or facsimile number for the receipt of such demands or notices.
- 5.2 Any notice or demand served on the Guarantor or the Beneficiary under this Deed of Guarantee shall be deemed to have been served:
- 5.2.1 if delivered by hand, at the time of delivery; or

- 5.2.2 if posted, at 10.00 a.m. on the second Working Day after it was put into the post; or
- 5.2.3 if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any Working Day, and in any other case at 10.00 a.m. on the next Working Day.
- 5.3 In proving service of a notice or demand on the Guarantor or the Beneficiary it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.
- 5.4 Any notice purported to be served on the Beneficiary under this Deed of Guarantee shall only be valid when received in writing by the Beneficiary.

## **6. Beneficiary's protections**

- 6.1 The Guarantor shall not be discharged or released from this Deed of Guarantee by any arrangement made between the Provider and the Beneficiary (whether or not such arrangement is made with or without the assent of the Guarantor) or by any amendment to or termination of the Guaranteed Agreement or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the Beneficiary in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the Guarantor) or by the Beneficiary doing (or omitting to do) any other matter or thing which but for this provision might exonerate the Guarantor.
- 6.2 This Deed of Guarantee shall be a continuing security for the Guaranteed Obligations and accordingly:
- 6.2.1 it shall not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the Provider of the Guaranteed Obligations or by any omission or delay on the part of the Beneficiary in exercising its rights under this Deed of Guarantee;
- 6.2.2 it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Provider, the Beneficiary, the Guarantor or any other person;
- 6.2.3 if, for any reason, any of the Guaranteed Obligations shall prove to have been or shall become void or unenforceable against the Provider for any reason whatsoever, the Guarantor shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor in respect thereof; and
- 6.2.4 the rights of the Beneficiary against the Guarantor under this Deed of Guarantee are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Beneficiary.
- 6.3 The Beneficiary shall be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the breach or non performance by the Provider of any Guaranteed Obligation shall not preclude the

Beneficiary from making a further demand in respect of the same or some other default in respect of the same Guaranteed Obligation.

- 6.4 The Beneficiary shall not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to obtain judgment against the Provider or the Guarantor or any third party in any court, or to make or file any claim in a bankruptcy or liquidation of the Provider or any third party, or to take any action whatsoever against the Provider or the Guarantor or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the Beneficiary in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the Guarantor hereunder.
- 6.5 The Beneficiary's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Beneficiary deems expedient.
- 6.6 Any waiver by the Beneficiary of any terms of this Deed of Guarantee, or of any Guaranteed Obligations shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.
- 6.7 Any release, discharge or settlement between the Guarantor and the Beneficiary shall be conditional upon no security, disposition or payment to the Beneficiary by the Guarantor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Beneficiary shall be entitled to enforce this Deed of Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The Beneficiary shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Beneficiary from the Guarantor for such period as the Beneficiary may determine.

## **7. Guarantor intent**

- 7.1 Without prejudice to the generality of Clause 5 (Beneficiary's protections), the Guarantor expressly confirms that it intends that this Deed of Guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Agreement and any associated fees, costs and/or expenses.

## **8. Rights of subrogation**

- 8.1 The Guarantor shall, at any time when there is any default in the performance of any of the Guaranteed Obligations by the Provider and/or any default by the Guarantor in the performance of any of its obligations under this Deed of Guarantee, exercise any rights it may have:
- 8.1.1 of subrogation and indemnity;
  - 8.1.2 to take the benefit of, share in or enforce any security or other guarantee or indemnity for the Provider's obligations; and
  - 8.1.3 to prove in the liquidation or insolvency of the Provider,
- only in accordance with the Beneficiary's written instructions and shall hold any amount recovered as a result of the exercise of such rights up to such amount as the Beneficiary determines in its sole discretion represents the amount of the

Guarantor's liabilities under this Deed of Guaranteed (the "**Guarantee Estimate Amount**") on trust for the Beneficiary and pay the same to the Beneficiary on first demand. The Guarantor hereby acknowledges that it has not taken any security from the Provider (other than cross-indemnities or other security taken in the ordinary course of its financial arrangements with its Affiliates) and agrees not to do so until Beneficiary receives all moneys payable hereunder and will hold any security taken in breach of this Clause on trust for the Beneficiary.

## 9. Deferral of rights

- 9.1 Until all amounts which may be or become payable by the Provider under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not:
- 9.1.1 exercise any rights it may have to be indemnified by the Provider;
  - 9.1.2 claim any contribution from any other guarantor of the Provider's obligations under the Guaranteed Agreement;
  - 9.1.3 take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiary under the Guaranteed Agreement or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Agreement;
  - 9.1.4 demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the Provider; or
  - 9.1.5 claim any set-off or counterclaim against the Provider;
- 9.2 If the Guarantor receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so received and any benefit derived directly or indirectly by the Guarantor therefrom shall be held on trust for the Beneficiary and applied in or towards discharge of its obligations to the Beneficiary under this Deed of Guarantee.

## 10. Representations and warranties

- 10.1 The Guarantor hereby represents and warrants to the Beneficiary that:
- 10.1.1 the Guarantor is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;
  - 10.1.2 the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee;
  - 10.1.3 the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee including, without limitation entry into and performance of a contract pursuant to Clause 3) have been duly authorised by all necessary corporate action and do not contravene or conflict with:
    - 10.1.3(a) the Guarantor's memorandum and articles of association or other equivalent constitutional documents;

- 10.1.3(b) any existing law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is subject; or
- 10.1.3(c) the terms of any agreement or other document to which the Guarantor is a Party or which is binding upon it or any of its assets;
- 10.1.4 all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed of Guarantee, and to make this Deed of Guarantee admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and
- 10.1.5 this Deed of Guarantee is the legal valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

## **11. Payments and set-off**

- 11.1 All sums payable by the Guarantor under this Deed of Guarantee shall be paid without any set-off, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the Guarantor will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.
- 11.2 The Guarantor shall pay interest on any amount due under this Deed of Guarantee at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- 11.3 The Guarantor will reimburse the Beneficiary for all legal and other costs (including VAT) incurred by the Beneficiary in connection with the enforcement of this Deed of Guarantee.

## **12. Guarantor's acknowledgement**

- 12.1 The Guarantor warrants, acknowledges and confirms to the Beneficiary that it has not entered into this Deed of Guarantee in reliance upon, nor has it been induced to enter into this Deed of Guarantee by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed of Guarantee.

## **13. Assignment**

- 13.1 The Beneficiary shall be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the Guarantor being required and any such assignment or transfer shall not release the Guarantor from its liability under this Guarantee.
- 13.2 The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed of Guarantee.

## **14. Severance**

- 14.1 If any provision of this Deed of Guarantee is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

## **15. Third party rights**

- 15.1 A person who is not a Party to this Deed of Guarantee shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

## **16. Governing Law**

- 16.1 This Deed of Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.
- 16.2 The Guarantor irrevocably agrees for the benefit of the Beneficiary that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.
- 16.3 Nothing contained in this Clause shall limit the rights of the Beneficiary to take proceedings against the Guarantor in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).
- 16.4 The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.
- 16.5 [Not used]

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

EXECUTED as a DEED by

Capita plc by a director in the presence of a witness

Signature

.....

Name (block capitals)

.....

Director

Witness signature

.....

Witness name (block capitals)

.....

Witness address

.....

.....

.....

**ANNEX 2 [- INSERT TITLE] [- NOT USED]**

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**SCHEDULE 18: ASSETS**

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## **PURPOSE**

### **1. Purpose and effect**

- 1.1 The tables in Annex 1 to this Schedule 18 list the assets which are (or at the Services Start Date will be) owned by HSE (including the HSE Data and the HSE Background IPRs).
- 1.2 The Provider shall maintain up-to-date lists of the Assets contained in this Schedule and any update shall be incorporated in this Schedule through the Change Control Procedure.

**ANNEX 1 – ASSETS****Table 1**

<b>Ref</b>	<b>Asset</b>	<b>Description</b>
<b>1 Registration IPRs: data relating to Gas Safe registration</b>		
1.1	Registration Data	Business and Engineer details, qualifications, suspensions, removals, renewals, registration certificate and licence cards etc
1.1.1	Registration financial history data	All financial details, current and historical relating to invoices, Direct Debits, credit history (historical record of payments in respect of Concession Charges) relating to a registered business
1.1.2	Inspection data	Details and history of inspections of registered businesses/engineers
1.1.3	Complaint data	Details of all complaints against registered businesses
1.1.4	Notification data	Details of all notifications of Gas Work made to the Register
1.2	Key Account management data	Details relating to all Key Accounts and the management of those accounts
1.3	Scanned documents and correspondence relating to registrations	Copies of all scanned documents relating to registrations
<b>2 Investigation and enforcement support data</b>		
2.1	Incident investigation data	Details of all incident investigations, past and current
2.2	Illegals data	Details relating to the management and investigations of illegal gas workers
2.3	Inspection data	Details and history of inspections of unregistered businesses/engineers
2.4	Witness statements	All data and records relating to witness statements
<b>3 Management Information and performance data</b>		
3.1	Key Performance Indicator (KPI) data	KPI statistics
3.2	Service Level data	Service level statistics
3.3	Performance data	All other statistics and data relating to Provider performance
<b>4 Programs / systems / software</b>		

<b>Ref</b>	<b>Asset</b>	<b>Description</b>
4.1	Risk Model (algorithm coding)	Mechanism (code) for system for applying risk rating to engineers
4.2	Domain accounts	Websites, social media (as set out in more detail in Table 4)
4.3	Telephone numbers	All GSR/GSAL contact telephone numbers (as set out in more detail in Table 4)
4.4	RGE App	Third-party hosted app for Registered businesses
4.5	Online learning modules	Online consumer/engineer training program content (as set out in more detail in Table 5)
<b>5 Policies and procedures</b>		
5.1	Policies	Policies relating to the running of the Gas Safe Register (as set out in more detail in Table 2)
5.2	Procedures	Procedures followed for the running of the Gas Safe Register (as set out in more detail in Table 3)
5.3	Processes & Procedures Register	Register detailing all processes used as part of running the Gas Safe Register
<b>6 Customer service data</b>		
6.1	Complaints against service data	Details of all complaints against service received and actions taken
6.2	MP correspondence	All records relating to these processes
6.3	Gas Safety Advice Line data	All records relating to the advice line including Knowledge Bank
<b>7 Certificates and ID cards</b>		
7.1	Certificates of Registration	Certificates of Registration provided to Businesses
7.2	Identity Cards	Identity Cards provided to self-employed Businesses and Engineers
7.3	Building Regulations Certificates	All Building Regulations Certificates provided to consumers or to local authorities warranting or representing that Gas Work undertaken by registered Businesses or Engineers was carried out competently and according to all applicable standards
<b>8 Brand IPRs and brand management</b>		
8.1	Gas Safe Brand IPRs	All IPRs subsisting in the Brand are HSE owned and used under licence in accordance with clause 30.6 of the SCA

Ref	Asset	Description
8.2	Brand trade marks	All IPRs subsisting in the Brand are HSE owned and used under licence in accordance with clause 30.6 of the SCA
8.3	Brand licences	Licences to use the Brand issued by the Provider to third-parties in accordance with clause 30.6 of the SCA
8.4	Brand licencing records/data	Brand Management – all records relating to this (as set out in more detail in Table 6)
8.5	Brand appeals data	All records relating to these processes
<b>9 Marketing &amp; communications data</b>		
9.1	Marketing Data/Materials	Information relating to marketing activities and any materials such as leaflets, factsheets etc
9.2	Stakeholder Data/Database	List of all Register stakeholders
9.3	Website data/content (IPR)	Data/content/information published on the website
9.4	Website factsheets	Consumer information fact sheets (as set out in more detail in Table 7)
9.5	Gas Map content	How safe are consumers – Service Reminder sign up
<b>10 Stakeholder information</b>		
10.1	Stakeholder Data/Database	List of all Register stakeholders
10.2	Stakeholder management data	All files and information relating to its membership of gas industry and other bodies where membership results from operation of the Register
<b>11 Technical and safety information</b>		
11.1	Technical standards	
11.2	Technical bulletins	Product & safety bulletins
11.3	Safety alerts	
11.4	<i>Registered Gas Engineer</i> / magazine articles	
<b>12 Financial</b>		
12.1	Installation Defect Repair Fund	Financial protection fund for customers with faulty installation work to allow for correction of defect where the installing business is unable to, due to being unregistered or having ceased to trade (as required by the Ministry for Housing, Communities & Local Government)

Ref	Asset	Description
<b>13 Field equipment</b>		
13.1	tablet device x 15	For use at Mandatory Attendance Events (MAEs) / Inspection Events (IEs)
13.2	Mobile overhead projector x 1	
13.3	Survey tool x 15	For tablet devices
13.4	Online assessment software	

**Table 2** Assets 5.1: Policies

Title	Audience
Refund Policy	Internal (available to public under specific need or request)
Appeals Policy	Internal (available to public under specific need or request)
Installation Defect Repair Fund Policy	Internal (available to public under specific need or request)
Brand Enforcement Policy	Public
Complaints Against the Register Policy	Public
Consumer Policy – Our Service Explained	Public
GSR Customer Charter	Public
GSR Privacy Policy	Public
GSR Registration Policy	Public
GSR Sanctions Policy	Public
Gas Safety Inspection	Public

**Table 3** Assets 5.2: Procedures

Title	Audience
<b>Contact Centre</b>	
Archiving/removing a centre	Internal
Change of trading title	Internal
Cancelling a registration	Internal
Adding and archiving engineers	Internal

<b>Title</b>	<b>Audience</b>
Adding photos	Internal
Archived due to death	Internal
Requesting licence card	Internal
Change of details	Internal
Name change by deed poll	Internal
Ceased to trade	Internal
Setting up website log-in	Internal
Concerns over behaviours due to social Issues	Internal
Cancelling/rearranging appointments	Internal
Non-complaint defect chase	Internal
Change of engineer details	Internal
Work inspection appointments	Internal
Hiding information from the web	Internal
Building Regulation defect chase	Internal
Working out of scope	Internal
Renewing a registration	Internal
Notifications on system	Internal
Bulk notification	Internal
Notifications on the web	Internal
Duplicate Building Regulations certificate requests	Internal
General Gas Work notification queries	Internal
Cancelling notifications on BiT	Internal
Building Regulation certificate cancellation process	Internal
Online application process	Internal
Renewing a registration online	Internal
Change of details online	Internal
Change online login	Internal
Uploading engineer photos online	Internal
Checking and searching for engineers online	Internal
RIDDOR	Internal
Check a gas business	Internal
British Gas	Internal
Converting from work management registration	Internal
Gas work notification (GWN) appointments	Internal

<b>Title</b>	<b>Audience</b>
Names and numbers	Internal
<b>Registrations</b>	
Brand Enforcement Process	Internal
<b>Finance</b>	
Annual Review Reporting Process	Internal
<b>Stakeholder management</b>	
Stakeholder Team Process	Internal
Stakeholder Events Process	Internal
<b>Management information</b>	
KPI/Management Information Reporting	Internal
<b>Security</b>	
Annual Compliance Review	Internal
Subject Access Requests	Internal
Freedom of Information Request Process	Internal
Processes and Procedures Register	Internal
<b>Marketing Communications &amp; PR</b>	
Marketing Guidelines (for registered businesses and engineers)	Internal & Public
Brand Licence Application & Logo Use Process	Internal
Literature Requests	Internal
Logo Requests	Internal
Social Media Protocol	Internal
PR Media Protocol	Internal
Design and Print	Internal
Email campaigns	Internal
Campaigns	Internal
PPC activity	Internal
Website statistics	Internal
Website maintenance	Internal
Advertising opportunities	Internal
Stakeholder Team Process	Internal
Stakeholder Events Process	Internal
Partnership Marketing MOU signed	Internal
Editorial development and content sign-off for RGE magazine	Internal

<b>Title</b>	<b>Audience</b>
<b>Technical</b>	
Process for the involvement of GSR in the development of Industry Standards	Internal
Process for the development of Consumer Safety Factsheets	Internal
Process for the development of GSR Industry Standard Updates	Internal
Process for the development of GSR Safety Alerts	Internal
Process for the development of GSR Technical Bulletins	Internal
Process for the assessing impact of Technical Bulletins and Safety Alerts on GUISP	Internal
Process for the Access to Industry Standards initiative with Industry	Internal
Process for the development of GSR Normative Document List	Internal
Functional Technical Guidance	Internal & Public
<b>Field operations</b>	
Scheduling management – data transfer	Internal
Risk/data modelling & change control log	Internal
Field Operation Manual	Internal
Unregistered investigation	Internal
Unregistered investigation – Appendix 1 – Electronic notes taken on site	Internal
Unregistered investigation – Appendices 2 and 3 – Handwritten notes	Internal
Unregistered investigation – Appendix 4 – Administration support	Internal
Carbon monoxide & fire and explosion incident investigation	Internal
Asbestos awareness	Internal
Unregistered investigation defect phrases	Internal
Request for service	Internal
Quality Field System (QFS)	Internal
Field inspector – Safety Health and Environment Guide	Internal

**Table 4** Assets 4.2: Domain names and 4.3: Telephone numbers

Type	url / number
Website	<a href="http://www.GasSafeRegister.co.uk">www.GasSafeRegister.co.uk</a>
Website	<a href="http://www.GasSafetyWeek.co.uk">www.GasSafetyWeek.co.uk</a>
Website	<a href="http://www.staygassafe.co.uk">www.staygassafe.co.uk</a>
Website	<a href="http://www.silentkillermovie.com">www.silentkillermovie.com</a>
Website	<a href="http://www.silentkiller.co.uk">www.silentkiller.co.uk</a>
Social media account	<a href="http://www.facebook.com/gassaferegister">www.facebook.com/gassaferegister</a>
Social media account	<a href="http://www.twitter.com/gassaferegister">www.twitter.com/gassaferegister</a>
Social media account	<a href="http://www.linkedin.com/company/gassaferegister">www.linkedin.com/company/gassaferegister</a>
Social media account	<a href="http://www.instagram.com/gassaferegister">www.instagram.com/gassaferegister</a>
Social media account	<a href="http://www.twitter.com/gassafetyweek">www.twitter.com/gassafetyweek</a>
Social media account	<a href="http://www.twitter.com/gassafeteam">www.twitter.com/gassafeteam</a>
Social media account	<a href="http://www.youtube.com/gassaferegister">www.youtube.com/gassaferegister</a>
Social media account	<a href="http://www.periscope.tv/gassaferegister">www.periscope.tv/gassaferegister</a>
Social media account	<a href="http://www.periscope.tv/gassafetyweek">www.periscope.tv/gassafetyweek</a>
Social media account	<a href="https://vine.co/gassaferegister">https://vine.co/gassaferegister</a>
Web analytical service	<a href="https://hootsuite.com/en-gb/">https://hootsuite.com/en-gb/</a>
Web analytical service	<a href="http://campaigner.concep.com/">http://campaigner.concep.com/</a>
Phone number	0800 300 363
Phone number	0800 408 5500
Phone number	0800 408 5577
Phone number	0800 408 5566
Phone number (textphone)	0800 408 0606

**Table 5** Assets 4.5: Online learning modules

Online Learning Module title	Subject Matter	Audience
Technical Bulletin 008	Existing concealed room-sealed fanned-draught boiler chimney/flue systems in domestic premises	Engineer
Technical Bulletin 012	Visual risk assessment of gas appliances	Engineer
Technical Bulletin 120	The use of pliable corrugated tubing in domestic and non-domestic	Engineer

	installations	
Technical Bulletin 139	Room-sealed fanned-draught vertical condensing flexible flues concealed within voids	Engineer
Know CO	Carbon monoxide awareness	Consumer
Boiler Safety	Flues in Voids	Consumer

**Table 6** Assets 8.4: Brand IPRs

All IPRs subsisting in the Brand are HSE owned and used under licence in accordance with clause 30.6 of the SCA.

Trade Number	Mark	Description
2503074		Gas Safe Register logo
2503072		Gas Safe Register logo variations
2502857		Gas Safe Register logo (enclosed)
2503078		Gas Safe Register logo variations (enclosed)
2502988		Gas Safe logo
2502989		Gas Safe logo variations
2503079		Gas Safe logo (enclosed)
2502858		Gas Safe logo variations (enclosed)

**Table 7** Assets 9.4: Website factsheets

Title	Audience
Overview of Gas Safe Register	Consumers
Requirements for landlords – information for tenants and landlords	Consumers
Gas Industry Unsafe Situations Procedure (GIUSP) explained	Consumers
Information for landlords and tenants on short term lets	Consumers
Don't DIY with gas – how to stay Gas Safe	Consumers
Top tips for gas safety in winter	Consumers
Top tips for staying Gas Safe on holiday	Consumers
Commercial catering gas safety	Consumers
Who can legally work on gas appliances?	Consumers
How do we investigate illegal gas work?	Consumers

<b>Title</b>	<b>Audience</b>
A small guide on the notification of gas work in England and Wales	Consumers

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**SCHEDULE 19: DISPUTE RESOLUTION**

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## 1. Introduction

- 1.1 The Parties shall seek to resolve a Dispute:
- 1.1.1 first in good faith (as prescribed in paragraph 1.4.1 to 1.4.5 of this Schedule 19);
  - 1.1.2 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 2 of this Schedule 19);
  - 1.1.3 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 3 of this Schedule 19); and
  - 1.1.4 if mediation is not agreed by the Parties, the Parties may proceed to arbitration (as prescribed in paragraph 5 of this Schedule 19) or litigation (in accordance with Clause 57 of this Agreement (Governing Law and Jurisdiction)).
- 1.2 Specific issues may be referred to Expert Determination (as prescribed in paragraph 4 of this Schedule 19) where specified under the provisions of this Agreement and may also be referred to Expert Determination where otherwise appropriate as specified in paragraph 3.3.2 of this Schedule 19.
- 1.3 NOT USED
- 1.4 *Good faith discussions*
- 1.4.1 Pursuant to paragraph 5.1 of this Schedule 19, if any Dispute arises HSE Representative and the Provider Representative shall attempt first to resolve the Dispute in good faith, which may include (without limitation) either Party holding an Extraordinary Meeting.
  - 1.4.2 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.
  - 1.4.3 HSE Representative and Provider Representative shall attend the Extraordinary Meeting. The key personnel of the Parties may also attend the Extraordinary Meeting.
  - 1.4.4 The representatives of the Parties attending the Extraordinary Meeting shall use their best endeavours to resolve the Dispute.
  - 1.4.5 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.

## 2. Commercial negotiations

- 2.1 Where the Parties have been unable to resolve the Dispute in good faith under paragraph 1.4 of this Schedule 19, pursuant to paragraph 1.1.2 HSE and the Provider shall use reasonable endeavours to resolve the Dispute by discussion between Senior Officers.

- 2.2 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.
- 2.3 If Senior Officers:
- 2.3.1 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
- 2.3.2 fail to resolve the Dispute in the timelines under paragraph 2.2 of this Schedule 19,
- commercial negotiations shall be deemed unsuccessful and either Party may serve a Dispute Notice in accordance with paragraph 2.4 of this Schedule 19.
- 2.4 *Dispute Notice*
- 2.4.1 The Dispute Notice shall set out:
- 2.4.1(a) the material particulars of the Dispute;
- 2.4.1(b) the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and
- 2.4.1(c) 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 6 of this Schedule 19, the reason why.
- 2.4.2 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Agreement regardless of the nature of the Dispute and notwithstanding the referral of the Dispute to the Dispute Resolution Procedure.

### **3. Mediation**

- 3.1 Pursuant to paragraph 1.1.3 of this Schedule 19, 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.
- 3.2 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.
- 3.3 If neither Party applies to CEDR to nominate the Mediator or an application to CEDR is unsuccessful under paragraph 3.3 of this Schedule 19, either Party may proceed to:
- 3.3.1 hold further discussions between Senior Officers; or
- 3.3.2 an Expert determination, as prescribed in paragraph 4 of this Schedule 19; or
- 3.3.3 arbitration, as prescribed in paragraph 5 of this Schedule 19; or
- 3.3.4 litigation in accordance with Clause 57 of this Agreement (Governing Law and Jurisdiction).
- 3.4 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.

- 3.5 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.
- 3.6 The costs of any mediation procedure used to resolve the Dispute under paragraph 3 of this Schedule 19 shall be shared equally between the Parties.

#### **4. Expert determination**

- 4.1 If a Dispute relates to any aspect of the technology underlying the provision of the 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.
- 4.2 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.
- 4.3 The Expert shall act on the following basis:
- 4.3.1 he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;
  - 4.3.2 the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
  - 4.3.3 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;
  - 4.3.4 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;
  - 4.3.5 the process shall be conducted in private and shall be confidential; and
  - 4.3.6 the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

#### **5. Arbitration**

- 5.1 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 5.3 of this Schedule 19.
- 5.2 Before the Provider commences court proceedings or arbitration, it shall serve written notice on HSE of its intentions and HSE shall have fifteen (15) Working Days following receipt of such notice to serve a reply (a "**Counter Notice**") on the Provider requiring the Dispute to be referred to and resolved by arbitration in accordance with paragraph 5.3 of this Schedule 19 or be subject to the jurisdiction of the courts in

accordance with Clause 34.1.1(f) of this Agreement (Governing Law and Jurisdiction). The Provider shall not commence any court proceedings or arbitration until the expiry of such fifteen (15) Working Day period.

- 5.3 If:
- 5.3.1 the Counter Notice requires the Dispute to be referred to arbitration, the provisions of paragraph 5.4 of this Schedule 19 shall apply;
  - 5.3.2 the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts in accordance with Clause 57 of this Agreement (Governing Law and Jurisdiction), the Dispute shall be so referred to the courts and the Provider shall not commence arbitration proceedings;
  - 5.3.3 HSE does not serve a Counter Notice within the fifteen (15) Working Days period referred to in paragraph 5.2 of this Schedule 19, the Provider may in accordance with the intent stated pursuant to paragraph 5.2 either commence arbitration proceedings in accordance with paragraph 5.4 of this Schedule 19 or commence court proceedings in the courts in accordance with Clause 57 of this Agreement (Governing Law and Jurisdiction) which shall (in those circumstances) have exclusive jurisdiction.
- 5.4 In the event that any arbitration proceedings are commenced pursuant to paragraphs 5.1 to 5.3 of this Schedule 19, the Parties hereby confirm that:
- 5.4.1 the dispute (including any issue as to the existence, validity or performance of this Agreement) shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (“**LCIA**”) (subject to paragraphs 5.4.3 and 5.4.6 of this Schedule 19);
  - 5.4.2 the arbitration shall be administered by the LCIA;
  - 5.4.3 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 Agreement and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
  - 5.4.4 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;
  - 5.4.5 the arbitration proceedings shall take place in London and in the English language; and
  - 5.4.6 the seat of the arbitration shall be London.

## **6. Expedited Dispute Timetable**

- 6.1 In exceptional circumstances where the use of the times in this Schedule 19 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 HSE.
- 6.2 If the use of the Expedited Dispute Timetable is determined in accordance with paragraph 6.1 of this Schedule 19 or is otherwise specified under the provisions of

this Agreement, then the following periods of time shall apply in lieu of the time periods specified in the applicable paragraphs of this Schedule 19:

- 6.2.1 in paragraph 1.4.5, fourteen (14) Working Days;
  - 6.2.2 in paragraph 2.2, ten (10) Working Days;
  - 6.2.3 in paragraph 3.2, ten (10) Working Days;
  - 6.2.4 in paragraph 4.2, five (5) Working Days; and
  - 6.2.5 in paragraph 5.2, ten (10) Working Days.
- 6.3 If at any point it becomes clear that an applicable deadline under paragraph 6.2 of this Schedule 19 cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the relevant deadline.
- 6.4 If, pursuant to paragraph 6.2 of this Schedule 19, the Parties fail to agree within two (2) Working Days after the relevant deadline has passed, HSE 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 6.2 (or no less than two (2) Working Days in the case of Paragraph 4.2 of this Schedule 19).
- 6.5 Any agreed extension under paragraph 6.2 of this Schedule 19 shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension. If HSE 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.

## **7. Urgent relief**

- 7.1 Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:
- 7.1.1 for interim or interlocutory remedies in relation to this Agreement or infringement by the other Party of that Party's Intellectual Property Rights; or
  - 7.1.2 where compliance with paragraph 1.1 of this Schedule 19 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
  - 7.1.3 if the Parties fail to resolve the Dispute following good faith discussions and commercial negotiations and mediation (where applicable) is unsuccessful within sixty (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.

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**SCHEDULE 20: IT REQUIREMENTS**

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## INTRODUCTION

### 1. Overview

1.1 This Schedule sets out the requirements for:

- 1.1.1 the IT and data architecture;
- 1.1.2 IT security;
- 1.1.3 data quality auditing and reporting.

### 2. General architecture

2.1 By the Services Start Date, the Provider will develop an end-to-end IT solution, to replace the existing IT platform.

2.2 Provider must ensure the new IT solution guarantees data portability. The new IT solution will be developed in a web-based, open standards based, tiered architecture manner that supports loosely coupled components for ease of maintenance and integration.

2.3 By the Services Start Date, the Provider must create and maintain interfaces to enable:

- 2.3.1 businesses to manage their registration online;
- 2.3.2 billing functions allowing the use of credit/debit cards, BACS and direct debit;
- 2.3.3 Awarding Bodies to upload data concerning competency qualifications.

2.4 There must be the facility for engineers to access, on demand via their online registration account, their own data held by the Register.

### 3. Security

3.1 The new IT solution must align to the NCSC 14 Cloud Security principles where appropriate and the UK Government Cyber Essentials scheme. The solution will be administering stakeholder and HSE-owned OFFICIAL data and must be secured appropriately in accordance with the Government Security Classifications.

3.2 Data storage devices must be sanitised at the end of their operational life and will fall within existing HSE policies and procedures for secure disposal.

3.3 The Provider must have an effective security, management and administration governance structure and process during development and after release into service.

3.4 The Provider must have an effective change management process and records during development and after release into service. This must include a full design documentation set and associated audit trail to include both initial build and test together with ongoing changes. Test scripts and associated test results must be included.

3.5 The system must allow an effective vulnerability management process to be applied:

- 3.5.1 the HSE Patching Policy applies. The key principles are that vulnerabilities are actively sought in and removed from all applications and platforms that make up the system;

- 3.5.2 the system must be patchable against security vulnerabilities.
- 3.6 The system must allow or technically enforce secure processes, such as separation of administrative duties and principle of least privilege.
- 3.7 The development process should follow recognised best practice and consider security throughout the software development lifecycle. Independent security testing of the system and remediation may be required before acceptance into service.
- 3.8 The system must enforce secure user management, including the process of registration and deregistration.
- 3.9 The system must demonstrate effective identity and authentication of users, we require 2 factor authentication or equivalent:
- 3.9.1 the selection of authentication mechanism must be justified by risk assessment;
- 3.9.2 the authentication mechanism must be protected (e.g. against repeated password attempts or session capture).
- 3.10 The external interface of the system must be protected and secured against web-based attack.
- 3.11 The system must allow secure administration:
- 3.11.1 separate channels must be used and administration from or across the external interface disabled or the facility removed.
- 3.12 The design of the system should encourage secure behaviour by all users:
- 3.12.1 the system should apply the NCSC Secure by Default principles (see link in Table 1 below), particularly ‘security should not require specific technical understanding or non-obvious behaviour from the user’;
- 3.12.2 understandable documentation must also be available that sets out the security implications of changes to configuration available to end users and privileged users;
- 3.12.3 unnecessary features or services must be disabled or removed.
- 3.13 The Provider must adhere to the security standards listed in Table 1.

**Table 1** Security standards references

	Link or standard
Security Policy Framework	<a href="https://www.gov.uk/government/publications/security-policy-framework">https://www.gov.uk/government/publications/security-policy-framework</a>
Data centre and physical data security	<a href="#">CSA CCM v3.0</a> <a href="#">SSAE-16 / ISAE 3402</a>
Information security governance	<a href="#">ISO/IEC 27001</a>
CESG Information Assurance Maturity Model	<a href="https://www.ncsc.gov.uk/articles/hmg-ia-maturity-model-iamm">https://www.ncsc.gov.uk/articles/hmg-ia-maturity-model-iamm</a>

	Link or standard
Secure development	<a href="#">Safecode 'Fundamental Practices for Secure Software Development'</a> <a href="#">ISO/IEC 27034</a> The OWASP ( <a href="https://www.owasp.org">https://www.owasp.org</a> ), including <a href="https://www.owasp.org/index.php/Category:OWASP_Application_Security_Verification_Standard_Project">https://www.owasp.org/index.php/Category:OWASP_Application_Security_Verification_Standard_Project</a>
NCSC/CESG architectural patterns	<a href="https://www.ncsc.gov.uk/guidance/serving-web-content-architectural-pattern-10">https://www.ncsc.gov.uk/guidance/serving-web-content-architectural-pattern-10</a> <a href="https://www.ncsc.gov.uk/guidance/internet-gateways-architectural-pattern-17">https://www.ncsc.gov.uk/guidance/internet-gateways-architectural-pattern-17</a>
NCSC principles	<a href="https://www.ncsc.gov.uk/guidance/security-design-principles-digital-services-main">https://www.ncsc.gov.uk/guidance/security-design-principles-digital-services-main</a> <a href="https://www.ncsc.gov.uk/articles/secure-default">https://www.ncsc.gov.uk/articles/secure-default</a>
Cyber essentials	<a href="http://www.cyberessentials.org/index.html">http://www.cyberessentials.org/index.html</a>

#### 4. Data

- 4.1 The Provider will develop a new, decoupled data tier as part of the overall solution.
- 4.2 The Provider must demonstrate portability of the data from the IT solution, confirming how this will be achieved. This is to ensure HSE can easily transfer the data to an alternative solution in the future.
- 4.3 The IT solution must ensure HSE retains the ability to export all data from the register on request, in a format/sequence to be agreed with HSE.
- 4.4 The Provider must develop a series of Application Programming Interfaces (APIs) and user interfaces with third parties and to enable HSE operational access to the data. A list of current APIs is included below at Annex 2.
- 4.5 The Provider must ensure that the interfaces have sufficient safeguards to prevent:
  - 4.5.1 individuals or organisations not listed gaining access to Provider's System and the Registration Data;
  - 4.5.2 individuals and organisations listed from gaining access to aspects of the Provider's system or registration data not required for the activities for which those individuals and organisations are listed.
- 4.6 The Provider must ensure there is a process in place to maintain these APIs in accordance with HSE's changing needs over time.
- 4.7 The design and test activity for the data elements of the new IT solution, e.g. the API set, must include HSE representatives working alongside the new solution Provider to ensure HSE data access requirements are met.
- 4.8 The Provider must provide and maintain a fully annotated data model of the underlying system to include identification of all personal identifiable data items.
  - 4.8.1 Tables must be documented;
  - 4.8.2 All attributes must have their definitions documented and agreed with HSE;
  - 4.8.3 All attributes must be classified by type;

- 4.8.4 Where ostensibly non-personally identifiable information combines to create personally identifiable information (PII), the attributes must be classified as PII;
- 4.9 The Provider will be responsible for data quality within the system. This will be subject to a regular data quality audit which will be reviewed by HSE, as described in Annex 1 to this Schedule 20.

## **5. Data management**

- 5.1 It will be necessary for the Provider to set up and run a data management function for the Gas Safety Register. This should comprise as a minimum:
- 5.2 Separation of user access and activities which must:
- 5.2.1 be separated between authorised:
    - 5.2.1(a) external users;
    - 5.2.1(b) provider users;
    - 5.2.1(c) privileged and standard users;
  - 5.2.2 be integrated into staff user, movers and leavers processes;
  - 5.2.3 ensure that each role only has access to information required to perform their tasks;
  - 5.2.4 include an audit trail of users, their access levels, and all associated changes;
  - 5.2.5 include regular review of user access with associated audit trail;
  - 5.2.6 be documented in a user access control procedure;
- 5.3 The identification of data owners and stewards. This should include Provider roles together with HSE roles;
- 5.4 A clearly documented issue resolution process with associated roles and responsibilities;
- 5.5 A regular data audit, as described in Annex 1 of this Schedule 20:
- 5.6 Identification of personally identifiable information together with evidence that this information is encrypted both in transit and rest. A personally identifiable information impact analysis must be completed for the initial build and ongoing changes;
- 5.7 Terms and conditions for the system that cover as a minimum:
- 5.7.1 a description of all processes and associated profiling;
  - 5.7.2 a description of all external services used by the system (e.g. payment engines);
  - 5.7.3 a statement that acknowledges that data from the system will be used for regulatory activity, together with a statement that explains that anonymised data may be used commercially by HSE.

## **6. APIs**

- 6.1 All current API agreements are between the current provider and the third-party organisations listed in Annex 2. The new Provider will need to obtain a novation of

the relevant contracts between the current Provider and the third-party organisations listed in Annex 2 to this Schedule 20.

**7. Government Digital Service Standard**

- 7.1 All public facing transactional services must meet the Government Digital Services Standard.

## ANNEX 1 – DATA QUALITY AUDIT REQUIREMENTS

### 1. Frequency of audit

- 1.1 The Provider shall carry out a quarterly data quality audit within five (5) Working Days of the end of a quarter.
- 1.2 The audit shall consider all interfacing systems, whether internal or third-party systems. For third-party systems, assurance must be demonstrated that the third-party has compliant data-related processes in place and evidence of their operation can be provided.
- 1.3 The Provider shall prepare a report of the results of the data quality audit, the data quality report, and submit this report to HSE within ten (10) Working Days of the end of the quarter.

### 2. Data Quality Audit and Reporting

- 2.1 Paragraph 2 sets out the requirements for the reviewing and reporting requirements for the data quality audit:
- 2.2 Systems (all interfacing systems, whether third-party or internal)
  - 2.2.1 Total number of systems;
  - 2.2.2 Number of internal systems;
  - 2.2.3 Number of third-party systems.
- 2.3 Paragraphs 2.4 – 2.10 describe the detailed reporting requirements for each internal system:
- 2.4 Change and version control log:
  - 2.4.1 Number of changes during the reporting period;
  - 2.4.2 Version now running;
- 2.5 Data owners and stewards;
  - 2.5.1 Identified individuals from HSE and the Provider;
  - 2.5.2 Movers, starters and leavers;
- 2.6 User control:
  - 2.6.1 Matrix of users, job roles and access levels;
  - 2.6.2 Summary of movers, starters and leavers;
  - 2.6.3 Review of data access by role;
- 2.7 Detailed analysis of the data content of the system should include but not be limited to:
  - 2.7.1 Attributes:
    - 2.7.1(a) number of attributes in system;
    - 2.7.1(b) number of attributes without a signed off definition;
    - 2.7.1(c) % of attributes without a signed off definition;
    - 2.7.1(d) number of attributes classified;

- 2.7.1(e) number of attributes classified by commercial sensitivity;
- 2.7.1(f) number of attributes classified by Personally Identifiable Information;
- 2.7.2 Schemas and tables:
  - 2.7.2(a) number of schemas;
  - 2.7.2(b) number of tables;
  - 2.7.2(c) number of attributes per table;
- 2.7.3 Structural integrity:
  - 2.7.3(a) total number of keys;
  - 2.7.3(b) number of unitary keys;
  - 2.7.3(c) number of compound keys;
  - 2.7.3(d) number of foreign keys;
  - 2.7.3(e) joins;
  - 2.7.3(f) identification of orphan records;
- 2.7.4 Content integrity:
  - 2.7.4(a) minimum;
  - 2.7.4(b) maximum;
  - 2.7.4(c) pattern;
  - 2.7.4(d) null distribution;
  - 2.7.4(e) ranges of values;
  - 2.7.4(f) outliers;
- 2.8 Materiality calculations must be signed off by the HSE Data Owner:
  - 2.8.1 classification completeness (coverage reported as a percentage of the total);
  - 2.8.2 ownership completeness (coverage reported as a percentage of the total).
- 2.9 Checks (quality rules):
  - 2.9.1 Checks by type and date;
  - 2.9.2 Frequency of checks;
  - 2.9.3 Number of exceptions:
    - 2.9.3(a) open;
    - 2.9.3(b) closed;
    - 2.9.3(c) in progress;
- 2.10 Exceptions:
  - 2.10.1 Impact of exceptions. Exceptions must have a quantifiable materiality impact assessment.
  - 2.10.2 Priority classification;
  - 2.10.3 Exception resolution progress – maximum, minimum and mean exception resolution time:

- 2.10.3(a) unit values;
- 2.10.3(b) cumulative totals;
- 2.10.3(c) percentages.

**ANNEX 2 – APIS**

Name of third-party organisation	Data sent / received	Data incoming, outgoing or both	Agreement date	expiry
<b>Registration data licence agreement (check a business) APIs</b>				
	The third party sends a registration number to the GSR web services – registration number and trading name of the business are sent back. If the business has agreed to their details to be given out, the address and contact number is also sent	Outgoing		Agreement is valid for a 2-year period, except as extended in writing by the parties or terminated in accordance with the licence
		Outgoing		
<b>Third-party notification APIs</b>				
	Business will check, with GSR, the validity of a registration and whether the operative is competent to work on a certain day. Once this has been verified they will send GSR the details of what Gas Work and when and where the Gas Work has been undertaken	Both		The contract is valid for a 5-year period, subject to earlier or termination of the HSE agreement
		Both		

Name of third-party organisation	Data sent / received	Data incoming, outgoing or both	Agreement date	expiry
		Both		

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**SCHEDULE 21: SECURITY REQUIREMENTS  
AND PLAN**

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## 1. Definitions

- 1.1 This Schedule 22 shall be interpreted in accordance with Schedule 00 (Glossary)

## 2. Introduction

- 2.1 The Parties acknowledge that the purpose of the ISMS and Security Management Plan are to ensure a good organisational approach to security under which the specific requirements of this Agreement will be met.
- 2.2 The Parties shall each appoint a security representative to be responsible for Security. The initial security representatives of the Parties are:
- 2.2.1 Departmental Security Officer) - HSE
- 2.2.2 (Divisional Information Security Officer (DISO), Government services, Capita Group
- 2.3 If the person named in paragraph 2.2.2 is included as Key Personnel, Clause 29.2 (Key Personnel) shall apply in relation to that person.
- 2.4 HSE shall clearly articulate its high level security requirements so that the Provider can ensure that the ISMS, security related activities and any mitigations are driven by these fundamental needs.
- 2.5 Both Parties shall provide a reasonable level of access to any members of their personnel for the purposes of designing, implementing and managing security.
- 2.6 The Provider shall use as a minimum Good Industry Practice in the day to day operation of any system holding, transferring or processing HSE Data and any system that could directly or indirectly have an impact on that information, and shall ensure that HSE Data remains under the effective control of the Provider at all times.
- 2.7 The Provider shall ensure the up-to-date maintenance of a security policy relating to the operation of its own organisation and systems and on request shall supply this document as soon as practicable to HSE.
- 2.8 HSE and the Provider acknowledge that information security risks are shared between the Parties and that a compromise of either the Provider or HSE's security provisions represents an unacceptable risk to HSE requiring immediate communication and co-operation between the Parties.

## 3. ISMS

- 3.1 The Provider shall develop and submit to HSE for HSE's Approval, within twenty (20) Working Days after the Effective Date or such other date as agreed between the Parties, an information security management system for the purposes of this Agreement, which shall comply with the requirements of paragraphs 3.3 to 3.5 of this Schedule 22.
- 3.2 The Provider acknowledges that HSE places great emphasis on the reliability of the performance of the Services, confidentiality, integrity and availability of information and consequently on the security provided by the ISMS and that the Provider shall be responsible for the effective performance of the ISMS.
- 3.3 The ISMS shall:

- 3.3.1 unless otherwise specified by HSE in writing, be developed to protect all aspects of the Services and all processes associated with the provision of the Services, including HSE Premises, the Sites, any ICT, information and data (including HSE's Confidential Information and the HSE Data) to the extent used by HSE or the Provider in connection with this Agreement;
- 3.3.2 meet the relevant standards in ISO/IEC 27001 and ISO/IEC27002 in accordance with Paragraph 7;and
- 3.3.3 at all times provide a level of security which:
  - 3.3.3(a) is in accordance with the Law and this Agreement;
  - 3.3.3(b) as a minimum demonstrates Good Industry Practice;
  - 3.3.3(c) complies with the Security Policy;
  - 3.3.3(d) complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/255910/HMG\\_Security\\_Policy\\_Framework\\_V11.0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255910/HMG_Security_Policy_Framework_V11.0.pdf) ;
  - 3.3.3(e) takes account of guidance issued by the Centre for Protection of National Infrastructure on Risk Management [http://www.cpni.gov.uk/Documents/Publications/2005/2005003-Risk\\_management.pdf](http://www.cpni.gov.uk/Documents/Publications/2005/2005003-Risk_management.pdf)
  - 3.3.3(f) complies with HMG Information Assurance Maturity Model and Assurance Framework <http://www.cesg.gov.uk/publications/Documents/iamm-assessment-framework.pdf>
  - 3.3.3(g) meets any specific security threats of immediate relevance to the Services and/or HSE Data; and
  - 3.3.3(h) complies with HSE's ICT policies;
- 3.3.4 document the security incident management processes and incident response plans;
- 3.3.5 document the vulnerability management policy including processes for identification of system vulnerabilities and assessment of the potential impact on the Services of any new threat, vulnerability or exploitation technique of which the Provider becomes aware; and
- 3.3.6 be certified by (or by a person with the direct delegated authority of) a member of the Provider's main Board, being the "Chief Security Officer", "Chief Information Officer", "Chief Technical Officer" or "Chief Financial Officer" (or equivalent as agreed in writing by HSE in advance of issue of the relevant Security Management Plan).
- 3.4 Subject to Clause 37 (Security Requirements and Plan) of this Agreement, the references to standards, guidance and policies contained or set out in paragraph 3.3 of this Schedule 22 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 Provider from time to time.
- 3.5 In the event that the Provider becomes aware of any inconsistency in the provisions of the standards, guidance and policies set out in paragraph 3.3 of this Schedule 22, the Provider shall immediately notify HSE Representative of such inconsistency and

HSE Representative shall, as soon as practicable, notify the Provider as to which provision the Provider shall comply with.

- 3.6 If the ISMS submitted to HSE pursuant to paragraph 3.1 of this Schedule 22 is Approved by HSE, it shall be adopted by the Provider immediately and thereafter operated and maintained in accordance with this Schedule 22. If the ISMS is not Approved by HSE, the Provider shall amend it within ten (10) Working Days of a notice of non-Approval from HSE and re-submit it to HSE for Approval. The Parties shall 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 the first submission of the ISMS to HSE. If HSE does not Approve the ISMS following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by HSE pursuant to this paragraph 3 of this Schedule 22 may be unreasonably withheld or delayed. However any failure to approve the ISMS on the grounds that it does not comply with any of the requirements set out in paragraphs 3.3 to 3.5 of this Schedule 22 shall be deemed to be reasonable.
- 3.7 Approval by HSE of the ISMS pursuant to paragraph 3.6 of this Schedule 22 or of any change to the ISMS shall not relieve the Provider of its obligations under this Schedule 22.

#### **4. Security Management Plan**

- 4.1 Within twenty (20) Working Days after the Effective Date, the Provider shall prepare and submit to HSE for Approval in accordance with paragraph 4 of this Schedule 22 a fully developed, complete and up-to-date Security Management Plan which shall comply with the requirements of paragraph 4.2 of this Schedule 22.
- 4.2 The Security Management Plan shall:
- 4.2.1 comply with the Security Policy;
  - 4.2.2 identify the necessary delegated organisational roles defined for those responsible for ensuring this Schedule 21 is complied with by the Provider;
  - 4.2.3 detail the process for managing any security risks from Sub-Contractors and third parties authorised by HSE with access to the Goods and/or Services, processes associated with the delivery of the Goods and/or Services, HSE Premises, the Sites and any ICT, Information and data (including HSE's Confidential Information and the HSE Data) and any system that could directly or indirectly have an impact on that information, data and/or the Services;
  - 4.2.4 unless otherwise specified by HSE in writing, be developed to protect all aspects of the Services and all processes associated with the delivery of the Services, including HSE Premises, the Sites and any ICT, Information and data (including HSE's Confidential Information and the HSE Data) to the extent used by HSE or the Provider in connection with this Agreement or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Services;
  - 4.2.5 set out the security measures to be implemented and maintained by the Provider in relation to all aspects of the Services and all processes associated with the delivery of the Services and at all times comply with and specify security measures and procedures which are sufficient to ensure

- compliance with this Schedule 22 (including the requirements set out in paragraph 3.3 of this Schedule 22);
- 4.2.6 set out the plans for transitioning all security arrangements and responsibilities from those in place at the Effective Date to those incorporated in the ISMS within the timeframe agreed between the Parties.
- 4.2.7 be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and
- 4.2.8 be written in plain English in language which is readily comprehensible to the staff of the Provider and HSE engaged in the Services and shall reference only documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule 22 .
- 4.3 If the Security Management Plan submitted to HSE pursuant to paragraph 3.1 of this Schedule 22 is Approved by HSE, it shall be adopted by the Provider immediately and thereafter operated and maintained in accordance with this Schedule 22. If the Security Management Plan is not Approved by HSE, the Provider shall amend it within ten (10) Working Days of a notice of non-Approval from HSE and re-submit it to HSE for Approval. The Parties shall 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 the first submission to HSE of the Security Management Plan. If HSE does not Approve the Security Management Plan following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by HSE pursuant to this paragraph may be unreasonably withheld or delayed. However any failure to approve the Security Management Plan on the grounds that it does not comply with the requirements set out in paragraph 4.2 of this Schedule 22 shall be deemed to be reasonable.
- 4.4 Approval by HSE of the Security Management Plan pursuant to paragraph 4.3 of this Schedule 22 or of any change or amendment to the Security Management Plan shall not relieve the Provider of its obligations under this Schedule 22.

## **5. Amendment and Revision of the ISMS and Security Management Plan**

- 5.1 The ISMS and Security Management Plan shall be fully reviewed and updated by the Provider and at least annually to reflect:
- 5.1.1 emerging changes in Good Industry Practice;
- 5.1.2 any change or proposed change to Services and/or associated processes;
- 5.1.3 any changes to the Security Policy;
- 5.1.4 any new perceived or changed security threats; and
- 5.1.5 any reasonable change in requirement requested by HSE.
- 5.2 The Provider shall provide HSE with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management Plan at no additional cost to HSE. The results of the review shall include, without limitation:
- 5.2.1 suggested improvements to the effectiveness of the ISMS;
- 5.2.2 updates to the risk assessments;

- 5.2.3 proposed modifications to respond to events that may impact on the ISMS including the security incident management process, incident response plans and general procedures and controls that affect information security; and
- 5.2.4 suggested improvements in measuring the effectiveness of controls.
- 5.3 Subject to paragraph 5.4 of this Schedule 22, any change which the Provider proposes to make to the ISMS or Security Management Plan (as a result of a review carried out pursuant to paragraph 5.1 of this Schedule 22, a request by HSE, a change to Annex 1 (HSE's Security Policy) or otherwise) shall be subject to the Change Control Procedure and shall not be implemented until Approved in writing by HSE.
- 5.4 HSE may, where it is reasonable to do so, Approve and require changes or amendments to the ISMS or Security Management Plan to be implemented on timescales faster than set out in the Change Control Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Change Control Procedure for the purposes of formalising and documenting the relevant change or amendment for the purposes of this Agreement.

## **6. Security Testing**

- 6.1 The Provider shall conduct Security Tests from time to time (and at least annually across the scope of the ISMS) and additionally after any change or amendment to the ISMS (including security incident management processes and incident response plans) or the Security Management Plan. Security Tests shall be designed and implemented by the Provider so as to minimise the impact on the delivery of the Services and the date, timing, content and conduct of such Security Tests shall be agreed in advance with HSE. Subject to compliance by the Provider with the foregoing requirements, if any Security Tests adversely affect the Provider's ability to deliver the Services so as to meet the Service Level Performance Measures, the Provider shall be granted relief against any resultant under-performance for the period of the Security Tests.
- 6.2 HSE shall be entitled to send a representative to witness the conduct of the Security Tests. The Provider shall provide HSE with the results of such Security Tests (in a form approved by HSE in advance) as soon as practicable after completion of each Security Test.
- 6.3 Without prejudice to any other right of audit or access granted to HSE pursuant to this Agreement, HSE and/or its authorised representatives shall be entitled, at any time upon giving reasonable notice to the Provider, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the Provider's compliance with the ISMS and the Security Management Plan. HSE may notify the Provider of the results of such tests after completion of each such test. If any such HSE test adversely affects the Provider's ability to deliver the Services so as to meet the Target Performance Levels, the Provider shall be granted relief against any resultant under-performance for the period of HSE's test.
- 6.4 Where any Security Test carried out pursuant to paragraphs 6.2 or 6.3 of this Schedule 22 reveals any actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Provider shall promptly notify HSE of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the Provider proposes to make in order to correct such failure or weakness. Subject to HSE's prior written Approval, the Provider shall implement such changes to the ISMS

and the Security Management Plan and repeat the relevant Security Tests in accordance with the timetable agreed with HSE or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the ISMS or Security Management Plan is to address a non-compliance with the Security Policy or security requirements (as set out in Annex 1 (HSE's Security Policy) to this Schedule 22) or the requirements of this Schedule 22, the change to the ISMS or Security Management Plan shall be at no cost to HSE.

- 6.5 If any repeat Security Test carried out pursuant to paragraph 6.4 of this Schedule 22 reveals an actual or potential Breach of Security exploiting the same root cause failure, such circumstance shall constitute a material Default entitling HSE to terminate this Agreement.

## **7. ISMS Compliance**

- 7.1 HSE shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the ISMS maintains compliance with the principles and practices of ISO 27001 and/or the Security Policy.
- 7.2 If, on the basis of evidence provided by such security audits, it is HSE's reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 and/or the Security Policy are not being achieved by the Provider, then HSE shall notify the Provider of the same and give the Provider a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to implement and remedy. If the Provider does not become compliant within the required time then HSE shall have the right to obtain an independent audit against these standards in whole or in part.
- 7.3 If, as a result of any such independent audit as described in paragraph 7.2 of this Schedule 22 the Provider is found to be non-compliant with the principles and practices of ISO/IEC 27001 and/or the Security Policy then the Provider shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by HSE in obtaining such audit.

## **8. Breach of Security**

- 8.1 Either Party shall notify the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any breach of security or any potential or attempted breach of security.
- 8.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 8.1 of this Schedule 22, the Provider shall:
- 8.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by HSE) necessary to:
- 8.2.1(a) minimise the extent of actual or potential harm caused by any Breach of Security;
- 8.2.1(b) remedy such Breach of Security or any potential or attempted Breach of Security in order to protect the integrity of HSE Property and/or HSE Assets and/or ISMS to the extent that this within the Provider's control;
- 8.2.1(c) apply a tested mitigation against any such Breach of Security or attempted Breach of Security and provided that reasonable

- testing has been undertaken by the Provider, if the mitigation adversely affects the Provider's ability to provide the Services so as to meet the relevant Service Level Performance Measures, the Provider shall be granted relief against any resultant under-performance for such period as HSE, acting reasonably, may specify by written notice to the Provider;
- 8.2.1(d) prevent a further Breach of Security or any potential or attempted Breach of Security in the future exploiting the same root cause failure;
  - 8.2.1(e) supply any requested data to HSE (or the Computer Emergency Response Team for UK Government ("GovCertUK")) on HSE's request within two (2) Working Days and without charge (where such requests are reasonably related to an actual or possible incident or compromise); and
  - 8.2.1(f) as soon as reasonably practicable provide to HSE full details (using the reporting mechanism defined by the ISMS) of the Breach of Security or the potential or attempted Breach of Security, including a root cause analysis where required by HSE.
- 8.3 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 ISMS with the Security Policy or the requirements of this Schedule 22, then any required change to the ISMS shall be at no cost to HSE.

**ANNEX 1 – HSE’S SECURITY POLICY**

[See separate document]

## **SCHEDULE 21 SECURITY REQUIREMENTS AND PLAN**

### **ANNEX 1: HSE'S SECURITY POLICY**



# **IT Security Policy**



**VERSION**

Date (a)	Version (b)	Author/Reviewer (c)	Changes (d)
June 2014	5		
May 2018	6		Improved format and updated content

**APPROVAL**

Date (a)	Version (b)	Approval Committee (c)	Date of Review (d)
May 2018	6	CTO & ITSWG	May 2018

**LEGISLATION, REGULATION AND STANDARDS**

Title (a)	Date (b)	Version (c)



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## 1. INTRODUCTION

This document provides the foundation for sound and proper handling of IT security throughout the Health and Safety Executive (HSE). It represents HSE policy for securing IT systems against abuse and misuse.

The document outlines HSE's framework for IT security and:

- Identifies the various elements of risk analysis, and risk management and planning for disaster recovery planning across HSE.
- Clarifies the key elements necessary to ensure 'good practice' IT security as required by Government Security Policy Framework.

The IT Security site <http://intranet/security/it-security-policy.htm> provides information on HSE IT security policy and describes the security responsibilities with which anybody working in HSE must comply when using HSE's IT systems.

If there are any questions regarding the content of this Policy please contact:

## 2. PURPOSE

The policy:

- reflects the aims of the HSE Strategy



- supports business objectives
- contributes to the reduction of risk arising from the use of IT to acceptable levels
- allows HSE staff (including temporary staff and contractors) to know their responsibilities
- allows security staff to assess overall adequacy of security measures
- allows managers to identify what needs to be done, and can satisfy themselves that security measures are being properly applied
- allows Information Asset Owners, system owners/managers and users to know what is required of them
- allows auditors to ascertain that measures are appropriate, and are being properly applied.

### 3. OVERARCHING POLICY

HSE IT systems shall be available when needed, accessed only by legitimate users and contain complete, authorised and accurate information.

HSE IT Systems shall have security controls to proportionately withstand, or recover from, realistic threats to their confidentiality, availability or integrity.

The policy requires the definition of security measures in such a way that:

- They support business objectives
- They reduce risks arising from the use of IT to acceptable levels
- Staff and contractors know their responsibilities
- Security staff may assess their adequacy
- Managers can identify what needs to be done and can satisfy themselves that measures are properly applied
- System managers and users can see what is required of them
- Auditors can ascertain that the measures are appropriate and are properly applied

This document closely relates to UK government Secure Policy Framework with particular reference to the protection of information in terms of CIA:



Confidentiality – from unauthorised disclosure

Integrity – from modifications

Availability – from denial, destruction or accidents

## 4. SCOPE

This Policy covers all HSE IT systems. It covers all personal computers (including all types of personal electronic devices (PEDs)) networks, corporate and divisional systems. It includes the use of official equipment at home and in other non-HSE locations.

It applies to systems handling all types of information.

The departmental Security Officer (DSO) and the IT Security Officer (ITSO) must always be consulted about proposals for systems handling information SECRET & above.

HSE is heavily reliant upon information and its IT systems to carry out its business objectives. It is vital that these systems are appropriately protected to allow HSE to continue business safely and securely. It is equally important that plans and procedures exist for dealing with an ordered recovery from failure. Please note that HSE has a standalone Business Continuity Plan.

Appropriate security protection must be considered early in the process of developing, modifying or introducing any IT system to support its business objectives.

Along with the disaster recovery plan, procedures must exist for dealing with an ordered recovery from failure.

Security features which protect a system must be appropriate, justifiable, proportionate and cost-effective.

Security is required to counter threats to confidentiality, integrity or availability of information or IT systems from:

- threat actors



- system failure
- acts of God.
- acts of terrorism and /or espionage

Security features which protect a system must be appropriate, justifiable and cost effective. IT security is designed to:

- discourage and prevent security breaches
- detect attempted or actual breaches - whether deliberate or accidental
- limit any damage caused by any breach or failure
- recover from the effects of any breach or failure.

This Policy recognises the importance of appropriate and proportionate access controls.

Many systems contain personal data explicitly covered by the Data Protection Act (DPA). Other relevant legislation may also apply and certain restrictions on data access are applicable to meet legal obligations.

Overall security policy for HSE (IT forms only one part) - is set by the Departmental Security Officer (DSO) who is advised by the Cabinet Office.

The Departmental Security Officer (DSO) must always be consulted about proposals for systems handling material classified SECRET or above.

The Personal Commitment Statement (PerCS) checklist is based on this and other HSE policies and must be brought to the attention of people using or working on any HSE IT system initially on appointment. The HSE network logon screen is the Personal Commitment Statement and refers to the checklist at each logon.

## 5. LEGISLATION & OTHER INFLUENCES

All parts of HSE shall comply with relevant laws and public sector policy.

Current statutes are:



## **Data Protection Act, 1984**

The Act obliges HSE to register use of personal data and imposes limitations on access to that data, including requirements for the destruction of data. The Eighth Principle addresses security directly. It requires data users to see that:

"Appropriate security measures shall be taken against unauthorised access to, or alteration, disclosure or destruction of personal data and against accidental loss or destruction of personal data."

HSE has a Data Protection Co-ordinator to oversee the specific administrative implications of this particular Act.

## **Copyright, Design and Patents Act, 1988**

Copyright of software is a major issue for HSE. Software must only be used in accordance with the terms of its licence. Generally, the making of copies without the owner's consent is forbidden and is a criminal offence.

The Act states that the copyright of bespoke software remains with the author unless the Contract specifies otherwise.

## **Official Secrets Act, 1989**

It is a criminal offence, in certain circumstances, to disclose information to unauthorised persons where such disclosure is damaging to the national interest. (The Personnel Handbook has further details.)

## **Computer Misuse Act, 1990**

The three main offences concern unauthorised access to IT systems, software or data. Severity of punishment depends whether the intent was to gain access only, to commit further offences after gaining access or to make a modification to "computer material" eg to introduce a virus, or alter data for gain.

## **Public Records Act, 1956 and 1967**

All records produced by HSE are public records. These Acts regulate the way Government bodies deal with the organisation and control of information whether or not it is held on IT systems. Review and retention systems must exist so that ephemeral material is destroyed and appropriate records are permanently preserved by the Public Records Office.

## **Common law**

Normal civil responsibilities also apply. Information must only be used for the purpose for which it was intended. Reasonable steps need to be taken to safeguard it bearing in mind



the damage which its loss, corruption, inaccurate or unauthorised dissemination might cause.

## GDPR

The **General Data Protection Regulation (GDPR)** is a legal framework that sets guidelines for the collection and processing of personal information of individuals within the European Union (EU). GDPR will come into effect on 25<sup>th</sup> May 2018

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr>

## EUROPEAN DIRECTIVES

The EU directive 95/46/EC "on the protection of individuals with regard to the processing of personal data and on the free movement of such data " was adopted in 1995. The scope includes both manually and automatically processed data.

## Public Sector Policy

The security services are the major source of policy relating to security. NCSC (National Cyber Security Centre part of GCHQ) are the technical authority on IT security and provide advice to all government departments.

Publications used in the formulation of HSE IT security policy include:

- Secure Policy Framework  
<https://www.gov.uk/government/publications/security-policy-framework>
- GPG-13 Protective Monitoring - <https://www.ncsc.gov.uk/guidance/protective-monitoring-hmg-ict-systems-gpg-13>
- GPG-24 Security Incident Management –  
<https://www.ncsc.gov.uk/guidance/security-incident-management-good-practice-guide-24-0>
- Password Guidance - <https://www.ncsc.gov.uk/guidance/password-guidance-simplifying-your-approach>
- HMG's IT Security Policy (Cabinet Office)
- IT Security Library (CCTA)

## 6. ORGANISATION & RESPONSIBILITIES



All people working in HSE have responsibilities for IT security.

All people (including contractors working for or with HSE where relevant shall know and fulfil their responsibilities for IT security.

Irresponsible or improper actions will result in disciplinary action.

HSE's use of IT systems means that all people working in HSE at some time will be responsible for the secure operation of IT systems.

IT security is overseen by HSE Senior Information Risk Owner (SIRO) with support from DSO, ITSO, ITsec Architect. Further information about the responsibilities of these posts and groups is provided below.

All IT systems development, IT operations and procedures are subject to audit.

For each system, users, managers, system and information owners contribute to IT security:

- The Information Asset Owner (IAO) has a responsibility to agree access, import and export controls for the information held in their system and to review compliance.
- The HSE IT system owner/manager has a duty to set and document the rules for proper and secure use of an IT system under their responsibility and to review compliance.
- Users have a duty to follow these rules.
- Managers must ensure anybody working for them fulfil their IT security responsibilities

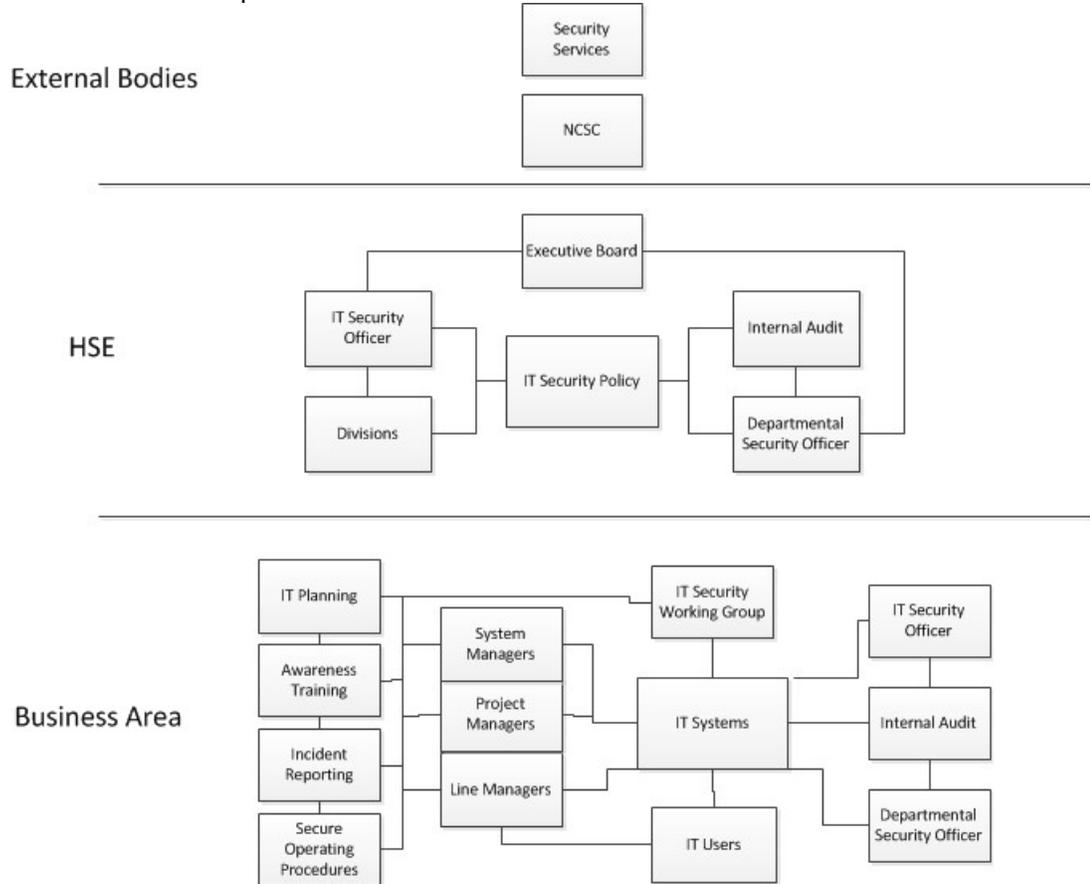
In addition, anybody working for HSE has a duty to safeguard the hardware, software and data in their care or to which they have access. This includes preventing the introduction of unauthorised and/or malicious software to IT systems, and reporting any suspected incidents.

Individual system users play an important part in IT security. System managers have a duty to set and document the rules for proper and secure use of IT systems. Users have a duty to follow these rules. Line managers must ensure that people working for them fulfil their responsibilities for IT security. Compliance with the rules must be reviewed.

All people working for HSE have a duty to safeguard the hardware, software and data in their care. This includes preventing the introduction of malicious software to IT systems and reporting any suspected incidents.



Duties, responsibilities and inter-relationships of the various committees and parties across HSE are depicted below:



## THE ROLE OF EXTERNAL BODIES

### Security Services:

The Security and Intelligence Services provide intelligence on IT threats and advice and guidance concerning the secure use and movement of information. The DSO will refer to them for guidance.

### The Government Computer Emergency Response Team for the UK (GovCERTUK)

Provides a single point of contact and response to Government and business for large-scale threats.



## **ComSec Incident Notification, Reporting and Alerting Scheme (CINRAS)**

Contact point for notifying any loss of Government-supplied encrypting or encrypted material – in HSE this includes portable PCs or anything else protected with or carrying X-Kryptor (remote access) or BeCrypt (hard drive) encryption . HSE losses must be reported promptly by the IAST.

## **Cabinet Office:**

### **Government Security Services (GSS)**

The GSS is part of the Intelligence Security Secretariat and Resilience Group of the Cabinet Office. It is responsible for developing protective security policy in Government, working closely with the Security Services and the Communications – Electronics Security Group (CESG).

### **Office of Cyber Security and Information Assurance (OCSIA)**

OCSIA is a unit within the UK Government's Cabinet Office providing a central focus for Information Assurance (IA) activity across the UK.

### **National Cyber Security Centre**

NCSC (part of GCHQ) are the UK technical authority for Information Assurance and provide advice to all Government Departments.

### **Centre for the Protection of the National Infrastructure (CPNI)**

The government authority providing protective security advice to businesses and organisations across the national infrastructure.

### **Public Services Network Authority (PSNA)**

Regulates the Public Service Network (PSN), the successor to the Government Secure Intranet, and authorises organisations as service providers or customers of the Network, or both.

### **INFORMATION COMMISSIONERS OFFICE (ICO)**

The ICO is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

## **THE ROLES OF HSE MANAGEMENT & IT SERVICE PROVIDER**

### **Chief Technology Officer**

The CEO and Senior Management Team (SMT) endorse overall security policy for HSE. Ensures compliance is reported in the statement of internal control.



### **Senior Information Risk Owner (SIRO)**

The role of the SIRO is to take ownership of the organisation's information risk policy, act as an advocate for information risk on the Board and provide written advice to the Accounting Officer on the content of their annual governance statement in regard to information risk.

### **Information Asset Owners (IAO)**

The role of IAO is responsible for ensuring that information assets are handled and managed appropriately. This means making sure that information assets are properly protected and that their value to the organisation is fully exploited. They are to provide an annual written report on the security of their asset. IAO's are usually senior staff members.

### **Departmental Security Officer (DSO)**

Oversees overall security policy and its observance throughout HSE. Liaises with Security Services on all relevant matters, oversees audits and investigations where needed. Reports to SIRO. Identifies security education and training needs with line managers. Provides advice and guidance to managers and staff on all aspects of security.

### **HSE IT Security Officer (ITSO)**

Provides central point of contact on IT security; gives advice and guidance. Produces procedures and guidance on IT security. Liaises with HSE staff e.g. DSO and liaises with external bodies. Co-ordinates incident reporting. Promotes security awareness. Provides advice on risk analysis. Provides an independent opinion on IT security matters.

### **Information Technology & Facilities Management (ITF)**

Formulates HSE IT Strategy, including IT Security Policy. Seeks HSE Board endorsement for implementation.

### **IT Service Provider – Service Delivery Manager**

Ensures the delivery of HSE IT services in accordance with the agreed contract. HSE currently has two. Buxton has IFM that were in place when SD existed as a separate entity.



## Internal Audit

Review controls in, and compliance with the IT security policy.

## Information Management Unit

- Administers HSE's Data Protection policy;
- Acts as a focal point for maintenance of HSE's Data Protection notification;
- Provides guidance and deals with enquiries from data subjects.

## HSE IT System Owner/ Managers

Ensures that:

- The System Security Statement is produced prior to system design or amendment.
- A risk analysis is undertaken on their system(s) and periodically reviewed
- System security measures have been adequately tested before accepting the system
- A contingency plan exists and that Disaster Recovery procedures are tested regularly
- Protective operating procedures are followed, are accurate and are reviewed regularly
- System documentation is maintained
- Access to system restricted to authorised persons only
- Data and physical security of hardware in their care is secure
- There is liaison with other bodies (if appropriate)
- The use of security measures is supported and promoted
- Only authorised configuration changes made to system
- Security breaches are reported in accordance with "Reporting a security incident" procedures; <http://intranet/security/reporting-incident.htm>
- Use of contingency plans is reported to the IT Security Officer.

## IT Service Provider – Security Managers

Ensures that IT system development complies with IT security policies and CESG guidelines. Provides advice and guidance on technical security issues, and liaises with HSE IT Security Officer.

## IT Service Provider – Project Managers

Overall observation of security requirements. Particular responsibilities are to:

- ensure that system users are fully aware of security implications;



- use risk assessment techniques to ascertain appropriate security features for systems;
- ensure that systems contain appropriate and documented security measures, including Protective Operating Procedures;
- develop systems in a properly controlled and appropriately secure environment;
- complete the System Security Statement for new systems prior to development;
- report security breaches and similar incidents to IT Service Provider Security Manager and the HSE IT Security Officer.

## Line Managers

Management have a responsibility to ensure that anybody working for them know and follow appropriate security procedures.

Ensure that security procedures, including Data Protection measures, are followed;  
Ensure that the System Security Statement is produced prior to system design or amendment;

Ensure that risk analysis is undertaken on their system(s) and periodically reviewed;  
Take appropriate action where breaches in IT security are detected, including disciplinary measures if necessary

- Report such breaches to the IT Security Officer;
- Ensure that there is an appropriate level of security awareness among people working for them;
- Report to the IT Security Officer any use of disaster recovery procedures;
- Ensure that system security measures have been adequately tested before accepting the system;
- Ensure that a Contingency Plan exists and that Disaster Recovery procedures are tested regularly.
- Support and promote security measures.

Further information can be found here:

<http://intranet/security/reporting-incident.htm>

<http://intranet/security/roles-responsibilities.htm>

<http://intranet/humanresource/conduct/officialresources-email.htm>

<http://intranet/security/managers-guidance.htm>

## IT Users

There is a general duty upon all IT users to observe security requirements. IT users are defined as anyone with direct contact with HSE IT systems and will include e.g. HSE staff, contractors, consultants and agency staff.



IT users must understand and comply with the Personal Commitment Statement (PerCS)

<http://intranet/security/personal-commitment-statement.htm>).

There is a general responsibility to observe security requirements outlined here:

<http://intranet/security/policy.htm>

<http://intranet/security/roles-responsibilities.htm>

<http://intranet/humanresource/conduct/officialresources-email.htm>

System users must comply with any security requirements of that system - usually detailed in the system guidance or local user instructions.

Detailed information for each role can be found on the Intranet Security Site.

<http://intranet/security/roles-responsibilities.htm>

## 7. RISK ANALYSIS & MANAGEMENT

Risk assessment techniques are applied to each IT system to identify what needs to be protected, why and how.

The following applies to any system handling information protectively marked Restricted and below. The DSO **must** be consulted where systems deal with information classified SECRET or above, or, where there is a need to handle information at these classifications.

The DSO may also be consulted for advice on risk analysis and management for systems handling information classified OFFICIAL.

The following advice applies to systems handling OFFICIAL information :

- Risk analysis is a method of defining and analysing threats to, and vulnerabilities of computer system assets and capabilities (e.g. hardware, software and data). The information enables a (risk assessment) decision to be made on appropriate security countermeasures.
- The description enables a decision to be made on appropriate security countermeasures, or acceptance of risk, proportionate to the HSE and D/D risk appetite



- The standard government risk assessment tool is CRAMM (CCTA Risk Analysis Methodology). HSE will use this where appropriate.
- Assessing risk involves systematically considering the business harm likely to result from a significant breach of IT security and the realistic chance of such a breach occurring. The results of the assessment help determine management action and priorities for managing the risk.
- Risk analysis must be used early in system development to identify potential security countermeasures. The countermeasures must be proportionate to the value of the particular system to HSE business.
- A technical risk assessment (in accordance with NCSC standards) is undertaken to ensure technical risks are reduced and managed appropriately. The results of this assessment are submitted to the HSE Accreditor (DSO) for acceptance and approval before the system goes live.
- The Accreditor may elect to conditionally accredit the system to allow additional controls to be introduced, or where the residual risks fall outside HSE's risk appetite. The SIRO will be notified where this occurs.
- Live systems are subject to change. Requests for change must include a section examining the potential impact upon existing security. Where that impact is significant, a review of the risks will be needed. Internal Audit must be informed and consulted about major or complex changes as they may affect internal control systems.
- IAOs and System Managers have a responsibility to ensure that risk analysis is undertaken on their system(s) and that these are reviewed and updated quarterly or as advised by IAST.
- Guidance on HSE corporate risk management is provided on the intranet (<http://intranet/strategy/deliveryplan/ppu.htm#business>).
- The ITSO owns and maintains the IT Security Risk Register with monthly review period.

## 8. SYSTEM SECURITY STATEMENT

A written statement defining the level of security must be produced for each IT system.

IT (and Information) security risks and appropriate countermeasures must be identified and described at the earliest possible stage of system development.

Security considerations are relevant at all stages of system development. Managers in the system development area and in the business area, or Steria, have a responsibility to address this through issue of appropriate Security Statements.

<http://intranet/security/it-security-policy.htm>



The results of risk analysis - supported by a description of the methodology used - should contribute to the Statement.

The System Security Statement document must contain:

- System identification
- System overview including ownership of data and system
- Results of risk analysis
- The boundaries and environment in which the system operates
- Specific security measures to be implemented, with justification if different from measures suggested by risk analysis
- Allocation of responsibilities and identification of levels of authority to ensure that all security requirements are met.

The Statement must be produced jointly by system owners and developers. It should be issued concurrently with the initial requirements document and reviewed when any changes are made to requirements.

The Statement must be reviewed regularly throughout the life of the system and updated as appropriate (e.g. if live system to be amended).

The HSE IT Security Officer and DSO will provide advice and comment on the content of security statements.

There may be security risks if information about the specific measures being implemented falls into the wrong hands. The System Security Statement should be considered as a potentially sensitive document and protectively marked accordingly. They should be for named distribution only.

## 9. CONTINGENCY PLANNING

Each IT system must have a documented Contingency Plan appropriate to the importance of the system to the business.

Each Plan must be tested at appropriate intervals determined by system risk and sensitivity.

Systems must be justified, costed and designed, to take into account adequate recovery from adverse events.



The Contingency Plan will be linked to normal Security Operating Procedures, such as security back-up and password control. These normal procedures must be the subject of separate instruction to system users and managers.

System Contingency plans should be linked to central and Directorates and Divisions (DD) individual contingency plans and guidance.

The actions in the Contingency Plan will vary according to the system(s) concerned.

HSE has identified business critical IT systems and an IT Contingency Service has been agreed for these systems with the IT Service provider.

The plan must cover degrees of loss with specific actions for each. Plans must be documented and:

- set out their purpose
- say who holds copies (preferably by job-title)
- identify and prioritise critical business processes
- identify the impact on the business of various types of disaster (including malicious software attack)
- define responsibilities, especially for implementation of the plan
- specify any routines upon which the plan depends eg data backup
- detail immediate action:
  - emergency procedures
  - who must be informed and where they can be found
  - detail use of standby facilities:
  - the extent of the facilities required, including times of day and priorities for processing, amount of disk space, configuration required etc.
- how to invoke
- names and telephone numbers of key contacts
- priority tasks
- end user action
- set out restricted running schedules
- define procedures for the restoration of live working.

The plan must also deal with three time-frames:

- immediate recovery
- interim recovery
- return to full live running.

The precise length of each of these periods will be determined by the requirements of the system.



Copies of the plan should be held as part of the business continuity plan.

The System Manager is responsible for ensuring that a Contingency Plan exists for their system(s) and that it is tested, reviewed and updated at appropriate intervals.

People working for HSE must be educated on executing the plan.

## 10. REPORTING MONITORING & FILTERING

HSE operates a security incident reporting process. It is HSE's policy to operate continuous monitoring and incident reporting of security aspects of each IT system. It also undertakes monitoring of IT system usage and filtering/blocking to enforce usage policies and protect the ICT infrastructure.

### IT SECURITY INCIDENT REPORTING

Any actual or suspected IT security incident(s) (including near misses, weaknesses and/or concerns) **must** be reported to the service providers service desk as soon as possible.

Any actual or suspected information security incidents **must** be reported to IAST as soon as possible.

Suspected or actual IT security incidents or issues however trivial must be reported without delay to the ITSO.

The security team run an IT security incident reporting scheme where government departments report actual or attempted IT security breaches periodically. Incidents are analysed and feedback is given to assist with notification and identification of likely risks and countermeasures. HSE is committed to supporting this scheme.

### User Action

Ensure that all relevant security policies and procedures are understood and complied with in their part of the organisation by:

1. Reporting any IT related incident to:
  - a. Service Provider Servicedesk VPN 523 4367 or via email to [servicedesk.steria@hse.gov.uk](mailto:servicedesk.steria@hse.gov.uk)
  - b. Your Line Manager
2. Reporting any non-IT related incident to:



- a. Information Assurance & Security Team (IAST) on \_\_\_\_\_ or via email to Security incidents. IAST staff should be available from 09.00 to 16.00 to take calls and an answer phone service will be available.
- b. Your line manager

**NB:** IAST will issue a Security Incident Reference Number. Please use this number on the SEC6 report form and in any follow-up enquiries or correspondence.

Further information on both is available on the HSE intranet:

<http://intranet/security/reporting-incident.htm>

The DSO provides reports on security incidents to the IAO Forum (six monthly) and HSE Audit Committee (quarterly).

HSE reports certain types of incidents to the central security services, CINRAS, GovCERT, NCSC or the Police.

## Monitoring

Internal and external monitoring of HSE's IT system usage is routinely undertaken to reinforce and audit compliance with usage policies, and for legal purposes.

Further details available at <http://intranet/security/email.htm>

System managers and line managers are responsible for monitoring the activities of people working for them. They must ensure usage is in accordance with HSE's acceptable use policy and any specific system procedures.

Line manager responsibilities are described at:

<http://intranet/humanresource/conduct/officialresources-email.htm>

## Filtering

Web and e-Mail traffic entering and leaving the HSE network is filtered to protect HSE and linked IT systems and HSE's information, as well as its business efficiency and reputation.

Inbound e-mail is filtered to protect against spam (unsolicited sales and nuisance messages), malware (viruses) and "spearphishing" (messages pretending to be from trusted networks).

Outbound e-mail is dealt with in the same way. In addition, it is filtered to stop unacceptable content from being sent from the HSE network. It is recognised that such



content e.g. profanities, may sometimes be included in legitimate HSE business communications e.g. witness statements. There is an approved system for releasing these messages. Such requests are logged and may be reviewed.

Web-based e-mail bypasses these controls and access to webmail is therefore limited to those with a supported business reason for having it. Communications and other Internet activity using HSE facilities are subject to HSE's acceptable usage policies - including use of non-HSE e-mail accounts.

Web browsing is controlled and monitored to enforce acceptable use policies. This filtering may be altered to meet supported business needs.

## **Data Protection**

The Information Management Unit (IMU) holds details of HSE data protection notification to the Information Commissioner's Office (ICO) and can provide guidance on data protection matters.

## **Internal Audit**

HSE Internal Audit services are provided by DWP, our parent department. Government Internal Audit Agency GIAA.

Internal Audit examine and evaluate the adequacy and effectiveness of the systems of internal control e.g. reviewing, appraising and reporting on the controls established by management.

IT systems, procedures and adherence to policy are subject to check by Internal Audit for compliance with this and other policies.

IT Service Provider to provide ITSO with monthly reports regarding the Service Providers administrator accounts, it should contain, names, number of accounts and accounts removed since last report. The IT Service Provider should ensure that only staff requiring raised privileges should have them and once the requirement for them has lapsed these accounts should have their privileges lowered back down to an appropriate level.

## **External Audit Office (National Audit Office)**

IT systems and controls are subject to examination by External Audit. Annual IT Health CHECK is conducted



## 11. EDUCATION, TRAINING & AWARENESS

Managers must ensure that anybody working for them understands and meets their obligations to maintain IT security.

All people working in HSE have an Information Assurance role and will, as a minimum, receive awareness training.

Education is a vital element of an IT security policy. People who do not understand the need for security can easily undermine installed security measures of procedural instructions. Increased knowledge and awareness will encourage feedback on the security weakness of a system from those using it. Those with particular responsibilities for IT systems will need more than a basic level of training required by others.

The Personal Commitment Statement Checklist will assist managers to enact this policy.

The objectives of IT security awareness are to:

- highlight the value, importance and proper handling of data resources and assets
- reduce the risk of human error causing the failure of any installed security measures
- make people aware of their responsibilities.

### Awareness

Line managers must ensure anybody working for them is aware of, and understands:

- their Personal Commitment Statement (<http://intranet/security/personal-commitment-statement.htm>)
- the risks inherent in the use of IT systems
- the value of countermeasures and controls
- their legal responsibilities in areas such as Data Protection and software theft
- the mandatory requirement to complete e-learning that provides a baseline of Information Assurance awareness.
- their responsibilities for using HSE's IT systems in accordance HSE policy and guidance

<http://intranet/security/roles-responsibilities.htm>

<http://intranet/humanresource/conduct/officialresources-email.htm>

<http://intranet/security/policy.htm>



- their responsibilities to report suspected or actual security incidents
- their responsibility to report IT malfunctions (to IT service provider)
- their responsibilities to safeguard IT systems
- possible disciplinary implications of not complying with above.

Support and advice is available from IAST (<http://intranet/security/contact.htm>)

HSE will support programmes to raise the general level of awareness of information assurance and security. Elements may include:

- basic security awareness education as part of induction training
- awareness sessions on appropriate management courses
- awareness sessions at intervals at staff meetings
- awareness sessions at intervals at top management meetings
- distribution of posters, pamphlets and other memory aids.

## Training

IT systems may fail if they do not contain an appropriate set of security features to safeguard against loss, corruption or improper disclosure. Advice and information on the techniques for achieving good IT security will need to be delivered through training and instructions.

Different levels of training are required by:

- IT users
- System Managers
- IT Security Officer
- Security Officer
- Internal Auditors.
- Information Asset Owners

Training for those operating and using systems must be devised as part of system implementation and continued operations.



## 12. POLICY IMPLEMENTATION & REVIEW

Each business area should devise, maintain and execute plans to implement the HSE IT Security Policy (detailed in this document) and other related guidance and instructions issued by the Information Assurance and Security team (IAST) to take account of any unique aspects of their IT use.

The HSE Policy will be reviewed annually by IAST. Business Areas will contribute to this review via the Information Asset Owners Forum and any revised Policy Statement will be approved by the SIRO

Each business area must:

- regularly review existing security measures for compliance with the HSE policy, business area policy and other security requirements
- promote awareness
- regularly review and, where necessary, set up mechanisms for monitoring compliance.

Responsibility for initiating review of the HSE Policy lies with IAST. IAST will use IAOF as the vehicle for proposing amendments to the Policy following annual reviews.

Following reviews, IAST will advise IAOF of the need to implement any new measures resulting from policy changes.

Further information and guidance is available:

<http://intranet/security/index.htm>

or, by contacting the ITSO

or DSG

## 13. COMPLIANCE

The IAST will verify compliance to this policy through various methods, including but not limited to, periodic walk-throughs, video monitoring, business tool reports, internal and external audits, and feedback to the policy owner.

**Exceptions.** Any exception to the policy must be approved by the IAST.

**Non-compliance.** Any person found to be non-compliant with this policy may be subject to disciplinary action.



## 14. GLOSSARY OF TERMS

<b>CEO</b>	-	<b>Chief Executive Officer</b>
<b>NCSC</b>	-	<b>National Cyber Security Centre</b>
<b>CPNI</b>	-	<b>Centre for the Protection of the National Infrastructure</b>
<b>DPA</b>	-	<b>Data Protection Act</b>
<b>DSO</b>	-	<b>Departmental Security Officer</b>
<b>FOI</b>	-	<b>Freedom of Information</b>
<b>GCHQ</b>	-	<b>Government Communications Head Quarters</b>
<b>I&amp;IS</b>	-	<b>Information and Information Systems</b>
<b>IAO</b>	-	<b>Information Asset Owner</b>
<b>ICO</b>	-	<b>Information Commissioners Office</b>
<b>IAOF</b>	-	<b>Information Asset Owner's Forum</b>
<b>IAST</b>	-	<b>Information Assurance and Security Team</b>
<b>ITSO</b>	-	<b>Information Technology Security Officer</b>
<b>IMU</b>	-	<b>Information Management Unit</b>
<b>PED</b>	-	<b>Personal Electronic Device</b>
<b>SIRO</b>	-	<b>Senior Information Risk Owner</b>
<b>SMT</b>	-	<b>Senior Management Team</b>

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**SCHEDULE 22: COMMERCIALY SENSITIVE  
INFORMATION**

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## 1. Purpose and effect

- 1.1 In this Schedule 22 (Commercially Sensitive Information) the Parties have sought to identify the Provider's Confidential Information that is genuinely commercially sensitive and the disclosure of which may be the subject of an exemption under the FOIA.
- 1.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of information to which this Schedule 22 applies.
- 1.3 Without prejudice to HSE's obligation to disclose Information in accordance with FOIA or Clause 33 Freedom of Information, HSE will, in its sole discretion, acting reasonably, consider applying the relevant exemption set out in the FOIA to the information set out in the table at paragraph 2 below.

## 2. Commercially sensitive information

No.	Date	Item(s)	Duration of Confidentiality
1	06/07/2018	<p><b>Capita's Tender and associated documents</b></p> <p>Capita would suffer commercial disadvantage from disclosure because its tender and associated documents are prepared for the purposes of comparative evaluation against bids from competing organisations.</p> <p>Such documents include information and trade secrets regarding Capita's (and Capita Group companies') operational and technical solutions, and intellectual property rights, information regarding Capita's clients, view of its unique selling points relevant to this and other tenders, prices, costs and commercial approach.</p> <p>If competing organisations obtained a copy of our tender documents Capita would be placed at a material disadvantage in competitive procurements by having information published about Capita's solution and commercial arrangements.</p>	Term

No.	Date	Item(s)	Duration of Confidentiality
2	06/07/2018	<p><b>Capita's approach to the work including information regarding techniques, methods and systems</b></p> <p>Information regarding Capita's approach to the work including information regarding performance techniques, methods and systems embodies Capita's know-how and expertise, and Capita would suffer commercial disadvantage from disclosure to potential competitors in relation to the Gas Safe Register services and more widely.</p>	Term
3	06/07/2018	<p><b>Details of any costs and charges</b></p> <p>Disclosure of details of any costs, whether actual or estimated, and charges paid or potentially payable to third parties would damage Capita commercially and weaken its competitive position by revealing information valuable to its competitors and cause commercial damage including, in respect of information originating with third parties, potential action against Capita for breach of its confidentiality obligations to third parties.</p>	Term

No.	Date	Item(s)	Duration of Confidentiality
4	06/07/2018	<p><b>Contractual information</b></p> <p>Capita believes that the concession services agreement provisions listed below and related tender information regarding Capita's position on them, would be valuable to its competitors, and disclosure would place Capita at a material competitive disadvantage, and cause commercial damage including, in respect of information originating with third parties, potential action against Capita for breach of its confidentiality obligations to third parties:</p> <ul style="list-style-type: none"> <li>• Details of charging and financial mechanisms (except for fees payable by gas engineers and businesses in relation to Gas Safety Register once they are published on the Gas Safety Register website), financial models, charges and costs and those of its subcontractors and suppliers</li> <li>• Detailed or technical descriptions of information technology systems and business processes used by Capita, its subcontractors and suppliers</li> <li>• Provisions relating to warranties and indemnities provided by Capita</li> <li>• Provisions relating to Capita limitations on liability and insurance arrangements</li> <li>• Provisions relating to intellectual property rights</li> <li>• Provisions relating to termination and the consequences of termination and exit management arrangements</li> <li>• Provisions describing transition, exit and other plans, and</li> <li>• Provisions relating to parent company guarantees and the terms of inter-group transactions</li> </ul>	Term
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**SCHEDULE 23: SCHEME APPROVAL**

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**CERTIFICATE OF APPROVAL - HSE**

**THE HEALTH AND SAFETY AT WORK ETC ACT 1974**

**THE GAS SAFETY (INSTALLATION AND USE) REGULATIONS 1998**

**CERTIFICATE OF APPROVAL**

1. The Health and Safety Executive ("the Executive"), for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998, approves the class of persons referred to on paragraph 2 as a class of persons of which an employer or self-employed person, as the case may be, must be a member for the purposes of that regulation on and after 1<sup>st</sup> April 2019.
2. The class of persons is those persons who are included in the Gas Safe Register – the register of gas businesses carrying out gas work in relation to a gas fitting or service pipework – maintained by or on behalf of the Executive.
3. This certificate shall come into force on the 1<sup>st</sup> April 2019 and shall remain in force until 31<sup>st</sup> March 2024 or the expiry of a period of 2 months' notice pursuant to any notice of withdrawal of approval which the Executive may give.

Signed by:

A person duly authorised by the Health and Safety Executive to act on its behalf,

Dated: <sup>4</sup>5 September 2018

**CERTIFICATE OF APPROVAL – HSENI**

**THE HEALTH AND SAFETY AT WORK (NORTHERN IRELAND) ORDER  
1978**

**THE GAS SAFETY (INSTALLATION AND USE) REGULATIONS  
(NORTHERN IRELAND) 2004**

**CERTIFICATE OF APPROVAL**

1. The Health and Safety Executive for Northern Ireland ("the Executive"), for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004, approves the class of persons referred to on paragraph 2 as a class of persons of which an employer or self-employed person, as the case may be, must be a member for the purposes of that regulation on and after 1<sup>st</sup> April 2019.
2. The class of persons is those persons who are included in the Gas Safe Register – the register of gas businesses carrying out gas work in relation to a gas fitting or service pipework – maintained by or on behalf of the Executive.
3. This certificate shall come into force on the 1<sup>st</sup> April 2019 and shall remain in force until 31<sup>st</sup> March 2024 or the expiry of a period of 2 months' notice pursuant to any notice of withdrawal of approval which the Executive may give.

Signed by:

Chief Executive HSENI

A person duly authorised by the Health and Safety Executive for Northern Ireland to act on its behalf.

Dated: **3** September 2018

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**SCHEDULE 24: PROCESSING, PERSONAL  
DATA AND DATA SUBJECTS**

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## INTRODUCTION

### 1. Overview

- 1.1 This Schedule sets out the data processing that the Provider is authorised to carry out in accordance with Clause 32 of this Agreement.
- 1.2 The Provider shall comply with any further written instructions with respect to processing by HSE.
- 1.3 Any such further instructions shall be incorporated into this Schedule.

### 2. Lawful basis for the processing

- 2.1 HSE's legal basis for the collection of the Personal Data listed in this Schedule is the 'public task' basis under Article 6.1(e) of GDPR.
- 2.2 The Joint Data Controller for Building Regulations notification data is to be confirmed but as between the Parties as at the Effective Date, HSE is the Data Controller. The legal basis for the collection of the Personal Data listed in this Schedule in relation to the notification of Gas Work under the Building Regulations is to be confirmed by HSE.

### 3. Description of processing

- 3.1 Where types of Personal Data are collected in relation to multiple categories, they will be listed in each relevant category.

Description	Details
Subject matter of the processing	<p>The Provider is instructed to process the data to:</p> <ul style="list-style-type: none"> <li>• manage and maintain a register of Businesses and Engineers who are approved to carry out Gas Work in Great Britain and Northern Ireland</li> <li>• support investigation of illegal Gas Work on behalf of HSE and other enforcement agencies</li> <li>• facilitate notification of Gas Work under the Building Regulations in England and Wales</li> <li>• facilitate the voluntary notification of Gas Work under a Declaration of Safety in Scotland and Northern Ireland, for the purposes of delivering the requirements of this Agreement</li> <li>• check competence of registered Businesses and Engineers</li> <li>• enable appropriate levels of access to the Register by consumers, HSE and other enforcement agencies, and registered businesses and engineers</li> <li>• maintain archive information about registrations that are no longer valid</li> <li>• provide witness statements and investigation reports to support HSE enforcement activity</li> </ul>

Description	Details
	<ul style="list-style-type: none"> <li>• Disseminate relevant gas safety information to Registered Businesses and Engineers</li> </ul>
Duration of the processing	From 1 April 2019 to expiry of the Agreement on 31 March 2019, or earlier termination, or at the end of any Termination Assistance Period.
Nature and purpose of the processing	<p>Nature of processing:</p> <ul style="list-style-type: none"> <li>• Collection</li> <li>• Recording</li> <li>• Organisation</li> <li>• Structuring</li> <li>• Storage</li> <li>• Retrieval</li> <li>• Consultation</li> <li>• Use</li> <li>• Disclosure by transmission, dissemination or otherwise making available</li> <li>• Alignment or combination</li> <li>• Restriction</li> <li>• Erasure or destruction</li> <li>• Risk profiling</li> </ul> <p>Purpose of processing:</p> <ul style="list-style-type: none"> <li>• To manage and maintain the Register</li> <li>• To verify the identity of Businesses and Engineers</li> <li>• To verify that individual Engineers hold the required qualifications, and that those qualifications are current</li> <li>• To facilitate the notification of Gas Work as required by the Building Regulations, as notified directly by Businesses or via approved third parties</li> <li>• To facilitate the voluntary notification of Gas Work under a Declaration of Safety directly by Businesses or via approved third parties</li> <li>• To identify individuals or businesses suspected of carrying out illegal Gas Work, and the work they are alleged to have carried out</li> <li>• To enable appropriate consumer access to the Register so that consumers can verify the identity and work categories for a Business or Engineer</li> <li>• To alert Registered Businesses and Engineers to relevant gas safety information via safety alerts</li> <li>• To provide witness statements and investigation reports to support HSE and local authority enforcement activity</li> <li>• To risk profile Registered Businesses and Engineers order to</li> </ul>

Description	Details
	determine inspection frequency <ul style="list-style-type: none"> <li>• To manage consumer and Business / Engineer complaints</li> </ul>
Type of Personal Data	Registered Businesses: <ul style="list-style-type: none"> <li>• Name</li> <li>• Address, including postcode</li> <li>• Telephone number</li> <li>• Email address</li> <li>• Employee details</li> <li>• Responsible person name</li> <li>• Risk rating and risk category</li> <li>• Inspection history, and inspection findings accredited to the Business including:               <ul style="list-style-type: none"> <li>○ any unsafe Gas Work</li> <li>○ any in-scope Gas Work / Building Regulations work identified as not to current standards / not Building Regulations compliant</li> </ul> </li> <li>• Complaint history and findings accredited to the Business including:               <ul style="list-style-type: none"> <li>○ any unsafe Gas Work</li> <li>○ any in-scope Gas Work / Building Regulations work identified as not to current standards / not Building Regulations compliant</li> </ul> </li> <li>• Registration history               <ul style="list-style-type: none"> <li>○ start and end dates</li> <li>○ correspondence</li> <li>○ notes</li> </ul> </li> <li>• Sanctions history (including start and end dates of any suspensions)</li> <li>• Building Regulations notification information, including               <ul style="list-style-type: none"> <li>○ address of the property</li> <li>○ name of business and engineer who carried out the installation</li> </ul> </li> <li>• Declarations of Safety (Scotland and Northern Ireland)               <ul style="list-style-type: none"> <li>○ address of the property</li> <li>○ name of business and engineer who carried out the installation</li> </ul> </li> <li>• Banking and payment details (if Direct Debit set up)               <ul style="list-style-type: none"> <li>○ Bank account name</li> <li>○ Sort code</li> <li>○ Account number</li> </ul> </li> <li>• Appeals against sanctions</li> <li>• Complaints against service</li> </ul>

Description	Details
Type of Personal Data	Engineers: <ul style="list-style-type: none"> <li>• Name</li> <li>• Address</li> <li>• Date of Birth</li> <li>• National Insurance Number</li> <li>• Photograph of the individual</li> <li>• Qualifications relating to Gas Work and the categories of Gas Work these Qualifications enable the Engineer to work on, including past (expired) Qualifications</li> <li>• Risk rating and risk category</li> <li>• Inspection history, and inspection findings accredited to the Engineer including               <ul style="list-style-type: none"> <li>○ any unsafe Gas Work</li> <li>○ any in-scope Gas Work / Building Regulations work identified as not to current standards / not Building Regulations compliant</li> </ul> </li> <li>• Complaint history</li> <li>• Registration history (start and end dates of registration)</li> <li>• Employment history (Businesses registered with, start and end dates)</li> <li>• Sanctions history (including start and end dates of any suspensions)</li> <li>• Appeals against sanctions</li> <li>• Complaints against service</li> </ul>
Type of Personal Data	Registered Businesses, Engineers and stakeholders – marketing information (optional) <ul style="list-style-type: none"> <li>• Business name</li> <li>• Business address</li> <li>• Contact details (name, job title, email address and contact telephone numbers)</li> <li>• Type of business</li> <li>• If a Registered Business or Engineer, Registration number</li> </ul>
Type of Personal Data	Suspected illegal gas fitters / unregistered businesses suspected of carrying out illegal Gas Work <ul style="list-style-type: none"> <li>• Name</li> <li>• Business name</li> <li>• Telephone number</li> <li>• Address of business or individual</li> <li>• Address where suspected illegal Gas Work carried out</li> <li>• Details of the Gas Work carried out</li> <li>• Findings from any Inspections</li> </ul>
	Consumers – complaints:

Description	Details
	<ul style="list-style-type: none"> <li>• Consumer name</li> <li>• Consumer address</li> <li>• Consumer telephone number</li> <li>• Consumer Email address</li> <li>• Complaint information</li> <li>• Complaint history, including copies of documents</li> <li>• Details of work carried out               <ul style="list-style-type: none"> <li>○ Installer details (Business name, Registration Number, name of Engineer)</li> <li>○ Other parties (eg neighbours, landlord) – name, address, contact details</li> </ul> </li> <li>• Appeals against sanctions</li> <li>• Complaints against service</li> </ul>
Type of Personal Data	Consumers – Notifications: <ul style="list-style-type: none"> <li>• Consumer name</li> <li>• Consumer address (where appliance installed)</li> <li>• Consumer/householder email address</li> <li>• Delivery address of certificate (if different to installation address)</li> <li>• Registered Business details (Business name, Registration number, installing Engineer, Engineer registration number)</li> </ul>
Type of Personal Data	Consumers – Marketing (optional): <ul style="list-style-type: none"> <li>• Consumer name</li> <li>• Consumer email address</li> <li>• Consumer postcode</li> </ul>
Type of Personal Data	Stakeholders <ul style="list-style-type: none"> <li>• Stakeholder name</li> <li>• Stakeholder email address</li> <li>• Stakeholder address &amp; postcode</li> </ul>
Categories of Data Subject	Registered Businesses (including dormant and elapsed registrations) Registered Engineers (including dormant and elapsed registrations) Potential engineers who have gas qualifications but have not yet registered Suspected illegal gas fitters / businesses Consumers / members of the public who have made a complaint against a Registered Business or Engineer, or suspected illegal gas fitter Consumers, including private landlords, who have had an appliance installed and notified under the Building Regulations or under a Declaration of Safety Consumers who have opted in to marketing communications

Description	Details
	Stakeholders
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<p>Processing shall be carried out during the term of the Agreement, can cease on expiry or termination, or at the end of any Termination Assistance Period, after which data should be returned to HSE or transferred to a new Provider as advised by HSE.</p> <p>Data to be disposed of after 10 years from the last activity against the registration.</p> <p>See HSE's data retention policy, outlined in the Business Classification Scheme and Disposal Schedule at <a href="http://www.hse.gov.uk/foi/busclasschem.pdf">www.hse.gov.uk/foi/busclasschem.pdf</a></p>

#### 4. Sources of personal data

- 4.1 The Provider shall receive personal data about Engineers:
- 4.1.1 as supplied by Businesses and Engineers during:
    - 4.1.1(a) registration application;
    - 4.1.1(b) renewal;
    - 4.1.1(c) when updating personal or financial information;
    - 4.1.1(d) when Gas Work is notified under the Building Regulations or Declaration of Safety, directly by the Business, or via a third-party.
  - 4.1.2 via API upload from Awarding Bodies when Qualifications are taken or renewed;
  - 4.1.3 following an Inspection of a Business and/or Engineer;
  - 4.1.4 when complaints are made against Businesses or Engineers.

#### 5. Location of personal data

- 5.1 Personal data must be held and processed in UK, and in accordance with Clause 32.4.4 of this Agreement.
- 5.2 Data is held electronically in the Capita secure data centres and manual records are kept securely in the CGRAS office locations and on encrypted CGRAS laptops.

#### 6. Recipients of Personal Data

- 6.1 The following categories of recipients are approved to receive Personal Data:
- 6.1.1 enforcement agencies and Government departments, as required to meet their legal or regulatory responsibilities;
  - 6.1.2 local authorities and Local Authority Building Control, limited to:

- 6.1.2(a) Property address;
- 6.1.2(b) Registered Business name, address and registration number.
- 6.1.3 gas appliance manufacturers.

## **7. Existence of automated decision making, including profiling**

- 7.1 Registered Businesses and Engineers shall be allocated a risk rating which will determine the risk category they are allocated to.
- 7.2 Risk categories are:
  - 7.2.1 low risk;
  - 7.2.2 medium risk;
  - 7.2.3 higher risk;
  - 7.2.4 targeted higher risk.
- 7.3 The Provider shall profile Businesses and Engineers using:
  - 7.3.1 unsafe Gas Work accredited to the Business or Engineer;
  - 7.3.2 complaint history;
  - 7.3.3 inspection findings;
  - 7.3.4 location of the business's registered address or regional depot;
  - 7.3.5 Certified Bodies / Awarding Bodies used for qualifications;
  - 7.3.6 engineer age;
  - 7.3.7 qualifications and resultant work categories;
  - 7.3.8 scope of Gas work undertaken, eg domestic, commercial etc;
  - 7.3.9 registration history.

## **8. Right to erasure**

- 8.1 Right to erasure shall not be applied to registration data, data collected for regulatory purposes or data relating to complaints against businesses or engineers.
- 8.2 Right to erasure may be applied to marketing activity.

## **9. Right to rectification**

- 9.1 The Provider shall rectify inaccurate Personal Data concerning data subjects without delay where an error is reported.

## **10. Subject Access Requests (SARs)**

- 10.1 The Provider shall receive and process any Subject Access Requests on HSE's behalf in accordance with Clause 32.5 of this Agreement.

## **11. Data retention period**

- 11.1 Table 2 outlines the data retention periods for different types of data.

**Table 2** Data retention periods

<b>Data</b>	<b>Retention period</b>
Registration data	Until 10 years after the last activity recorded against at Business's or Engineer's registration
Complaints	Until 10 years after the last activity recorded against at Business's or Engineer's registration
Awarding Body / Certification Body data not held against an active registration	Until 10 years after the last activity recorded against at Business's or Engineer's registration, or for 10 years if never registered
Investigations, including those where further action is taken and where no further action is taken	Until 10 years after the last activity recorded against at Business's or Engineer's registration
PDF images of printed materials such as ID card, certificates etc	Until 6 months after expiry for registration documents, until 10 years after issue for notification certificates

## 12. Data breach reporting process

- 12.1 The Provider shall inform HSE of any Data Loss Event in line with the requirements of Clause 32.5.2 of this Agreement.
- 12.2 The Provider shall report all data breaches to HSE, not just significant breaches that are required to be notified to the ICO.

**ANNEX 1 – DATA PROTECTION OFFICERS****Table 3** Data Protection Officers

<b>Organisation</b>	<b>Controller or Processor</b>	<b>Name of Data Protection Officer</b>	<b>Contact details</b>
HSE	Controller		Redgrave Court, Bootle L20 7HS
CGRAS	Processor		30 Berners Street, London

**ANNEX 2 – TECHNICAL AND ORGANISATIONAL SECURITY MEASURES**

[See separate document]

**ANNEX 3 – LIST OF APPROVED SUB-PROCESSORS****Table 4** Approved Sub-processors

<b>Organisation</b>	<b>Data to be processed</b>	<b>Approved processing activity</b>	<b>Date agreement in place</b>
Capita Intelligent Communications	Registered business / engineer data and consumer data	Print and email fulfilment services including the print fulfilment of Building Regulations notification certificates, Declarations of Safety, licence cards, registration certificates, letters, reports etc	28/04/2017
Borough IT	Registered business / engineer data and consumer data	Support and development of the Register's main database	13/08/2008
Capita Application Services	Registered Business / Engineer data and Consumer data	Support and development of the Register's main database	To be advised by Provider
Pay360	Payment information	Processing of payment transactions	06/06/2009
GCI.Com	Registered business / engineer data	Support, development and management of IVR service	10/07/2009

Intelecom (Puzzle)	Registered business / engineer data and consumer data	Support and provision of telephony service, including call recording	01/10/2010
Accent	Registered business / engineer data and consumer data	Carrying out of satisfaction surveys	01/04/2013
Concep	Registered business / engineer data and consumer data	Management and delivery of email communication including eNewsletters	21/12/2017
Certification / Awarding Bodies (as listed in the Exit Plan Asset Register Part 5 3rd party providers)	Engineer / candidate data	Provision of candidate qualifications results including photograph and personal details	Various dates from 2009
Manufacturers (as listed in the Exit Plan Asset Register Part 6 3rd party notification)	Registered business / engineer data	Provision of facility for registered business / engineers to notify their Gas Work	Various dates, earliest being April 2014 and latest being Jan 2018 (they are valid for period of 5 years)

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**SCHEDULE 25: TENDER**

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## **INTRODUCTION**

### **1. Introduction**

- 1.1 Annex 1 of this Schedule 25 sets out the Provider's Tender submission.

## **ANNEX 1 – TENDER**

[See separate document]