

A Contract relating to Coverage Assurance Goods and Services

Terms and Conditions

DATED...18 September 2018

(1) THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

(2) TELENT TECHNOLOGY SERVICES LIMITED

**A CONTRACT RELATING TO THE PROVISION OF
COVERAGE ASSURANCE GOODS AND SERVICES IN
CONNECTION WITH THE EMERGENCY SERVICES
NETWORK**

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OFFICIAL – COMMERCIAL
CONTRACT RELATING TO COVERAGE ASSURANCE GOODS AND SERVICES
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THIS AGREEMENT is made on 18 September 2018

BETWEEN:-

- (1) **THE SECRETARY OF STATE FOR THE HOME DEPARTMENT** of whose principle office is 2 Marsham Street, London SW1P 4DF (the "**Authority**"); and
- (2) **telent Technology Services Limited** a company registered in England and Wales under company number 703317 whose registered office is at Point 3, Haywood Road, Warwick, CV34 5AH (the "**Supplier**")

(each a "**Party**" and together the "**Parties**").

INTRODUCTION

- (A) The Authority placed a contract notice with reference 2018/S 047-103350 on 6th March 2018 (the "**OJEU Notice**") in the Official Journal of the European Union seeking tenders from potential providers of Coverage Assurance Goods and Services interested in entering into a contract for the Provision of Coverage Assurance Goods and Services in relation to the Emergency Services Network (the "**Opportunity**").
- (B) The invitation to tender (the "**Invitation to Tender**") in relation to the Opportunity was available for access from 12th March 2018.
- (C) In response to the Invitation to Tender, the Supplier submitted a tender to the Authority on 8th May 2018 (the "**Tender**") through which it represented to the Authority that it is capable of supplying the Coverage Assurance Goods and Services in accordance with the Authority's requirements as set out in the Invitation to Tender and, in particular, the Supplier made representations to the Authority in the Tender in relation to its competence, professionalism and ability to provide the Coverage Assurance Goods and Services in an efficient and cost effective manner.
- (D) On the basis of the Tender, the Authority selected the Supplier to enter into a contract to provide the Coverage Assurance Goods and Services in accordance with this Agreement.
- (E) In accordance with the terms of this Agreement the Supplier shall provide not less than one thousand (1,000) and no more than two thousand five hundred (2,500) Coverage Apps for the purpose of providing the Authority with assurance as to the 4G and ESN coverage provided by the MS Supplier.
- (F) This Agreement sets out, in addition to the provision of Coverage Apps, the services that the Supplier must provide in relation to Coverage Assurance, Service Assurance, Development Services, Training Services, Drive Test Services, Walk Test Services and Optional Services which may be required by the Authority from time to time, and the ordering procedure for such services.

IT IS AGREED as follows:

SECTION A - PRELIMINARIES

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, including its schedules, annexes and recitals, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in *Schedule 1 (Definitions)*.
- 1.2 If a capitalised expression does not have an interpretation in *Schedule 1 (Definitions)*, it shall have the meaning given to it in this Agreement. If no meaning is given to it in this Agreement, it shall in the first instance be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the primary dictionary meaning.
- 1.3 In this Agreement, unless the context otherwise requires:

- 1.3.1 the singular includes the plural and vice versa;
- 1.3.2 reference to a gender includes the other gender and the neuter;
- 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown body;
- 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation";
- 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
- 1.3.7 the headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement;
- 1.3.8 references to: "**representations**" shall be construed as references to present facts; to "**warranties**" as references to present and future facts; and to "**undertakings**" as references to obligations under this Agreement;
- 1.3.9 references to "**Clauses**" and "**Schedules**" are references to the clauses and schedules of this Agreement and references in any Schedule to paragraphs, parts, annexes and tables are, unless otherwise provided, references to the paragraphs, parts, annexes and tables of the Schedule or the part of the Schedule in which the references appear; and
- 1.3.10 references to this Agreement are references to this Agreement as amended from time to time.
- 1.4 Where a standard, policy or document is referred to in this Agreement by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Supplier shall notify the Authority and the Parties shall update this Agreement with a reference to the replacement hyperlink. For the avoidance of doubt, the Authority may change such hyperlinks (at its sole discretion) from time to time without notice to the Supplier.
- 1.5 Subject to Clauses 1.6 and 1.7, in the event and to the extent only of a conflict between any of the provisions of this Agreement, the conflict shall be resolved, in accordance with the following descending order of precedence:
 - 1.5.1 the Clauses and *Schedule 1 (Definitions)*;
 - 1.5.2 *Schedules 2.1 (Requirements) to Schedule 9.1 (Ordering Procedure)* inclusive (excluding *Schedule 4.1 (Supplier Solution)*); and
 - 1.5.3 *Schedule 4.1 (Supplier Solution)*.
- 1.6 If there is any conflict between the provisions of this Agreement and provisions of any Order Form or Works Instruction, the provisions of this Agreement shall prevail over those of the Order Form save that subject to Clause 1.7, the Order Form shall prevail over *Schedule 4.1 (Supplier Solution)*.
- 1.7 Where the Supplier Solution contains provisions which are more favourable to the Authority in relation to the rest of the Agreement, such provisions of the Supplier Solution shall prevail. The Authority shall in its absolute and sole discretion determine whether any provision in the Supplier Solution is more favourable to it in relation to this Agreement.

1.8 In entering into this Agreement the Authority is acting as part of the Crown.

2. NOT USED

3. DUE DILIGENCE

3.1 The Supplier acknowledges that prior to entering into this Agreement:

3.1.1 the Authority has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Agreement;

3.1.2 it has made its own enquiries and has satisfied itself as to the accuracy and adequacy of the Due Diligence Information;

3.1.3 it has satisfied itself (whether by inspection or having raised all relevant due diligence questions with the Authority before the Contract Commencement Date) of all relevant details relating to the:

(a) Authority Requirements; and

(b) operating processes and procedures and the working methods of the Authority.

3.1.4 it has advised the Authority in writing of:

(a) the actions needed to remedy each such unsuitable aspect; and

(b) a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,

and such actions, timetable and costs are fully reflected in this Agreement, including in *Schedule 2.1 (Requirements)*, *Schedule 4.1 (Supplier Solution)* and/or *Schedule 3.1 (Authority Responsibilities)* as applicable.

3.2 The Supplier shall not be excused from the performance of any of its obligations under this Agreement on the grounds of, nor shall the Supplier be entitled to recover any additional costs or charges arising as a result of:

3.2.1 any misinterpretation of the Authority Requirements; and/or

3.2.2 any failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

3.3 No warranty or undertaking is given by the Authority as to the accuracy, completeness, adequacy or fitness for purpose of any information disclosed or made available to the Supplier in the course of any due diligence in accordance with this Agreement or in connection with the Supplier's provision of the Goods and/or Services or such information constitutes all information relevant or, material to the Goods and/or Services.

3.4 The Supplier acknowledges that it has and (as the case shall be) shall make its own enquiries to satisfy itself of the accuracy of the information supplied to it in connection with this Agreement.

4. SUPPLIER'S APPOINTMENT

4.1 The Authority hereby appoints the Supplier to provide the Coverage Assurance Goods and Services.

4.2 In consideration of the Supplier agreeing to enter into this Agreement and to perform the obligations under it the Authority agrees to pay and the Supplier the Charges.

5. SCOPE OF THE AGREEMENT

- 5.1 Without prejudice to Clause 58 (Third Party Rights), this Agreement governs the relationship between the Authority and the Supplier in respect of the provision of the Coverage Assurance Goods and Services by the Supplier.
- 5.2 The Parties will conduct their relationship and operate this Agreement in a manner consistent with the principles set out in Clause 5.3.
- 5.3 The principles which shall be the basis of the Parties' relationship are to:
- 5.3.1 strive for excellence in the management and delivery of the Goods and Services;
 - 5.3.2 mutually explore opportunities to implement continuous improvements and efficiencies in respect of the provision of the Goods and Services;
 - 5.3.3 be responsive, flexible and innovative; and
 - 5.3.4 deal with each other in an open, prompt and efficient manner.
- 5.4 The Supplier will provide any other goods and services described in this Agreement and perform all activities, functions and services necessary for the proper supply of, ancillary to or customarily included as part of, the delivery of the goods and services under this Agreement, including supervisory services required to ensure the goods and services (including the Goods and Services) are supplied properly.

6. COVERAGE TESTING AND ORDERING PROCEDURE

- 6.1 The Supplier shall be required to undertake Coverage Assurance of the MS Supplier's 4G Coverage and ESN Coverage provision and provide reporting thereon to the Authority.
- 6.2 The Coverage Solution shall include the provision of autonomous, unattended testing of Coverage and ESN Service via data collected from the Coverage App and PSCS Application installed onto Devices provisioned to operate either on the commercial 4G network or the ESN network and deployed in the field, or via Physical Testing Services executed by the Supplier.
- 6.3 The Supplier shall commence with the commercial 4G network Coverage Assurance and Service Assurance testing of Coverage provided by the MS Supplier, and will only commence with ESN testing once the Authority informs the Supplier that the ESN service is available for testing. The Supplier shall carry out any Coverage App enhancement (including NATS and associated testing) in anticipation of ESN service availability.
- 6.4 The Supplier shall provide all Coverage Assurance and Service Assurance reporting on data collected from the Coverage App and PSCS Application as well as provision of the raw data to the Authority.
- 6.5 The Summary of the Core Services to be provided by the Supplier includes:
- (a) a centralised web/application/ database server solution that will be hosted on a Government secure cloud platform for the purpose of measuring 4G Coverage and ESN Coverage;
 - (b) Coverage Assurance Software:
 - (i) COTS Coverage Application to support 4G Coverage Assurance as contemplated under Capability 1a and Capability 1b;
 - (ii) COTS Coverage App Enhanced to support ESN Coverage as contemplated under Capability 2a;

- (iii) ESN Service App to support logging and control of the PSCS Application as contemplated under Capability 2b; and
- (iv) Physical Test Service Software to provide drive test analysis Software to the Authority to enable the Authority to process and analyse Physical Test Service raw data collected under Capability 3a and Capability 3b;
- (c) Coverage Assurance and Service Assurance testing, including the activation of the Coverage Application and ESN Service Application Software deployed onto Devices for collecting the data required to provide full Coverage Assurance and Service Assurance, and transmission and storage of the collected data to the Drive Test Server;
- (d) Coverage Assurance and Service Assurance reporting, including the provision of COTS and bespoke reporting capability of the Coverage Assurance and Service Assurance testing data in a format to be agreed with the Authority;
- (e) Physical Test Services, including the provision by the Supplier of all testing equipment (including MS Supplier 4G subscription and SIM) for the provision of the 4G and ESN Physical Test Services; and
- (f) where required by the Authority, Optional Services:
 - (i) Option 1; the provision of 1,000 Devices;
 - (ii) Option 2; the hosting of the centralised web/application/database server solution either on the Supplier's own Secure server/storage environment or hosted within an alternative, secure, UK based cloud service. The Supplier shall ensure that the solution and all data can be readily transferred from the supplied hosting environment to the designated Authority cloud hosted environment when requested; and
 - (iii) Option 3; the supply of equipment and services to support the measurement of voice quality on the ESN using a subset of 50 ESN Devices taken from the total population of 1,000 to 2,500 deployed ESN Devices. Voice quality measurement shall use ITU P.863 POLQA WB/SWB algorithm and scale (ESN_COV_4G_029).

6.6 The minimum quantities for the Core Services shall be as set out in Annex A to Schedule 9.1 (Ordering Procedure).

6.7 At any time during the Contract Period, the Authority may, at its absolute discretion, place Orders or Works Instructions for Additional Services in accordance with the provisions of Schedule 9.1 (Ordering Procedure) provided that the cumulative number of each type of the Additional Services ordered does not exceed the maximum number set out in Annex A to Schedule 9.1 (Ordering Procedure).

6.8 The Supplier and the Authority shall comply with the provisions set out in Schedule 9.1 (Ordering Procedure).

7. NOT USED

8. ASSISTANCE IN RELATED PROCUREMENTS

8.1 Where a Relevant Supplier is bidding to provide New Goods and/or Services in circumstances where the Supplier or an Affiliate of the Supplier is already providing (or due to provide) Legacy Goods and/or Services to the Authority, the Supplier shall promptly provide the Authority and/or the Relevant Supplier with all reasonable information and assistance as may be required from time to time to enable the Authority and/or the Relevant Supplier, as appropriate, to:

- 8.1.1 carry out appropriate due diligence with respect to the provision of the New Goods and/or Services;
 - 8.1.2 effect a smooth transfer and/or inter-operation (as the case may be) between the Legacy Goods and/or Services and the New Goods and/or Services;
 - 8.1.3 make a proper assessment as to the risk related to the New Goods and/or Services.
- 8.2 When performing its obligations in Clause 8.1 the Supplier shall act consistently, applying principles of equal treatment and non-discrimination, with regard to requests for assistance from and dealings with each Relevant Supplier.

9. REPRESENTATIONS AND WARRANTIES

9.1 Each Party represents and warrants that:

- 9.1.1 it has full capacity and authority to enter into and to perform this Agreement;
- 9.1.2 this Agreement is executed by its duly authorised representative;
- 9.1.3 there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it (or, in the case of the Supplier, any of its Affiliates) that might affect its ability to perform its obligations under this Agreement; and
- 9.1.4 its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable (as the case may be for each Party) bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law).

9.2 The Supplier represents and warrants that:

- 9.2.1 it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
- 9.2.2 it has all necessary consents and regulatory approvals to enter into this Agreement and provide the Goods and Services;
- 9.2.3 it has obtained and will maintain all licences, authorisations, permits, necessary consents (including, where its procedures so require, the consent of its parent company) and regulatory approvals to enter into and perform its obligations under this Agreement;
- 9.2.4 it has and shall continue to have all Intellectual Property Rights (including rights in and to the Licensed Software, the Supplier IPRs and any other materials made available by the Supplier (and/or any Sub-Contractor) to the Authority which are necessary for the performance of the Supplier's obligations under this Agreement and/or the receipt of the Goods and/or Services by the Authority;
- 9.2.5 it has and shall continue to own all Intellectual Property Rights (including rights in and to the Licensed Software, the Supplier IPRs and any other materials made available by the Supplier (and/or any Sub-Contractor) to the Authority which are necessary for the provision, modification and/or development of the Coverage App;
- 9.2.6 it has the capability and owns the necessary Intellectual Property Rights to provide and develop the Coverage App without requiring customisation or administrative control of Android or Coverage Application (root access) on the Device it is installed on.

- 9.2.7 it shall take all steps, in accordance with Good Industry Practice, to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or Trojans, spyware or other malware) into systems, data, software or Confidential Information (held in electronic form) owned by or under the control of, or used by, the Authority or any User Organisation.
- 9.2.8 it has not committed or agreed to commit a Prohibited Act and has no knowledge that an agreement has been reached involving the committal by it or any of its Affiliates of a Prohibited Act, save where details of any such arrangement have been disclosed in writing to the Authority before the Contract Commencement Date;
- 9.2.9 it has notified the Authority in writing of any Occasion of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance;
- 9.2.10 it meets or exceeds and shall continue to meet and exceed, the Dun and Bradstreet score for financial stability required for by the Authority as set out in the Invitation to Tender;
- 9.2.11 it has notified the Authority in writing of any failure to meet or exceed the Dun and Bradstreet score for financial stability required for by the Authority as set out in the Invitation to Tender;
- 9.2.12 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue;
- 9.2.13 all written statements and representations in any written submissions made by the Supplier as part of the procurement process, including without limitation its response to the Invitation to Tender, its Tender and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Agreement or to the extent that the Supplier has otherwise disclosed to the Authority in writing prior to the date of this Agreement;
- 9.2.14 its execution, delivery and performance of its obligations under this Agreement does not and will not constitute a breach of any Law or obligation applicable to it and does not and will not cause or result in a breach of any agreement by which it is bound;
- 9.2.15 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Agreement;
- 9.2.16 for the duration of this Agreement and for a period of twelve (12) Months after the termination or expiry of this Agreement the Supplier shall not actively seek to employ or offer employment to any staff of the Authority who has been associated with the procurement and/or provision of the Goods and/or Services without Approval or the prior written consent of the Authority. The Supplier shall not be considered in breach of this Clause 9.2.16 where such member of staff of the Authority is employed following a successful application submitted in response to a job advertisement placed in the national, regional or professional press or in any other form of media used for recruitment; and
- 9.2.17 save where expressly agreed otherwise in writing, all Goods provided by the Supplier under this Agreement will be brand new and unused.
- 9.3 The representations and warranties set out in Clauses 9.1 and 9.2 shall be deemed to be repeated by the Supplier on the Contract Commencement Date (if later than the date of signature of this Agreement) by reference to the facts then existing.
- 9.4 Each of the representations and warranties set out in Clauses 9.1 and 9.2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or

inference from, the terms of any other representation, warranty or any other undertaking in this Agreement.

- 9.5 If at any time a Party becomes aware that a representation or warranty given by it under Clause 9.1 or 9.2 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.
- 9.6 For the avoidance of doubt, the fact that any provision within this Agreement is expressed as a warranty shall not preclude any right of termination which the Authority may have in respect of a breach of that provision by the Supplier.

10. NOT USED

SECTION B – DURATION OF THE AGREEMENT

11. DURATION OF THE AGREEMENT

- 11.1 This Agreement shall:
- 11.1.1 come into force on the Contract Commencement Date, save for Clauses 1 (Definitions and Interpretation), 9 (Representations and Warranties), 11 (Duration of the Agreement), 35 (Confidentiality), 37 (Freedom of Information), 38 (Protection of Personal Data), 39 (Publicity and Branding), 41 (Limitation of Liability), 43 (Insurance), 47 (Consequences of Expiry or Termination), 48 (Compliance), 50 (Waiver and Cumulative Remedies), 51 (Relationship of the Parties), 53 (Prevention of Fraud and Bribery), 54 (Conflicts of Interest), 55 (Severance), 57 (Entire Agreement), 58 (Third Party Rights), 59 (Notices), 60 (Complaints Handling), 61 (Dispute Resolution) and 62 (Governing Law and Jurisdiction), which shall be binding and enforceable as between the Parties from the Contract Execution Date; and
 - 11.1.2 unless terminated at an earlier date by operation of Law or in accordance with Clause 45 (Termination Rights), terminate:
 - (a) on the Initial Contract Period Expiry Date; or
 - (b) if the Authority elects to extend the duration of the Agreement in accordance with Clause 11.2, on the Extension Contract Period Expiry Date.
- 11.2 The Authority may extend the duration of this Agreement beyond the expiry of the Initial Contract Period for any period or periods of not less than twelve (12) Months by serving written notice on the Supplier not less than two (2) Months prior to the Initial Contract Period Expiry Date), provided that the total Extension Contract Period does not exceed twelve (12) Months.

SECTION C – DEVICE DEVELOPMENT SERVICES

12. DEVELOPMENT SERVICES

- 12.1 The Supplier shall provide the Development Services from (and including) the Development Service Commencement Date.
- 12.2 The Supplier shall ensure that the Documentation developed as part of the Development Services is supplied in accordance with the Supplier Solution and the provisions of this Agreement.
- 12.3 The Supplier shall:
- 12.3.1 perform the Development Services in accordance with Clause 20.1; and
 - 12.3.2 deliver the Development Services using efficient business processes and ways of working having regard to the Authority's obligation to ensure value for money.

- 12.4 The Supplier shall:
- 12.4.1 at all times allocate sufficient resources with the appropriate technical expertise to provide the Development Services in accordance with this Agreement;
 - 12.4.2 save to the extent that obtaining and maintaining the same are Authority Responsibilities and subject to Clause 28 (Variation), obtain and maintain all licences, authorisations, permits, necessary consents (including, where its procedures so require, the consent of its parent company) and regulatory approvals to enter into and perform the Development Services;
 - 12.4.3 ensure that:
 - (a) the Representations and Warranties given at 9.2.4 to 9.6 (inclusive) continue to be true and accurate through the delivery of the Development Services and thereafter;
 - (b) the release of any new Software or upgrade to any Software complies with the requirements in requirements ESN_COV_CS_071 to ESN_COV_CS_073 of Schedule 2.1 (Requirements);
 - 12.4.4 minimise any disruption to the Authority's operations when carrying out its obligations under this Agreement; and
 - 12.4.5 ensure that any Documentation and Training Services provided by the Supplier to the Authority or any User Organisation are comprehensive, accurate and prepared in accordance with Good Industry Practice.
- 12.5 An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that all Sub-contractors and Supplier Personnel also do, or refrain from doing, such act or thing.
- 12.6 Without prejudice to Clause 19.5.1 (IPR Indemnity) and any other rights and remedies of the Authority howsoever arising, the Supplier shall:
- 12.6.1 remedy any breach of its obligations in Clauses 12.4.2 to 12.4.4 (inclusive) within three (3) Working Days of becoming aware of the breach or being notified of the breach by the Authority where practicable or within such other time period as may be agreed with the Authority (taking into account the nature of the breach that has occurred);
 - 12.6.2 remedy any breach of its obligations in Clause 12.4.1 and Clauses 12.4.5 within twenty (20) Working Days of becoming aware of the breach or being notified of the breach by the Authority; and
 - 12.6.3 meet all the costs of, and incidental to, the performance of such remedial work,
- and any failure of the Supplier to comply with its obligations under Clause 12.6.1 or Clause 12.6.2 within the specified or agreed timeframe shall constitute a Notifiable Default.
- 12.7 Without prejudice to Clauses 12.4 and 12.6 and any other rights and remedies of the Authority howsoever arising, the Supplier warrants to the Authority that all components of the Goods shall:
- 12.7.1 be free from material design, manufacture and programming errors;
 - 12.7.2 perform in all material respects in accordance with the Authority Requirements and Supplier Solution; and
 - 12.7.3 not infringe any Intellectual Property Rights.

13. IMPLEMENTATION PLAN

- 13.1 The Parties shall comply with the provisions of *Schedule 6.1 (Implementation Plan)* in relation to the agreement and maintenance of the Detailed Implementation Plan.
- 13.2 The Supplier shall:
- 13.2.1 comply with the Implementation Plan; and
 - 13.2.2 ensure that each Milestone is Achieved on or before its Milestone Date.
- 13.3 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay:
- 13.3.1 it shall:
 - (a) notify the Authority in accordance with Clause 15.1 (Rectification Plan Process);
 - (b) comply with the Rectification Plan Process in order to address the impact of the Delay or anticipated Delay; and
 - (c) use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay; and

14. NOT USED

15. RECTIFICATION PLAN PROCESS

- 15.1 In the event that:
- 15.1.1 there is, or is reasonably likely to be, a Delay; or
 - 15.1.2 the Supplier commits a material Default that is capable of remedy (and for these purposes a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default), or
 - 15.1.3 a Repeat KPI Failure occurs;
- (each a "**Notifiable Default**"), the Supplier shall notify the Authority of the Notifiable Default as soon as practicable but in any event within 3 Working Days of becoming aware of the Notifiable Default, detailing the actual or anticipated effect of the Notifiable Default and, unless the Notifiable Default also constitutes a Rectification Plan Failure or other Supplier Termination Event, the Authority may not terminate this Agreement in whole or in part on the grounds of the Notifiable Default without first following the Rectification Plan Process.

Notification

- 15.2 If:
- 15.2.1 the Supplier notifies the Authority pursuant to Clause 15.1 that a Notifiable Default has occurred; or
 - 15.2.2 the Authority notifies the Supplier that it considers that a Notifiable Default has occurred (setting out sufficient detail so that it is reasonably clear what the Supplier has to rectify),
- then, unless the Notifiable Default also constitutes a Supplier Termination Event and the Authority serves a Termination Notice, the Supplier shall comply with the Rectification Plan Process.
- 15.3 The "**Rectification Plan Process**" shall be as set out in Clauses 15.4 (Submission of the draft Rectification Plan) to 15.9 (Agreement of the Rectification Plan).

Submission of the draft Rectification Plan

- 15.4 The Supplier shall submit a draft Rectification Plan to the Authority for it to review as soon as possible and in any event within 10 Working Days (or such other period as may be agreed between the Parties) after the original notification pursuant to Clause 15.2 (Notification). The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Notifiable Default.
- 15.5 The draft Rectification Plan shall set out:
- 15.5.1 full details of the Notifiable Default that has occurred, including a root cause analysis;
 - 15.5.2 the actual or anticipated effect of the Notifiable Default; and
 - 15.5.3 the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable).
- 15.6 The Supplier shall promptly provide to the Authority any further documentation that the Authority reasonably requires to assess the Supplier's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with Paragraph 6 of Schedule 8.5 (Dispute Resolution Procedure).

Agreement of the Rectification Plan

- 15.7 The Authority may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:
- 15.7.1 is insufficiently detailed to be capable of proper evaluation;
 - 15.7.2 will take too long to complete;
 - 15.7.3 will not prevent reoccurrence of the Notifiable Default; and/or
 - 15.7.4 will rectify the Notifiable Default but in a manner which is unacceptable to the Authority.
- 15.8 The Authority shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Authority rejects the draft Rectification Plan, the Authority shall give reasons for its decision and the Supplier shall take the reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit the revised draft of the Rectification Plan to the Authority for review within 5 Working Days (or such other period as agreed between the Parties) of the Authority's notice rejecting the first draft.
- 15.9 If the Authority consents to the Rectification Plan the:
- 15.9.1 Supplier shall immediately start work on the actions set out in the Rectification Plan; and
 - 15.9.2 Authority may no longer terminate this Agreement in whole or in part on the grounds of the relevant Notifiable Default.

16. **NOT USED**

17. **NOT USED**

SECTION D – AUTHORITY RESPONSIBILITIES

18. AUTHORITY RESPONSIBILITIES

Authority Responsibilities

18.1 The Authority shall comply with its responsibilities set out in Schedule 3.1 (Authority Responsibilities).

Authority Cause

18.2 Notwithstanding any other provision of this Agreement, if the Supplier has failed to:

18.2.1 Achieve a Milestone by its Milestone Date; or

18.2.2 provide the Development Services in accordance with the Authority Requirements; or

18.2.3 comply with its obligations under this Agreement,

(each a "**Supplier Non-Performance**"),

and can demonstrate that the Supplier Non-Performance would not have occurred but for an Authority Cause, then (subject to the Supplier fulfilling its obligations in this Clause 18):

(a) the Supplier shall not be treated as being in breach of this Agreement to the extent the Supplier can demonstrate that the Supplier Non-Performance was caused by the Authority Cause;

(b) the Authority shall not be entitled to exercise any rights that may arise as a result of that Supplier Non-Performance to terminate this Agreement pursuant to Clause 45 (Termination by the Authority); and

(c) where the Supplier Non-Performance constitutes the failure to Achieve a Milestone by its Milestone Date:

(i) the Milestone Date shall be postponed by a period equal to the period of Delay that the Supplier can demonstrate was caused by the Authority Cause; and/or

(ii) if the Authority, acting reasonably, considers it appropriate, the Implementation Plan shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from the Authority Cause.

18.3 In order to claim any of the rights and/or relief referred to in Clause 18.2, the Supplier shall as soon as reasonably practicable (and in any event within 10 Working Days) after becoming aware that an Authority Cause has caused, or is reasonably likely to cause, a Supplier Non-Performance, give the Authority notice (a "**Relief Notice**") setting out details of:

18.3.1 the Supplier Non-Performance;

18.3.2 the Authority Cause and its effect, or likely effect, on the Supplier's ability to meet its obligations under this Agreement;

18.3.3 any steps which the Authority can take to eliminate or mitigate the consequences and impact of such Authority Cause; and

18.3.4 the relief and/or compensation claimed by the Supplier.

18.4 Following the receipt of a Relief Notice, the Authority shall as soon as reasonably practicable consider the nature of the Supplier Non-Performance and the alleged Authority Cause and whether it agrees with the Supplier's assessment set out in the Relief Notice as to the effect of the relevant Authority Cause and its entitlement to relief, consulting with the Supplier where necessary.

18.5 The Supplier shall use all reasonable endeavours to eliminate or mitigate the consequences and impact of an Authority Cause.

18.6 Without prejudice to Clause 61.2 (Continuing obligation to provide the Services), if a Dispute arises as to:

18.6.1 whether a Supplier Non-Performance would not have occurred but for an Authority Cause; and/or

18.6.2 the nature and/or extent of the relief claimed by the Supplier,

either Party may refer the Dispute to the Dispute Resolution Procedure. Pending the resolution of the Dispute, both Parties shall continue to resolve the causes of, and mitigate the effects of, the Supplier Non-Performance.

19. INTELLECTUAL PROPERTY RIGHTS

19.1 Allocation of title to IPR and Licensed Rights

19.1.1 Save as granted under this Agreement, neither Party shall acquire any right, title or interest in or to the Intellectual Property Rights of the other Party.

19.1.2 Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 19.1.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).

19.1.3 Subject to Clause 19.1.4, neither Party shall have any right to use any of the other Party's names, logos or trademarks on any of its goods or services without the other Party's prior written consent.

19.1.4 Subject to full compliance with the Branding Guidance, the Supplier shall be entitled to use the Authority's logo exclusively in connection with the provision of the Goods and/or Services during the Contract Period and for no other purpose.

19.1.5 The Supplier recognises the importance of ensuring that the Authority and Other ESN Suppliers have, at all times, the necessary rights to use the Goods and Services and other Intellectual Property Rights provided by or on behalf of the Supplier under this Agreement.

19.1.6 The Supplier shall, subject to the terms of this Agreement, grant to the Authority, User Organisation and/or User a perpetual royalty free and non-exclusive licence to use the Software and all other Intellectual Property Rights in the Goods and/or Services.

19.2 Licenses granted by the Supplier

19.2.1 The Supplier recognises the importance of ensuring that the Authority and Other ESN Suppliers have, at all times, the necessary rights to use the Goods and Services and other Intellectual Property Rights provided by or on behalf of the Supplier under this Agreement.

19.2.2 The Supplier hereby grants the Authority, and shall grant any User Organisation and/or User, perpetual, royalty-free and non-exclusive licenses to use (including but not limited to the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display)):

- (a) the Supplier Software;
- (b) the Supplier IPRs;
- (c) the Project Specific IPR;
- (d) the Specially Written Software; and
- (e) any IPRs in the MI Reports,

for any purpose relating to the Goods and/or Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or any other Central Government Body's) business or function;

- 19.2.3 The Supplier shall procure the grant to the Authority, User Organisation and/or User perpetual, royalty free and non-exclusive licenses to use (including but not limited to the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing up, loading, execution, storage, transmission or display)):

- (a) any Third Party Software; and
- (b) any Open Source software,

used by the Supplier or any Sub-Contractor for any purpose relating to the Goods and/or Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or other Central Government Body's) or User Organisation's business or function.

19.3 Licenses granted by the Authority

- 19.3.1 The Authority hereby grants and shall grant to the Supplier until the termination or expiry of this Agreement a royalty free and non-exclusive license to use (including but not limited to the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display)):

- (a) the Project Specific IPRs; and
- (b) the Specially Written Software,

for any purpose relating to the Goods and/or Services (or substantially equivalent services).

19.4 Authority's right to sub-license

- 19.4.1 Subject to Clause 19.6.1, the Authority may sub-license:

- (a) the rights granted under Clause 19.2 to a third party (including for the avoidance of doubt, any Replacement Supplier) provided that:
 - (i) the sub-licence is on terms no broader than those granted to the Authority;
 - (ii) the sub-licence authorises the third party to use the rights licensed in Clause 19.2 only for purposes relating to the Goods and/or Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or any other Central Government Body's) business or function; and
 - (iii) the sub-licensee shall have executed a confidentiality undertaking in favour of the Supplier; and
- (b) the rights granted under Clause 19.2 to any approved sub-licensee to the extent necessary to use and/or obtain the benefit of the Specially Written Software and/or the Project Specific IPRs provided that:
 - (i) the sub-licence is on terms no broader than those granted to the Authority; and
 - (ii) the Supplier has received a confidentiality undertaking in its favour.

19.5 Termination and Replacement Suppliers

- 19.5.1 For the avoidance of doubt, the termination or expiry of this Agreement shall not of itself result in any termination of any of the licences granted by the Supplier or relevant third party pursuant to or as contemplated by this Clause 19.

19.6 Patent

- 19.6.1 Where a patent owned by the Supplier is necessarily infringed by the use of the Specially Written Software or Project Specific IPRs by the Authority or any Replacement Supplier, the Supplier hereby grants to the Authority and the Replacement Supplier a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software solely for the purpose for which they were delivered under this Agreement.

19.7 IPR Indemnity

- 19.7.1 The Supplier shall ensure and procure that the availability, provision and use of the Goods and Services and the performance of the Supplier's responsibilities and obligations hereunder shall not infringe any Intellectual Property Rights of any third party.
- 19.7.2 The Supplier shall at all times during and after the Contract Period, on written demand indemnify the Authority against all Losses incurred by or awarded against the Authority (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR Claim.
- 19.7.3 If an IPR Claim is made, or the Supplier anticipates that an IPR Claim might be made, the Supplier may, at its own expense and sole option, either:
- (a) procure for the Authority the right to continue using the relevant item which is subject to the IPR Claim; or
 - (b) replace or modify the relevant item with non-infringing substitutes provided that:
 - (i) the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;
 - (ii) the replaced or modified item does not have an adverse effect on any other Goods and Services;
 - (iii) there is no additional cost to the Authority; and
 - (iv) the terms and conditions of this Agreement shall apply to the replaced or modified Goods and Services.
- 19.7.4 If the Supplier elects to procure a licence in accordance with Clause 19.7.3(a) or to modify or replace an item pursuant to Clause 19.7.3(b), but this has not avoided or resolved the IPR Claim, then:
- (a) the Authority may terminate this Agreement by written notice with immediate effect; and
 - (b) without prejudice to the indemnity set out in Clause 19.7.2, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute items and/or services including the additional costs of procuring, implementing and maintaining the substitute items.

19.8 Escrow

- 19.8.1 The Supplier shall, no more than 30 Working Days prior to the Contract Commencement Date or such other period as the Authority may determine, deposit in escrow with NCC Group:

- (a) the Source Code of the Supplier Software;
- (b) the Source Code of all Specially Written Software; and
- (c) all relevant technical documentation to allow a third party to provide good and services equivalent to the Goods and Services;

(the “**Escrow Documents**”), on the terms set out in the appropriate standard agreement (the Single Licensee Escrow Agreement) or, at the discretion of the Authority, on such other terms as the Authority, the Supplier and NCC Group may agree.

- 19.8.2 The Supplier shall pay the initial storage fees and any on-going fees under the escrow agreement and the Authority shall pay the release fees in the circumstances set out in Clause 19.8.4.
- 19.8.3 The Supplier shall ensure that throughout the Contract Period the deposited Escrow Documents are current versions and are kept up-to-date as the Supplier Software, the Specially Written Software and all relevant technical documentation is modified or upgraded.
- 19.8.4 Notwithstanding clause 19.8.2, the Authority shall only obtain release from escrow of the Escrow Documents in the event of Termination on Insolvency pursuant to Clause 45.3.

SECTION E – PERFORMANCE

20. PERFORMANCE

20.1 The Supplier shall:

- 20.1.1 perform its obligations under this Agreement in accordance with:
 - (a) the requirements of this Agreement;
 - (b) all applicable Law;
 - (c) Good Industry Practice;
 - (d) the Standards;
 - (e) the Security Requirements; and
 - (f) the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 20.1.1(a) to 20.1.1(e);
- 20.1.2 deliver the Goods and Services using efficient business processes and ways of working having regard to the Authority's obligation to ensure value for money; and
- 20.1.3 provide updates and new versions of the Coverage App in accordance with the Supplier's Roadmap.

20.2 In the event that the Supplier becomes aware of any inconsistency between any of the requirements of Clause 20.1 the Supplier shall immediately notify the Authority Project Manager in writing of such inconsistency and the Authority Project Manager shall, as soon as practicable, notify the Supplier which requirement the Supplier shall comply with.

21. STANDARDS

- 21.1 The Supplier shall comply with the Standards at all times during the performance by the Supplier of the Agreement, including the Standards set out in Schedule 2.3 (Standards).
- 21.2 The Supplier should note the intention of the Authority to conform to HM Government's ICT Strategy and the set of standards related to that strategy.

22. KEY PERFORMANCE INDICATORS

- 22.1 The Supplier shall at all times during the Term comply with the Key Performance Indicators and achieve the KPI Targets set out in Appendix 1 to *Schedule 2.2 (Key Performance Indicators)*.
- 22.2 If, in any Month, a KPI Failure occurs for which Service Points accrue, Service Credits shall be deducted from the Service Charges in accordance with Paragraph 9 of Schedule 7.1 (Charges and Invoicing).
- 22.3 If, in relation to any Order, a KPI Failure occurs for which Order Fulfilment Points accrue, Order Fulfilment Points shall be deducted from the Charges in relation to that Order in accordance with Paragraph 10 of Schedule 7.1 (Charges and Invoicing)

23. NOT USED

24. NOT USED

SECTION F –AGREEMENT GOVERNANCE

25. ESN GOVERNANCE

- 25.1 The Parties shall comply with the governance provisions set out in Schedule 8.1 (Governance).

26. MANAGEMENT

Representatives

- 26.1 Each Party shall have a representative for the duration of this Agreement who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Agreement.
- 26.2 The initial Supplier Project Manager shall be the person named as such in Schedule 4.3 (Key Personnel). Any change to the Supplier Project Manager shall be agreed in accordance with Clause 32 (Supplier Personnel).
- 26.3 The Authority shall notify the Supplier of the identity of the initial Authority Project Manager within five (5) Working Days of the Commencement Date. The Authority may, by written notice to the Supplier, revoke or amend the authority of the Authority Project Manager or appoint a new Authority Project Manager.

27. RECORDS AND AUDIT

- 27.1 The Supplier shall keep and maintain, until the later of:
- 27.1.1 seven (7) years after the date of termination or expiry of this Agreement; or
- 27.1.2 such other date as may be agreed between the Parties,
- full and accurate records and accounts of the operation of this Agreement, the Goods and Services provided pursuant to this Agreement and the amounts paid by the Authority under this Agreement and those supporting tests and evidence that underpin the provision of the annual Self Audit Certificate and supporting Audit Report.

- 27.2 The Supplier shall keep the records and accounts referred to in Clause 27.1 in accordance with Good Industry Practice and Law.
- 27.3 The Supplier shall provide the Authority with a completed and signed annual Self Audit Certificate in respect of each Contract Year. Each Self Audit Certificate shall be completed and signed by an authorised senior member of the Supplier's management team or by the Supplier's external auditor and the signatory must be professionally qualified in a relevant audit or financial discipline.
- 27.4 Each Self Audit Certificate should be based on tests completed against a representative sample of 10% of transactions carried out during the period of being audited or 100 transactions (whichever is less) and should provide assurance that:
- 27.4.1 Orders are clearly identified as such in the order processing and invoicing systems and, where required, Orders are correctly reported in the MI Reports;
 - 27.4.2 all related invoices are completely and accurately included in the MI Reports;
 - 27.4.3 all Contract Prices comply with any requirements under this Agreement on discounts, charge rates, fixed quotes (as applicable); and
 - 27.4.4 an additional sample of twenty (20) public sector orders identified from the Supplier's order processing and invoicing systems as orders not placed under this Agreement (where such orders have been received by the Supplier in the relevant period) have been correctly identified as such and state which procurement route has been used to place those orders.
- 27.5 Each Self Audit Certificate should be supported by an Audit Report that provides details of the methodology applied to complete the review, the sampling techniques applied, details of any issues identified and remedial action taken.
- 27.6 The Supplier shall afford any Auditor access to the records and accounts referred to in Clause 27.1 at the Supplier's premises and/or provide such records and accounts or copies of the same, as may be required and agreed with any of the Auditors from time to time, in order that the Auditor may carry out an inspection to assess compliance by the Supplier and/or its Sub-Contractors of any of the Supplier's obligations under this Agreement, including for the following purposes:
- 27.6.1 to verify the accuracy of the Contract Prices and any other amounts payable under this Agreement (including proposed or actual variations to them in accordance with this Agreement);
 - 27.6.2 to verify the costs of the Supplier (including the costs of all Sub-Contractors) in connection with the provision of the Goods and Services;
 - 27.6.3 to verify the Supplier's and each Sub-Contractor's compliance with applicable Law;
 - 27.6.4 to identify or investigate actual or suspected Prohibited Acts, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
 - 27.6.5 to identify or investigate any circumstances which may impact upon the financial stability of the Supplier and/or any Sub-Contractors or their ability to provide and Goods and/or Services (as applicable);
 - 27.6.6 to obtain such information as is necessary to fulfil the Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
 - 27.6.7 to review any books of account and the internal contract management accounts kept by the Supplier in connection with this Agreement;

- 27.6.8 to carry out the Authority's internal and statutory audits and to prepare, examine and/or certify the Authority's annual and interim reports and accounts;
 - 27.6.9 to enable the National Audit Office to carry out an examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - 27.6.10 to verify the accuracy and completeness of any Management Information delivered or required by this Agreement;
 - 27.6.11 to review any MI Reports and/or other records relating to the Supplier's provision and performance of the Goods and Services and to verify that these reflect the Supplier's own internal reports and records;
 - 27.6.12 to review the integrity, confidentiality and security of the Authority Personal Data; and/or
 - 27.6.13 to receive from the Supplier on request summaries of all central government public sector expenditure placed with the Supplier including through routes outside the Agreement in order to verify that the Supplier's practice is consistent with the Government's transparency agenda which requires all public sector bodies to publish details of expenditure on common goods and services.
- 27.7 The Authority shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Goods and Services; save insofar as the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditors is outside of the control of the Authority.
- 27.8 Subject to the Authority's obligations of confidentiality, the Supplier shall on demand provide the Auditors with all reasonable co-operation and assistance in relation to each audit, including by providing:
- 27.8.1 all information within the scope of the audit requested by the Auditor;
 - 27.8.2 reasonable access to any sites controlled by the Supplier and to equipment used in the provision of the Goods and Services; and
 - 27.8.3 access to the Supplier Personnel.
- 27.9 If an audit reveals that a material Default has been committed by the Supplier then the Authority shall be entitled to terminate this Agreement.
- 27.10 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 27.

28. VARIATION

28.1 Variation Procedure

- 28.1.1 Subject to the provisions of this Clause 28 and, in respect of any change to the Charges subject to the provisions of Schedule 7.1 (Charges and Invoicing), either Party may request a variation to this Agreement provided that such variation is permitted under the Regulations and the Law. Such a change once implemented is hereinafter called a "**Variation**".
- 28.1.2 If either Party elects to request a Variation, the following procedure shall apply:
 - (a) the requesting Party shall complete and send the Variation Form as set out in Schedule 8.2 (Variation Form) to the other Party, giving sufficient information for the other Party to assess the extent of the proposed Variation.

- (b) the Supplier shall:
- (i) in the case where it receives a Variation Form from the Authority, within twenty (20) Working Days of receipt or such other period as specified in the Authority's Variation Form; or
 - (ii) in the case where the Supplier submits a Variation Form to the Authority, at the same time as it submits the Variation Form;
- prepare and provide to the Authority an Impact Assessment and all information required by the Authority to assess the extent of the proposed Variation.
- (c) each Impact Assessment shall be completed in good faith and shall include:
- (i) details of the proposed Variation including the reason for the Variation;
 - (ii) details of the impact of the proposed Variation on the Goods and Services, and the Supplier's ability to meet its other obligations under this Agreement;
 - (iii) any variation to the terms of this Agreement that will be required as a result of that impact, including changes to:
 - (1) the Goods, Services and Key Performance Indicators;
 - (2) any timetable previously agreed by the Parties;
 - (3) other goods and services provided by third party contractors to the Authority
 - (iv) details of the on-going costs required by the proposed Variation when implemented, including any increase or decrease in the Charges, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
 - (v) a timetable for the implementation, together with any proposals for the testing of the proposed Variation (if applicable);
 - (vi) details of how the proposed Variation will ensure compliance with any applicable Change in Law; and
 - (vii) such other information as the Authority may reasonably request in (or in response to) the proposed Variation.

28.1.3 If the Authority is the receiving Party and the Authority reasonably considers that it requires further information regarding the proposed Variation so that it may properly evaluate the proposed Variation and the Impact Assessment, then it shall notify the Supplier of this fact and detail the further information that it requires. The Supplier shall then re-issue the relevant Impact Assessment to the Authority within ten (10) Working Days of receiving such notification. At the Authority's discretion, the Parties may repeat the process described in this Clause 28.1.3 until the Authority is satisfied that it has sufficient information to properly evaluate the proposed Variation and Impact Assessment.

28.1.4 The Authority shall have the sole and absolute right to approve or reject the Supplier's proposed Variation.

28.1.5 The Supplier shall attend any meetings reasonably requested by the Authority to discuss any proposed Variation.

- 28.1.6 Where a proposed Variation is approved by the Authority, the Authority shall notify the Supplier of its approval of the Variation by signing and returning the Variation Form to the Supplier.
- 28.1.7 In the event that the Authority does not approve the proposed Variation, the Authority will notify the Supplier in writing.
- 28.1.8 In the event that:
- (a) the Authority requests a Variation, the Supplier is unable to agree to or provide the Variation; and/or
 - (b) either Party requests a Variation, the Parties are unable to agree a change to the Charges that may be included in a request for a Variation or response to it as a consequence thereof,
- the Authority may (in its absolute discretion):
- (c) agree to continue to perform its obligations under this Agreement without the Variation; or
 - (d) terminate this Agreement with immediate effect.

28.2 **Legislative Change**

- 28.2.1 The Supplier shall neither be relieved of its obligations under this Agreement nor be entitled to an increase the Charges, as the result of a:
- (a) General Change in Law; or
 - (b) Specific Change in Law where the effect of that Specific Change in Law on the Goods and/or Services is reasonably foreseeable at the Contract Commencement Date.
- 28.2.2 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in Clause 28.2.1(b), the Supplier shall:
- (a) notify the Authority as soon as reasonably practicable of the likely effects of that change including whether any Variation is required to the Goods and/or Services, the Charges, or this Agreement; and
 - (b) provide the Authority with evidence:
 - (i) that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors; and
 - (ii) as to how the Specific Change in Law has affected the cost of providing the Goods and/or Services; and
 - (c) Any change in the Charges or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in Clause 28.2.1(b) shall be implemented in accordance with Clause 28.1 (Variation Procedure).

29. **COLLABORATION**

- 29.1 The Supplier shall co-operate with the Other ESN Suppliers and provide all reasonable information (including any Documentation), advice and assistance in connection with the provision of the Goods and/or Services to the Authority and/or Other ESN Supplier to enable the Authority and/or such Other

ESN Supplier to create and maintain technical and organisational interfaces with the Goods and/or Services.

- 29.2 Each Party shall comply with their respective obligations, and may exercise their respective rights, under Schedule 8.4 (Operating Level Agreement).

SECTION G – PAYMENT AND TAXATION PROVISIONS

30. CHARGES

- 30.1 The Supplier shall comply with the terms of Schedule 7.1 (Charges and Invoicing) and the Charges for the Goods and Services shall be as set out in Schedule 7.1 (Charges and Invoicing).
- 30.2 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice.
- 30.3 The Authority may set-off any amount owed by the Supplier to the Crown or any part of the Crown (including the Authority) against any amount due to the Supplier under this Agreement or other agreement entered into by the Authority.
- 30.4 Save where expressly set out and agreed to in any Order the Charges shall include all costs and expenses relating to the Goods and Services, the Supplier's performance of its obligations under the Agreement and no further amounts shall be payable by the Authority to the Supplier in respect of its performance under this Agreement.

31. PROMOTING TAX COMPLIANCE

- 31.1 If, at any point during the Contract Period, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
- 31.1.1 notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
 - 31.1.2 promptly provide to the Authority:
 - (a) details of the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - (b) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

SECTION H –SUPPLIER PERSONNEL AND SUPPLY CHAIN MATTERS

32. SUPPLIER PERSONNEL

- 32.1 The Supplier shall:
- 32.1.1 provide in advance of any admission to Authority Premises a list of the names of all Supplier Personnel requiring such admission, specifying the capacity in which they require admission and giving such other particulars as the Authority may reasonably require;
 - 32.1.2 ensure that all Supplier Personnel:
 - (a) are appropriately qualified, trained and experienced to provide the Goods and Services with all reasonable skill, care and diligence;

- (b) are vetted in accordance with Good Industry Practice and, where applicable, the requirements set out in Schedule 2.1 (Technical Requirements) and Schedule 2.3 (Standards); and
 - (c) comply with all reasonable requirements of the Authority concerning conduct at the Authority Premises, including the Security Requirements;
- 32.1.3 retain overall control of the Supplier Personnel at all times so that the Supplier Personnel shall not be deemed to be employees, agents or contractors of the Authority;
- 32.1.4 be liable at all times for all acts or omissions of Supplier Personnel, so that any act or omission of a member of any Supplier Personnel which results in a Default under this Agreement shall be a Default by the Supplier;
- 32.1.5 use all reasonable endeavours to minimise the number of changes in Supplier Personnel;
- 32.1.6 replace (temporarily or permanently, as appropriate) any Supplier Personnel as soon as practicable if any Supplier Personnel have been removed or are unavailable for any reason whatsoever;
- 32.1.7 bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and
- 32.1.8 procure that the Supplier Personnel shall vacate the Authority Premises immediately upon the termination or expiry of this Agreement.
- 32.2 If the Authority reasonably believes that any of the Supplier Personnel are unsuitable to undertake work in respect of this Agreement, it may:
 - 32.2.1 refuse admission to the relevant person(s) to the Authority Premises; and/or
 - 32.2.2 direct the Supplier to end the involvement in the provision of the Goods and/or Services of the relevant person(s).

Key Personnel

- 32.3 The Supplier shall ensure that the Key Personnel fulfil the Key Roles at all times during the Contract Period. Schedule 4.3 (Key Personnel) lists the Key Roles and names of the persons who the Supplier shall appoint to fill those Key Roles at the Contract Commencement Date.
- 32.4 The Authority may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant persons selected to fill those Key Roles shall be included on the list of Key Personnel.
- 32.5 The Supplier shall not remove or replace any Key Personnel unless:
 - 32.5.1 requested to do so by the Authority;
 - 32.5.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave;
 - 32.5.3 the person's employment or contractual arrangement with the Supplier or a Sub-Contractor is terminated for material breach of contract by the employee; or
 - 32.5.4 the Supplier obtains the Authority's prior written consent (such consent not to be unreasonably withheld or delayed).
- 32.6 The Supplier shall:

- 32.6.1 notify the Authority 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 Supplier shall ensure appropriate temporary cover for that Key Role);
- 32.6.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
- 32.6.3 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 sixty (60) Working Days' notice;
- 32.6.4 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 Goods and/or Services; and
- 32.6.5 ensure that any replacement for a Key Role:
 - (a) has a level of qualifications and experience appropriate to the relevant Key Role; and
 - (b) is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.

Income Tax and National Insurance Contributions

- 32.7 Where the Supplier or any Supplier Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Agreement, the Supplier shall:
 - 32.7.1 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
 - 32.7.2 indemnify the Authority against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Goods and/or Services by the Supplier or any Supplier Personnel.

33. SUPPLY CHAIN RIGHTS AND PROTECTIONS

33.1 Appointment of Key Sub-Contractors

- 33.1.1 The Authority has consented to the engagement of the Key Sub-Contractors listed in Schedule 4.4 (Sub-Contractors).
- 33.1.2 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-Contract or replace a Key Sub-Contractor, it must obtain the prior written consent of the Authority. If requested by the Authority the Supplier shall provide the Authority with the information detailed in Clause 33.1.3. The decision of the Authority to consent or not will not be unreasonably withheld or delayed. The Authority may reasonably withhold their consent to the appointment of a Key Sub-Contractor if either of them considers that:
 - (a) the appointment of a proposed Key Sub-Contractor may prejudice the provision of the Goods and/or Services or may be contrary to its interests;
 - (b) the proposed Key Sub-Contractor is unreliable and/or has not provided reasonable services to its other customers;
 - (c) the proposed Key Sub-Contractor employs unfit persons; and/or

- (d) the Supplier in its Tender stated that they would not employ sub-contractors and did not provide evidence relating to their processes and competencies relating to the selection and management of sub-contractors.

33.1.3 The Supplier shall provide the Authority with the following information in respect of the proposed Key Sub-Contractor:

- (a) the proposed Key Sub-Contractor's name, registered office and company registration number;
- (b) the scope/description of any Goods and/or Services to be provided by the proposed Key Sub-Contractor;
- (c) where the proposed Key Sub-Contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
- (d) the applicable Key Sub-Contract price expressed as a percentage of the total projected Term charged over the Term; and
- (e) information as the Authority may reasonably request to assess the financial standing of the proposed Key Sub-Contractor.

33.1.4 If requested by the Authority, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Clause 33.1.3, the Supplier shall also provide:

- (a) a copy of the proposed Key Sub-Contract; and
- (b) any further information reasonably requested by the Authority.

33.1.5 The Supplier shall use all reasonable endeavours to ensure that each new or replacement Key Sub-Contract shall include:

- (a) provisions which will enable the Supplier to discharge its obligations under this Agreement;
- (b) a right under CRTPA for the Authority to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Authority;
- (c) a provision enabling the Authority to enforce the Key Sub-Contract as if it were the Supplier;
- (d) a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Authority;
- (e) obligations no less onerous on the Sub-Contractor than those imposed on the Supplier under this Agreement in respect of:
 - (i) the data protection requirements set out in Clause 38 (Protection of Personal Data);
 - (ii) the FOIA requirements set out in Clause 37 (Freedom of Information);
 - (iii) the obligation not to embarrass the Authority or otherwise bring the Authority into disrepute set out in Clause 39 (Publicity and Branding);
 - (iv) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract; and
 - (v) the conduct of Audits set out in Clause 27 (Records and Audit);

- (vi) provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Authority under Clauses 45 (Authority Termination Rights) and 47 (Consequences of Expiry or Termination) of this Agreement;
- (f) a provision restricting the ability of the Key Sub-Contractor to Sub-Contract all or any part of the provision of the Goods and/or Services provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Authority;

33.2 Supply Chain Protection

33.2.1 The Supplier shall ensure that all Sub-Contracts contain a provision:

- (a) requiring the Sub-Contractor to provide full and accurate invoicing information. Full and accurate should include the line level constituent elements such as the individual goods, labour and delivery charges;
- (b) requiring the Supplier to pay any undisputed sums which are due from the Supplier to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice; and
- (c) a right for the Authority to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period.

33.2.2 The Supplier shall pay any undisputed sums which are due from the Supplier to a Sub-Contractor within thirty (30) days from the receipt of a valid invoice;

33.2.3 Notwithstanding any provision of Clauses 35 (Confidentiality) and 39 (Publicity and Branding) if the Supplier notifies the Authority that the Supplier has failed to pay an undisputed Sub-Contractor's invoice within thirty (30) days of receipt, or the Authority otherwise discovers the same, the Authority shall be entitled to publish the details of the late payment or non-payment (including on Government websites and in the press).

33.3 Termination of Sub-Contracts

33.3.1 The Authority may require the Supplier to terminate:

- (a) a Sub-Contract where:
 - (i) the acts or omissions of the relevant Sub-Contractor have caused or materially contributed to the Authority's right of termination pursuant to any of the termination events in Clause 45 (Authority Termination Rights) except Clause 45.6 (Termination Without Cause); and/or
 - (ii) the relevant Sub-Contractor or its Affiliates embarrassed the Authority or otherwise brought the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Sub-Contractor's obligations in relation to the Goods and/or Services or otherwise; and/or
- (b) a Key Sub-Contract where there is a Change of Control of the relevant Key Sub-Contractor, unless:
 - (i) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or

- (ii) the Authority 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 the Authority was given notice of the Change of Control.

33.3.2 Where the Authority requires the Supplier to terminate a Sub-Contract or a Key Sub-Contract pursuant to Clause 33.3.1 above, the Supplier shall remain responsible for, and accept full liability for, fulfilling all its obligations under this Agreement including the provision of the Goods and/or Services.

33.4 Retention of Legal Obligations

33.4.1 Notwithstanding the Supplier's right to sub-contract pursuant to this Clause 33, the Supplier shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own.

33.5 Supplier's Duty to Keep Informed

33.5.1 The Supplier shall provide an up to date list of all Sub-Contractors involved in the provision of the Goods and Services as soon as practicable after such Sub-Contractors are appointed and in any event not later than at the next Monthly Meeting following such appointment.

SECTION I – PROVISION AND PROTECTION OF INFORMATION

34. PROVISION OF MANAGEMENT INFORMATION

34.1 The Supplier shall, at no charge to the Authority, submit to the Authority complete and accurate Management Information in accordance with the provisions of Schedule 8.3 (Management Information).

34.2 The Supplier grants the Authority a non-exclusive, transferable, perpetual, irrevocable, royalty free licence to:

34.2.1 use and to share with any Relevant Person; and/or

34.2.2 publish (subject to any information that is exempt from disclosure in accordance with the provisions of FOIA being redacted),

any Management Information supplied to the Authority, or interpretation gained from the Management Information, for the Authority's normal operational activities including but not limited to administering this Agreement, monitoring public sector expenditure, identifying savings or potential savings, measuring the Supplier's performance in relation to other suppliers and planning future procurement activity.

34.3 The Authority shall in its absolute and sole discretion determine whether any Management Information is exempt from disclosure in accordance with the provisions of the FOIA.

34.4 The Authority may consult with the Supplier to help with its decision regarding any exemptions under Clause 34.3 but, for the purpose of this Agreement, the Authority shall have the final decision in its absolute and sole discretion.

35. CONFIDENTIALITY

35.1 For the purposes of this Clause 35, the term "**Disclosing Party**" shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and "**Recipient**" shall mean the Party which receives or obtains directly or indirectly Confidential Information.

35.2 Except to the extent set out in this Clause 35 or where disclosure is expressly permitted elsewhere in this Agreement, the Recipient shall:

- 35.2.1 treat the Disclosing Party's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials);
 - 35.2.2 not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Agreement or without obtaining the Disclosing Party's prior written consent;
 - 35.2.3 not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Agreement; and
 - 35.2.4 immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.
- 35.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:
- 35.3.1 the Recipient is required to disclose the Confidential Information by Law, provided that Clause 37 (Freedom of Information) shall apply to disclosures required under the FOIA or the EIRs;
 - 35.3.2 the need for such disclosure arises out of or in connection with:
 - (a) any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Agreement;
 - (b) the examination and certification of the Authority's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority is making use of its resources; or
 - (c) the conduct of a Central Government Body review in respect of this Agreement; or
 - 35.3.3 the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.
- 35.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.
- 35.5 Subject to Clauses 35.3 and 35.4, the Supplier may only disclose Authority Confidential Information on a confidential basis to:
- 35.5.1 Supplier Personnel who are directly involved in the provision of the Goods and/or Services and need to know the Confidential Information to enable performance of the Supplier's obligations under this Agreement;
 - 35.5.2 its auditors; and
 - 35.5.3 its professional advisers for the purposes of obtaining advice in relation to this Agreement.
- 35.6 Where the Supplier discloses Authority Confidential Information pursuant to Clause 35.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Agreement by the persons to whom disclosure has been made.
- 35.7 The Authority may disclose the Confidential Information of the Supplier:

- 35.7.1 on a confidential basis to any Central Government Body or Other ESN Supplier for any proper purpose of the Authority or of the relevant Central Government Body on the basis that the information may only be further disclosed to Central Government Bodies or Other ESN Suppliers;
- 35.7.2 to British Parliament and Parliamentary Committees or if required by any the British Parliamentary reporting requirement;
- 35.7.3 to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- 35.7.4 on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 35.7.1 for any purpose relating to or connected with this Agreement;
- 35.7.5 on a confidential basis for the purpose of the exercise of its rights under this Agreement; or
- 35.7.6 on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Agreement,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause 35.

- 35.8 Nothing in this Clause 35 shall prevent a Recipient from using any techniques, ideas or Know-How which the Recipient has gained during the performance of this Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.
- 35.9 In the event that the Supplier fails to comply with Clauses 35.2 to 35.5, the Authority reserves the right to terminate this Agreement for material Default.

36. TRANSPARENCY

- 36.1 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. The Authority shall determine whether any of the content of this Agreement is exempt from disclosure in accordance with the provisions of the FOIA. The Authority may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 36.2 Notwithstanding any other provision of this Agreement, the Supplier hereby gives its consent for the Authority to publish 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.
- 36.3 The Supplier shall assist and cooperate with the Authority to enable the Authority to publish this Agreement.

37. FREEDOM OF INFORMATION

- 37.1 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs. The Supplier shall:
 - 37.1.1 provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its Information disclosure obligations under the FOIA and EIRs;
 - 37.1.2 transfer to the Authority all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within two (2) Working Days of receipt;

37.1.3 provide the Authority with a copy of all Information belonging to the Authority requested in the Request for Information which is in the Supplier's possession or control in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and

37.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Authority.

37.2 The Supplier acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The Authority shall take reasonable steps to notify the Supplier of a Request for Information (in accordance with the Secretary of State's Section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) for the purpose of this Agreement, the Authority shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

38. PROTECTION OF PERSONAL DATA

38.1 The Parties shall comply with the provisions of Schedule 2.6 (Data Protection).

39. PUBLICITY AND BRANDING

39.1 The Supplier shall not:

39.1.1 make any press announcements or publicise this Agreement in any way; or

39.1.2 use the Authority's name or brand in any promotion or marketing or announcement of Orders,

without Approval (the decision of the Authority to Approve or not shall not be unreasonably withheld or delayed).

39.2 Each Party acknowledges to the other that nothing in this Agreement either expressly or by implication constitutes an approval and/or endorsement of any goods or services of the other Party (including the Goods and/or Services) and each Party agrees not to conduct itself in such a way as to imply or express any such approval and/or endorsement.

39.3 The Authority shall be entitled to publicise this Agreement in accordance with any legal obligation upon the Authority, including any examination of this Agreement by the National Audit Office pursuant to the National Audit Act 1983 or otherwise.

40. NOT USED

SECTION J – LIABILITY, AND INSURANCE

41. LIMITATIONS ON LIABILITY

Unlimited liability

41.1 Neither Party limits its liability for:

41.1.1 death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors (as applicable);

41.1.2 bribery, fraud or fraudulent misrepresentation by it or its employees;

41.1.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;

- 41.1.4 wilful default or abandonment; or
- 41.1.5 any liability to the extent it cannot be limited or excluded by Law.

41.2 Nothing in this Agreement shall limit or exclude the Supplier's liability:

- 41.2.1 in respect of the indemnities in Clauses 19.7.2 and 32.7.2; or
- 41.2.2 for any loss in connection with a breach by the Supplier of Clauses 53 (Prevention of Fraud and Bribery), 35 (Confidentiality) and 38 (Protection of Personal Data).

Financial and other limits

41.3 Subject to Clauses 41.1, 41.2, 41.5 and 41.6:

- (a) the Supplier's aggregate liability in respect of all Losses incurred by the Authority under or in connection with this Agreement as a result of Defaults by the Supplier shall in no event exceed an amount equal to £1,000,000.00 (1 million pounds) in each Contract Year; and
- (b) the Supplier's aggregate liability in respect of all Service Credits incurred in any rolling period of 12 Service Periods shall be subject to the Service Credit Cap.

41.4 Subject to Clauses 41.1 and 41.5, the Authority's aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Agreement as a result of Defaults by the Authority shall in no event exceed an amount equal to an amount equal to £1,000,000.00 (1 million pounds) in each Contract Year.

Consequential Losses

41.5 Subject to Clauses 41.1, neither Party shall be liable to the other Party for any:

- 41.5.1 indirect, special or consequential Loss; or
- 41.5.2 loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect).

41.6 Subject to Clause 41.3, and notwithstanding Clause 41.5, the Supplier acknowledges that the Authority may, amongst other things, recover from the Supplier the following Losses incurred by the Authority to the extent that they arise as a result of a Default by the Supplier:

- 41.6.1 any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- 41.6.2 any wasted expenditure or charges;
- 41.6.3 the additional cost of procuring Replacement Goods and/or Services for the remainder of the Term, which shall include any incremental costs associated with such Replacement Goods and/or Services above those which would have been payable under this Agreement;
- 41.6.4 any compensation or interest paid to a third party by the Authority; and
- 41.6.5 any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.

Mitigation

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

42. CONDUCT OF CLAIMS

- 42.1 If the Authority receives any notice of any claim for which it appears that the Authority is, or may become, entitled to indemnification under this Agreement (a "**Claim**"), the Authority shall give notice in writing to the Supplier as soon as reasonably practicable.
- 42.2 Subject to Clause 42.1, on the giving of a notice by the Authority, where it appears that the Authority is or may be entitled to indemnification from the Supplier in respect of all (but not part only) of the liability arising out of the Claim, the Supplier shall (subject to providing the Authority with a secured indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action) be entitled to dispute the Claim in the name of the Authority at the Supplier's own expense and take conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations relating to the Claim. If the Supplier does elect to conduct the Claim, the Authority shall give the Supplier all reasonable cooperation, access and assistance for the purposes of such Claim and the Authority shall not make any admission which could be prejudicial to the defence or settlement of the Claim without the prior written consent of the Supplier.
- 42.3 With respect to any Claim conducted by the Supplier pursuant to Clause 42.2:
- 42.3.1 the Supplier shall keep the Authority fully informed and consult with it about material elements of the conduct of the Claim;
 - 42.3.2 the Supplier shall not bring the name of the Authority into disrepute;
 - 42.3.3 the Supplier shall not pay or settle such Claim without the prior written consent of the Authority, such consent not to be unreasonably withheld or delayed; and
 - 42.3.4 the Supplier shall conduct the Claim with all due diligence.
- 42.4 The Authority shall be entitled to have conduct of the Claim and shall be free to pay or settle any Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Agreement if:
- 42.4.1 the Supplier is not entitled to take conduct of the Claim in accordance with Clause 42.2;
 - 42.4.2 the Supplier fails to notify the Authority in writing of its intention to take conduct of the relevant Claim within ten (10) Working Days of the notice from the Authority;
 - 42.4.3 the Supplier notifies the Authority in writing that it does not intend to take conduct of the Claim; or
 - 42.4.4 the Supplier fails to comply in any material respect with the provisions of this Clause 42.

43. INSURANCE

- 43.1 The Supplier shall effect and maintain insurances in relation to the performance of its obligations under this Agreement in accordance with Schedule 2.5 (Insurance Requirements).
- 43.2 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities arising under this Agreement.

SECTION K – REMEDIES

44. AUTHORITY REMEDIES

44.1 Without prejudice to any other rights or remedies arising under this Agreement, including under Clause 45.2 (Termination on Material Default), if the Supplier fails to achieve a KPI Target on two or more occasions within any twelve (12) Month rolling period, the Supplier acknowledges and agrees that the Authority shall have the right to exercise (in its absolute and sole discretion) all or any of the following remedial actions:

44.1.1 the Authority shall be entitled to require the Supplier, and the Supplier agrees to prepare and provide to the Authority, an Improvement Plan within ten (10) Working Days of a written request by the Authority for such Improvement Plan. Such Improvement Plan shall be subject to Approval and the Supplier will be required to implement any Approved Improvement Plan, as soon as reasonably practicable.

44.1.2 the Authority shall be entitled to require the Supplier, and the Supplier agrees to attend, within a reasonable time one (1) or more meetings at the request of the Authority in order to resolve the issues raised by the Authority in its notice to the Supplier requesting such meetings.

44.1.3 the Authority shall be entitled to serve an Improvement Notice on the Supplier and the Supplier shall implement such requirements for improvement as set out in the Improvement Notice.

44.1.4 in the event that the Authority has, in its absolute and sole discretion, invoked one or more of the remedies set out above and the Supplier either:

(a) fails to implement such requirements for improvement as set out in the Improvement Notice; and/or

(b) fails to implement an Improvement Plan Approved by the Authority

then, without prejudice to any other rights and remedies of termination provided for in this Agreement, the Authority shall be entitled to terminate this Agreement.

SECTION L – TERMINATION

45. TERMINATION RIGHTS

45.1 NOT USED

45.2 Termination on Material Default

45.2.1 The Authority may terminate this Agreement for material Default by issuing a Termination Notice to the Supplier where:

(a) the award of this Agreement by the Authority to the Supplier was made conditional upon the Supplier having achieved a specific third party accreditation(s) within specific time limits as set out in its Tender and such accreditation(s) has not been achieved within such time limits of the Execution Date;

(b) the Supplier fails to accept an Order pursuant to paragraph 2 or 3 of Schedule 9.1 (Ordering Procedure);

(c) in the event of two or more failures by the Supplier to meet the KPI Targets, whether the failures relate to the same or different KPI Targets, in any rolling period of three (3) Months;

- (d) the Authority expressly reserves the right to terminate this Agreement for material Default including pursuant to:
 - (i) Clause 27 (Records and Audit);
 - (ii) Clause 28 (Variation);
 - (iii) Clause 35.9 (Confidentiality);
 - (iv) Clause 48.2 (Compliance)
 - (v) Clause 53.6.2 (Prevention of Fraud and Bribery);
 - (vi) Clause 54.3 (Conflicts of Interest);
 - (vii) paragraph 4.5 of Schedule 8.3 (Management Information); and/or
 - (viii) anywhere that is stated in this Agreement that the Supplier by its act or omission will have committed a material Default;
- (e) the Supplier commits a Default of any of the following Clauses or Schedules:
 - (i) Clause 9 (Representations and Warranties);
 - (ii) Clause 20 (Performance);
 - (iii) Clause 27 (Records and Audit);
 - (iv) Clause 31 (Promoting Tax Compliance);
 - (v) Clause 33 (Supply Chain Rights and Protections);
 - (vi) Clause 34 (Provision of Management Information);
 - (vii) Clause 37 (Freedom of Information);
 - (viii) Clause 38 (Protection of Personal Data);
 - (ix) Paragraph 4.5 of Schedule 2.2 (Performance Levels);
- (f) there is a Rectification Plan Failure;
- (g) the Supplier fails to implement an Improvement Notice or Improvement Plan pursuant to Clause 44.1.4 (Authorities Remedies);
- (h) the Supplier commits any material Default which is not, in the reasonable opinion of the Authority, capable of remedy;
- (i) the Supplier commits a Default, including a material Default, which in the opinion of the Authority is remediable but the Supplier has not remedied such Default to the satisfaction of the Authority within twenty (20) Working Days, or such other period as may be specified by the Authority, after issue of a written notice from the Authority to the Supplier specifying the remediable Default and requesting it to be remedied in accordance with any instructions of the Authority; and/or
- (j) at any time, any of the representations and warranties given by the Supplier at Clauses 9.2.4, 9.2.5 or 9.2.6 cease to be true and accurate.

45.3 Termination on Insolvency

- 45.3.1 The Authority may terminate this Agreement by issuing a Termination Notice to the Supplier where an Insolvency Event affecting the Supplier occurs.

45.4 Termination on Change of Control

- 45.4.1 The Supplier shall notify the Authority immediately if the Supplier undergoes a Change of Control and provided this does not contravene any Law, shall notify the Authority immediately in writing of any circumstances suggesting that a Change of Control is planned or in contemplation. The Authority may terminate this Agreement by issuing a Termination Notice to the Supplier within six (6) Months of:

- (a) being notified in writing that a Change of Control has occurred or is planned or in contemplation; or
- (b) where no notification has been made, the date that the Authority becomes aware of the Change of Control,

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

45.5 Termination for compliance

- 45.5.1 The Authority may terminate this Agreement by issuing a Termination Notice to the Supplier where the Agreement:

- (a) should not have been entered into in view of a serious infringement of obligations under European Law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU; and/or
- (b) has been substantially amended to the extent that the Regulations require a new procurement procedure.

45.6 Termination Without Cause

- 45.6.1 The Authority shall have the right to terminate all or any part of this Agreement by giving at least three (3) Months' written notice to the Supplier.

45.7 Termination for Force Majeure

- 45.7.1 If either Party is prevented from performing any of its obligations by a Force Majeure Event which continues for more than three (3) Months, then the Authority may, by giving notice to the Supplier, terminate this Agreement.

45.8 Partial Termination

- 45.8.1 Where the Authority has the right to terminate this Agreement, the Authority is entitled to terminate all or part of this Agreement pursuant to this Clause 45.8.1 provided always that, if the Authority elects to terminate this Agreement in part, the parts of this Agreement not terminated or suspended can, in the Authority's reasonable opinion, operate effectively to deliver the intended purpose of the surviving parts of this Agreement.

- 45.8.2 The Parties shall endeavour to agree the effect of any Variation necessitated by a partial termination in accordance with Clause 28 (Variation) including the effect that the partial termination may have on the provision of any other Goods and/or Services and the Charges, provided that:

- (a) the Supplier shall not be entitled to an increase in the Charges, in respect of the provision of Goods and/or Services that have not been terminated if the partial

termination arises due to the exercise of any of the Authority's termination rights under Clause 45 (Authority Termination Rights) with the exception of Clause 45.6 (Termination Without Cause); and

- (b) the Supplier shall not be entitled to reject the Variation.

46. NOT USED

47. CONSEQUENCES OF EXPIRY OR TERMINATION

47.1 General Provisions on Expiry or Termination

47.1.1 Notwithstanding the service of a notice to terminate this Agreement, the Supplier shall continue to fulfil its obligations under this Agreement until the date of expiry or termination of this Agreement or such other date as required under this Clause 47.

47.1.2 Within ten (10) Working Days of the date of termination or expiry of this Agreement, the Supplier shall return to the Authority any and all Authority Confidential Information in the Supplier's possession, power or control, either in its then current format or in a format nominated by the Authority, and any other information and all copies thereof owned by the Authority, save that it may keep one copy of any such data or information to the extent reasonably necessary to comply with its obligations under this Agreement or under any Law, for a period of up to twelve (12) Months (or such other period as Approved by the Authority and is reasonably necessary for such compliance).

47.1.3 Termination or expiry of this Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Agreement prior to termination or expiry.

47.1.4 Termination or expiry of this Agreement shall be without prejudice to the survival of any provision of this Agreement which expressly (or by implication) is to be performed or observed notwithstanding termination or expiry of this Agreement, including the provisions of:

- (a) Clauses 1 (Definitions and Interpretation), 9 (Representations and Warranties), 20 (Performance), 27 (Records and Audit), 19 (Intellectual Property Rights), 26 (Management), 35 (Confidentiality), 37 (Freedom of Information), 38 (Protection of Personal Data), 39 (Publicity and Branding), 41 (Limitation of Liability), 43 (Insurance), 47 (Consequences of Expiry or Termination), 48 (Compliance), 50 (Waiver and Cumulative Remedies), 51 (Relationship of the Parties), 53 (Prevention of Fraud and Bribery), 54 (Conflicts of Interest), 55 (Severance), 57 (Entire Agreement), 58 (Third Party Rights), 59 (Notices), 60 (Complaints Handling), 61 (Dispute Resolution) and 62 (Governing Law and Jurisdiction); and
- (b) Schedules 1.1 (Definitions), 2.1 (Requirements), 2.2 (Key Performance Indicators), 2.3 (Standards), 2.5 (Insurance Requirements), 4.2 (Commercially Sensitive Information), 4.4 (Sub-Contractors), 7.1 (Charges and Invoicing), and 8.3 (Management Information).

47.2 Where the Authority exercises its right to terminate this Agreement pursuant to Clause 45.6 (Termination Without Cause), the Authority shall pay to the Supplier a Termination Payment pursuant to Schedule 7.2 (Payment on Termination).

47.3 Transfer of Personnel

47.3.1 It is the understanding of the Parties that the TUPE Regulations will not apply in respect of the commencement of this Agreement or any of the Services or upon the Supplier ceasing to provide any Goods and/or Services or following the termination of the whole or part of this Agreement. Notwithstanding such a belief and on the basis that both Parties have agreed to be responsible for their own employees:

- (a) if the TUPE Regulations are found to apply, or a Party reasonably suspects the TUPE Regulations shall apply, in respect of the commencement of this Agreement, any Services or upon the Supplier ceasing to perform any or all of its obligations under this Agreement or following the termination of the whole or part of this Agreement, the Parties shall meet within a reasonable time of a Party requesting a meeting to negotiate in good faith to find an equitable apportionment of the liability arising as a result of the TUPE Regulations applying; and
- (b) either Party may at any time during the Contract Period review the position set out in this Clause and request that amendments are made to this Agreement to cover each Party's potential liability under the TUPE Regulations if that Party considers that the TUPE Regulations may apply on the commencement of this Agreement, the commencement of any Services, or the cessation or termination of this Agreement or any part of it.

SECTION M – MISCELLANEOUS AND GOVERNING LAW

48. COMPLIANCE

Compliance with Law

- 48.1 The Supplier shall comply with all applicable Law in connection with the performance of this Agreement.
- 48.2 In the event that the Supplier or the Supplier Personnel fails to comply with Clause 48.1, this shall be deemed to be a material Default and the Authority reserves the right to terminate this Agreement by giving notice in writing to the Supplier.

Equality and Diversity

- 48.3 The Supplier shall:
 - 48.3.1 perform its obligations under this Agreement (including those in relation to the provision of the Goods and Services) in accordance with:
 - (a) all applicable equality Law (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and
 - (b) any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law; and
 - 48.3.2 take all necessary steps, and inform the Authority of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

Health and Safety

- 48.4 The Supplier shall perform its obligations under this Agreement (including those in relation to the provision of the Goods and Services) in accordance with:
 - 48.4.1 all applicable Law regarding health and safety; and
 - 48.4.2 the Health and Safety Policy whilst at the Authority Premises.
- 48.5 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority Premises of which it becomes aware and which relate to or arise in connection with the performance of this Agreement. The Supplier shall instruct the Supplier

Personnel to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

Official Secrets Act and Finance Act

48.6 The Supplier shall comply with the provisions of:

48.6.1 the Official Secrets Acts 1911 to 1989; and

48.6.2 section 182 of the Finance Act 1989.

49. ASSIGNMENT AND NOVATION

49.1 The Supplier shall not assign, novate, or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Agreement or any part of it without Approval.

49.2 The Authority 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 Central Government Body or other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or

49.2.2 any private sector body which substantially performs the functions of the Authority,

and the Supplier shall, at the Authority's request, enter into a novation agreement in such form as the Authority shall reasonably specify in order to enable the Authority to exercise its rights pursuant to this Clause 49.2.

49.3 If the Authority assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Agreement to a body which is not a Crown body (or agency thereof) or if a body which is not a Crown Body (or agency thereof) succeeds the Authority (both "**Transferee**" in the rest of this Clause) the right of termination of the Authority in Clause 45.3 shall be available to the Supplier in the event of the insolvency of the Transferee (as if the references to Supplier in Clause 45.3) and to Supplier in the definition of Insolvency Event were references to the Transferee.

50. WAIVER AND CUMULATIVE REMEDIES

50.1 The rights and remedies under this Agreement may be waived only by notice in accordance with Clause 59 (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 thereof.

50.2 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.

51. RELATIONSHIP OF THE PARTIES

51.1 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.

52. FORCE MAJEURE

52.1 Neither Party is liable for any default, delay or failure in the performance of any of its obligations pursuant to this Agreement to the extent that the same results from a Force Majeure Event and the Party affected by the Force Majeure Event:

- 52.1.1 could not have prevented the delay or failure by using reasonable precautions;
 - 52.1.2 as soon as reasonably practicable following becoming aware, gives notice of the occurrence of the Force Majeure Event to the other Party; and
 - 52.1.3 uses commercially reasonable efforts to commence performing its obligations as soon as possible or otherwise mitigates the effects of the Force Majeure Event by finding a work around to perform the obligation despite the Force Majeure Event.
- 52.2 If the Supplier is the Party affected by the Force Majeure Event, it shall not be entitled to claim relief under Clause 52.1 to the extent that the consequences of the relevant Force Majeure Event:
- 52.2.1 are as a result of a failure or delay by an agent, Sub-Contractor or supplier (save to the extent that such agent, Sub-Contractor or supplier was itself impeded by a Force Majeure Event from complying with a relevant obligation to the Supplier);
 - 52.2.2 should have been foreseen and prevented or avoided by a prudent provider of goods and services similar to the Goods and Services, operating to the standards required by the Agreement.
- 52.3 Upon the occurrence of a Force Majeure Event affecting either Party, the Authority will have the right to terminate this Agreement in accordance with Clause 45.7.1 (Termination for Force Majeure).
- 53. PREVENTION OF FRAUD AND BRIBERY**
- 53.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, have at any time prior to the Contract Commencement Date:
- 53.1.1 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
 - 53.1.2 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.
- 53.2 The Supplier shall not during the Term:
- 53.2.1 commit a Prohibited Act; and/or
 - 53.2.2 do or suffer anything to be done which would cause the Authority or any of the Authority's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 53.3 The Supplier shall during the Term:
- 53.3.1 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; and
 - 53.3.2 keep appropriate records of its compliance with its obligations under Clause 53.3.1 and make such records available to the Authority on request.
 - 53.3.3 if so required by the Authority, within twenty (20) Working Days of the Contract Commencement Date, and annually thereafter, certify in writing to the Authority, the compliance with this Clause 53.3.3 of all persons associated with the Supplier or its Sub-Contractors who are responsible for supplying the Goods and/or Services in connection with this Agreement. The Supplier shall provide such supporting evidence of compliance as the Authority may reasonably request; and

53.3.4 have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the Authority on request) to prevent it and any Supplier Personnel or any person acting on the Supplier's behalf from committing a Prohibited Act.

53.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of Clause 53.1 and/or 53.2, or has reason to believe that it has or any of the Supplier Personnel has:

53.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

53.4.2 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

53.4.3 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.

53.5 If the Supplier makes a notification to the Authority pursuant to Clause 53.4, the Supplier shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with Clause 27 (Records and Audit).

53.6 If the Supplier breaches Clause 53 (Prevention of Fraud and Bribery), the Authority may by notice:

53.6.1 require the Supplier to remove from the performance of this Agreement any Supplier Personnel whose acts or omissions have caused the Supplier's breach; or

53.6.2 immediately terminate this Agreement for material default.

53.7 Any notice served by the Authority under Clause 53.6 shall specify the nature of the Prohibited Act, the identity of the Party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which this Agreement shall terminate).

54. CONFLICTS OF INTEREST

54.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor the Supplier Personnel are placed in a position where (in the reasonable opinion of the Authority) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or the Supplier Personnel and the duties owed to the Authority under the provisions of this Agreement.

54.2 The Supplier shall promptly notify and provide full particulars to the Authority if such conflict referred to in Clause 54.1 arises or may reasonably be foreseen as arising.

54.3 The Authority reserves the right to terminate this Agreement immediately by giving notice in writing to the Supplier and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Agreement. The action of the Authority pursuant to this Clause 54 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

55. SEVERANCE

55.1 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.

- 55.2 In the event that any deemed deletion under Clause 55.1 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.
- 55.3 If the Parties are unable to resolve any Dispute arising under this Clause 55 within twenty (20) Working Days of the date of the notice given pursuant to Clause 55.2, 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 this Clause 55.

56. FURTHER ASSURANCES

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

57. ENTIRE AGREEMENT

- 57.1 This Agreement constitutes the entire agreement between the Parties in respect of the subject matter and supersedes and extinguishes all prior negotiations, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.
- 57.2 Neither Party has been given, nor entered into this Agreement in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Agreement.
- 57.3 Nothing in this Clause 57 shall exclude any liability in respect of misrepresentations made fraudulently.

58. THIRD PARTY RIGHTS

- 58.1 The provisions of:
- 58.1.1 Clauses 8 (Assistance in Related Procurements), 9 (Representations and Warranties), 27 (Records and Audit), 38 (Protection of Personal Data), 43 (Insurance) and 58 (Third Party Rights); and
- 58.1.2 *Schedules 2.1 (Service Description), 2.3 (Standards), 2.5 (Insurance Requirements), 2.6 (Data Protection) and 4.1 (Supplier Solution),*
- (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 CRTPA.
- 58.2 Subject to Clause 58.1, a person who is not Party to this Agreement has no right to enforce any term of this Agreement under the CRTPA but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA.
- 58.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without Approval, which may, if given, be given on and subject to such terms as the Authority may determine.
- 58.4 Any amendments or modifications to this Agreement may be made, and any rights created under Clause 58.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

- 58.5 The Authority may act as agent and trustee for each Third Party Beneficiary and/or enforce on behalf of that Third Party Beneficiary any Third Party Provision and/or recover any Loss suffered by that Third Party Beneficiary in connection with a breach of any Third Party Provision.

59. NOTICES

- 59.1 Except as otherwise expressly provided within this Agreement, any notices issued under this Agreement must be in writing. For the purpose of this Clause 59, an e-mail is accepted as being "in writing".
- 59.2 Subject to Clause 57.3, the following table sets out the method by which notices may be served under this Agreement and the respective deemed time and proof of service:

Manner of Delivery	Deemed time of service	Proof of service
E-mail (subject to Clause 59.3)	9.00am on the first Working Day after sending	Dispatched as a pdf attachment to an e-mail to the correct e-mail address without any error message.
Personal delivery	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day.	Properly addressed and delivered as evidenced by signature of a delivery receipt.
Prepaid, Royal Mail Signed For TM 1st Class or other prepaid, next working day service providing proof of delivery.	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm).	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt.

- 59.3 The following notices may only be served as an attachment to an email if the original notice is then sent to the recipient by personal delivery or Royal Mail Signed ForTM 1st Class or other prepaid in the manner set out in the table in Clause 59.2:

59.3.1 any Termination Notice under Clause 45 (Authority Termination Rights), including in respect of partial termination;

59.3.2 any notice in respect of:

- (a) Waiver (Clause 50);
- (b) Default or default of the Authority; and

59.3.3 any Dispute Notice.

- 59.4 Failure to send any original notice by personal delivery or recorded delivery in accordance with Clause 59.3 shall invalidate the service of the related e-mail transmission. The deemed time of delivery of such notice shall be the deemed time of delivery of the original notice sent by personal delivery or Royal Mail Signed ForTM 1st Class delivery (as set out in the table in Clause 59.2) or, if earlier, the time of response or acknowledgement by the receiving Party to the email attaching the notice.

59.5 This Clause 59 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution (other than the service of a Dispute Notice under *Schedule 8.5 (Dispute Resolution Procedure)*).

59.6 For the purposes of this Clause 59, the address of each Party shall be:

For the Authority:

Address: **Clive House, 70 Petty France, Westminster, London SW1H 9EX**

Email: **[Redacted]**

For the attention of: **[Redacted]**

For the Supplier:

Address: **Point 3, Haywood Road, Warwick, CV34 5AH**

Email: **[Redacted]**

For the attention of: **[Redacted]**

59.7 Either Party may change its address for service by serving a notice in accordance with this Clause 59.

59.8 This Clause 59 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution (other than the service of a Dispute Notice under the Dispute Resolution Procedure).

60. COMPLAINTS HANDLING

60.1 Either Party shall notify the other Party of any Complaints made by End Users, which are not resolved by operation of the Supplier's usual complaints handling procedure within five (5) Working Days of becoming aware of that Complaint and, if the Supplier is the Party providing the notice, such notice shall contain full details of the Supplier's plans to resolve such Complaint.

60.2 Without prejudice to any rights and remedies that a complainant may have at Law (including under this Agreement), and without prejudice to any obligation of the Supplier to take remedial action under the provisions of this Agreement, the Supplier shall use its best endeavours to resolve the Complaint within ten (10) Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

60.3 Within two (2) Working Days of a request by the Authority, the Supplier shall provide full details of a Complaint to the Authority, including details of steps taken to achieve its resolution.

61. DISPUTE RESOLUTION

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

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

62. GOVERNING LAW AND JURISDICTION

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

- 62.2 Subject to Clause 61 (Dispute Resolution) and *Schedule 8.5 (Dispute Resolution Procedure)* (including the Authority's right to refer the Dispute to arbitration), the Parties agree that the courts of England shall have exclusive jurisdiction to settle any Dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

63. COUNTERPARTS

- 63.1 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one and the same Agreement.
- 63.2 Transmission of an executed counterpart of this Agreement by fax or email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Agreement. If either method of delivery is adopted, without prejudice to the validity of the Agreement, each Party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- 63.3 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

OFFICIAL – COMMERCIAL
CONTRACT RELATING TO COVERAGE ASSURANCE GOODS AND SERVICES
Terms and Conditions

This Agreement has been duly executed by the Parties on the date which appears at the head of this Agreement.

SIGNED for and on behalf of **telent
Technology Services Limited:**

Signature:

Name (block capitals):

Position

Date of signature:

SIGNED for and on behalf of **THE SECRETARY
OF STATE FOR THE HOME DEPARTMENT**

Signature:

Name (block capitals):

Position:

Date of signature:

Agreement relating to Coverage Assurance Goods and Services

Schedule 1.1 (Definitions)

SCHEDULE 1.1

DEFINITIONS

In accordance with Clause 1.1 (Definitions), in this Agreement including its recitals the following expressions shall have the following meanings:

Title	Description
3ES	means the three Emergency Services; i.e. the Police, Fire and Ambulance services;
Acceptance	means the written confirmation of the Authority that a deliverable has been delivered and is functioning satisfactorily;
Accessories	means a supplementary item with respect to Devices as described in Schedule 2.1;
Achieve	means: (a) in respect of a Test, to successfully pass a Test without any issues; and/or (b) in respect of a Milestone, the issue of a Milestone Achievement Certificate in respect of that Milestone, and "Achieved" and "Achievement" shall be construed accordingly;
Additional Services	means the Core Services and Optional Services that may be ordered by the Authority by issuing an Order Form or a Works Instruction;
Affiliate	means 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 of that body corporate from time to time;
Agreement	means this agreement consisting of the Clauses together with the Schedules and any appendices and annexes to the same;
Agreement Award	means the date of the notice in which the Supplier is informed that it is the successful bidder for the delivery of the Goods and Services under this Agreement and precedes execution of the Agreement;
Annual Self Audit Certificate	means the certificate in the form as set out in Schedules 8.6 (Annual Self Audit Certificate) to be provided to the Authority in accordance with Clause 27 (Records and Audit);
API / Application Programming Interface	means a set of functions and procedures that can be used to create applications using standardised commands to access the features or data of an operating system, application, or other service
Approval	means the prior written consent of the Authority and "Approve" and "Approved" shall be construed accordingly;
Audit Report	means a report summarising the testing completed and the actions arising following an audit being carried out pursuant to Clause 27 (Records and Audit);
Auditor	means the Authority, and/or the National Audit Office and/or any auditor appointed by the Audit Commission, and/or the representatives of any of them;

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Authority	means the Secretary of State for the Home Department, 2 Marsham Street, London SW1P 4DF acting through the Emergency Services Communications Programme as stated in the preamble to this Agreement;
Authority Cause	means any material breach by the Authority of any of the Authority Responsibilities, except to the extent that such breach is: (a) the result of any act or omission by the Authority to which the Supplier has given its prior consent; or (b) caused by the Supplier, any Sub-Contractor or any Supplier Personnel;
Authority Confidential Information	means all Authority Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel, and suppliers of the Authority, including all IPR, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably to be considered to be confidential;
Authority Personal Data	means any Personal Data supplied for the purposes of or in connection with this Agreement by the Authority to the Supplier;
Authority Premises	premises owned, controlled or occupied by the Authority and/or any Central Government Body which are made available for use by the Supplier or its Sub-Contractors for provision of the Goods and/or Services (or any of them);
Authority Requirements	the requirements of the Authority set out in Schedules 2.1 (Requirements), 2.2 (Key Performance Indicators), 2.3 (Standards), 6.1 (Implementation Plan), 8.3 (Management Information), 8.4 (Operating Level Agreement);
Authority Responsibilities	the responsibilities of the Authority specified in Schedule 3 (Authority Responsibilities);
Authority's Project Manager	means the individual appointed as such as provided under paragraph 4.1 of Schedule 8.1 (Governance), if any;
Branding Guidance	means the Authority's guidance on branding as provided by the Authority to the Supplier from time to time;
Call Detail Records	Has the meaning ascribed to it in ESN_COV_DT_043;
Capability or Capabilities	refers to capability 1a, 1b, 2a, 2b, 3a, and 3b as set out in the Annexes to Schedule 2.1 (Technical Requirements);
Central Government Body	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:- (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency
Change in Law	means any change in Law which impacts on the Agreement, on the supply of the Coverage Assurance Goods and/or Services which comes into force after the Contract Commencement Date;
Change of Control	means a change of control within the meaning of section 450 of the Corporation Tax Act 2010;
Charges	means the charges raised in accordance with Schedule 7.1 (Charges & Invoicing);

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Commercially Sensitive Information	means the Supplier's Confidential Information listed in Contract Schedule 4.2 (Commercially Sensitive Information) comprised of commercially sensitive information:- (a) relating to the Supplier, its IPR or its business or information which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss; and (b) that constitutes a trade secret;
Comparable Supply	means the supply of goods and/or services to another customer of the Supplier that are the same or similar to the Goods and/or Services;
Complaint	means any formal written complaint raised by a User, End User or User Organisation in relation to the performance of this Agreement in accordance with Clause 60 (Complaints Handling);
Confidential Information	means the Authority Confidential Information and/or the Supplier Confidential Information, as the context requires;
Contract Commencement Date	means Contract Execution Date;
Contract Execution Date	means the date of execution of this Agreement ;
Contract Period	means the period commencing on the Contract Commencement Date and expiring on: (a) the Initial Contract Period Expiry Date; or (b) if the Authority elects to extend the duration of the Contract Period pursuant to Clause 11.2 of this Agreement , the Expiry of the Extension Contract Period;
Contract Prices	means the prices for the Coverage Assurance Goods and Services set out in Annex 1 to Contract Schedule 7.1 (Charges & Invoicing)
Contract Schedule or Schedule	means a schedule to this Agreement ;
Contract Year	means a consecutive period of twelve (12) Months commencing on the Contract Commencement Date or each anniversary thereof;
Control	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;
Core Services	means all elements to deliver the Coverage Solution as set out at Clause 6.5 of this Agreement;
Cost Model	means the cost model provided by the Supplier during the ITT process containing the Contract Prices which appear at Annex 1 to Schedule 7.1;
COTS	means commercial off the shelf;
Coverage	means the accessibility, availability, Quality, mobility, retainability and ESN Services being provided under the MS Supplier's commercial 4G / ESN RAN provision indoors, outdoors, and to vehicles, monitored using industry standard coverage metrics such as location, RSRP, RSRQ, cell info, etc, quality metrics such as CQI, QCI, QoS, POLQA. voice , data and messaging services;
Coverage App or Coverage Application	means the Supplier's COTS Coverage testing application to which minor enhancements may be made to maximise the Supplier's ability to collect the data required to provide full Coverage Assurance and Service Assurance of the MS Supplier's commercial 4G and VoLTE service. It also refers to the further enhanced ESN Service Application version including any development required to provide full Coverage Assurance and Service Assurance of MS Supplier's ESN Coverage once it is NATS certified;
Coverage App Enhanced / Coverage Application Enhanced	means the Supplier's Coverage App enhanced with NATS certification to enable Coverage testing of the MS Supplier's ESN PLMN Coverage as contemplated under capability 2a;
Coverage App Transfer Service	has the meaning ascribed to it in Schedule 2.1 Annex 2 ESN_COV_ESN_004;

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Coverage Assurance	means the provision, development, and support of an independent testing and reporting capability to assess the MS Supplier's Coverage provision as detailed in this Agreement and the ITT, and in particular, capability 1a, 2a, and 3a. It should also be capable to report on the Coverage offered by other MNOs;
Coverage Assurance Goods and Services	means the goods and services to be provided by the Supplier in order to deliver the Authority's Requirements including, but not limited to, Coverage Assurance, Service Assurance, Drive Test Service, Walk Test Service, any Optional Services, Development Services, Training Services, Coverage App Transfer Services and provision of Documentation. Sometimes also referred to as Goods and Services;
Coverage Solution	Means the Supplier's Solution set out in Schedule 4.1 to meet the Authority Requirements in full including Coverage Assurance, Service Assurance, and the provision of a Drive Test Service, Walk Test Service and any Optional Services Ordered;
CQI or Channel Quality Indicator	means the message reporting information relating to the quality of the communication channel and is used in the decision to select the most appropriate modulation coding scheme;
CRTPA	means the Contracts (Rights of Third Parties) Act 1999;
Data Protection Legislation or DPA	means: <ul style="list-style-type: none"> (i) the GDPR, the LED (as defined in Schedule 2.63 (Data Protection) and any applicable national implementing Laws as amended from time to time; (ii) the Data Protection Act 2018 (subject to Royal Assent) to the extent that it relates to processing of personal data and privacy; and; (iii) all applicable Law about the processing of personal data and privacy;
Day Rate	means the Fixed Price rate per day charged by the Supplier for the Drive Test Service and/or Walk Test Service, as set out in the Day Rate Card in Annex 1 to Schedule 7.1 (Charges & Invoicing);
Day Rate Card	means the rate card setting out the day rates charged by the Supplier as set out in the Annex 1 to Schedule 7.1 (Charges & Invoicing);
Dead on Arrival/Installation or DOA/DOI	means a Device (or any of its constituent parts) or an Accessory delivered to the Authority of a User Organisation under the terms of this Agreement that is entirely non-functional on or shortly after the point of delivery to the Authority or User Organisation;
Default	means any breach of the obligations of the Supplier (including but not limited to any fundamental breach or breach of a fundamental term) or any other default, act, omission, misrepresentation, negligence or negligent statement of the Supplier or the Supplier Personnel in connection with or in relation to this Agreement or the subject matter of this Agreement and in respect of which the Supplier is liable to the Authority;
Delay	a) a delay in the Achievement of a Milestone by its Milestone Date; or b) a delay in the provision, testing, acceptance of, or reporting on a deliverable by the relevant date set out in the Implementation Plan or a Works Instruction;
Deliverable	means an item or feature or report delivered or to be delivered by the Supplier at or before a Milestone Date or at any other stage during the performance of this Agreement to meet the Authority Requirements as set out in Annex 2 of Schedule 6.1;
Delivery Partner	means Kellogg Brown & Root LLC (KBR), a company registered in England and Wales with company number 00645125 whose registered office is at Hill Park Court, Springfield Drive, Leatherhead, Surrey, KT22 7NL (or a subsequent supplier appointed by the Authority to supply lot 1 of the ESMCP as the case may be);

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Detailed Implementation Plan	the implementation plan developed and revised from time to time in accordance with the provisions of Paragraphs 3 and 4 of Schedule 6.1 (Implementation Plan);
Development Day Rate	means the Fixed Price rate per day to be charged by the Supplier for the Development Services;
Development Services	means the development services provided by the Supplier to develop the ESN Service Application and supporting documentation in accordance with the Authority's Requirements and, in particular, the provisions of Schedule 2.1 (Requirements), including obtaining NATS certification of same and Supplier's COTS Coverage App;
Development Services Commencement Date	means the date set out in an Order Form for the commencement of the Development Services;
Device	Means an ESN Handheld Device or ESN Vehicle Device or any other device which has been Approved. When "ESN" or "4G" precedes this term, it refers to a Device specifically set up for testing on the ESN or 4G, respectively;
Dispute	means any dispute, difference or question of interpretation arising out of or in connection with this Agreement, including any dispute, difference or question of interpretation relating to the Coverage Assurance Goods and Services, failure to agree in accordance with the procedure for variations in Clause 28 (Variation) or any matter where this Agreement directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
Dispute Notice	means a written notice served by one Party on the other stating that the Party serving the notice believes that there is a Dispute;
Dispute Resolution Procedure	means the dispute resolution procedure set out in Schedule 8.5 (Dispute Resolution Procedure);
Documentation	means all documents provided by the Supplier to the Authority under this Agreement, including those documents and Training Materials as set out in requirements ESN_COV_SC_074 to ESN_COV_SC_083 set out in Annex 1 to Schedule 2.1 (Technical Requirements);
DOTAS	means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;
Drive Test Day/s	means a unit of measure used to account and charge for the delivery of Drive Test Services or Walk Test Services by the Supplier. A Drive Test Day includes all time and costs associated with the data collection (including travel to/from the location or area), processing, analysis and reporting of data;
Drive Test Server	means a separate central collection server dedicated to the collection, storage, and reporting of data collected in the execution of the Drive Test Service and Walk Test Service and in accordance with Schedule 2.1, and in particular ESN_COV_DT_030/31/32/33;
Drive Test Service	means the Coverage Assurance and Service Assurance services provided by the Supplier using Drive Test Vehicles to collect the data to deliver against the Authority Requirements set out in Schedule 2.1 capability 3a and 3b. When "ESN" or "4G" precedes this term, it refers to the Drive Test Service as applied to test the ESN Coverage or 4G Coverage, respectively;
Drive Test User	means a User who is authorised to access, analyse, and report on the data collected under the Drive Test Service and Walk Test Service;

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Drive Test Vehicle	means a vehicle equipped with test equipment for measuring 4G or ESN Coverage and ESN Service (as contemplated in Schedule 2.1 under capability 3a and 3b) and with a roof height of approximately 1.4m used for delivering the Drive Test Service. When “ESN” or “4G” precedes this term, it refers to the Drive Test Vehicle used to test the ESN or 4G, respectively;
Due Diligence Information	means any information supplied to the Supplier by or on behalf of the Authority prior to the Contract Execution Date;
EARFCN	E-UTRA Absolute Radio Frequency Channel Number;
End User	means the person in possession of an ESN Device with the Coverage App installed who is tasked with carrying it in the field;
Environmental Information Regulations or EIRs	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations;
Escrow	Has the meaning ascribed to it in Clause 19.8 of the Agreement;
ESMCP	means the emergency services mobile communications programme;
ESN Gitlab	means the restricted portal provided by the US Supplier to host developer documentation and tools as described in Schedule 2.1 Annex 2 ESN_COV_ESN_015;
ESN Handheld Device	means the handheld mobile device provided by the Authority;
ESN or Emergency Services Network	means the communications system used by the police, fire and ambulance services in Great Britain;
ESN Service Application or ESN Service App	means the Supplier’s Coverage App suitably enhanced to enable Coverage testing of the MS and US Suppliers’ ESN Services as contemplated under capability 2b and 3b;
ESN Service	means voice, data, and messaging services delivered by the MS and/or US Supplier;
ESN Vehicle Device	means the vehicle mounted mobile device provided by the Authority;
EU	means European Union;
Expiry Date	means the Initial Contract Period Expiry Date or, if applicable, the Extension Contract Period Expiry Date;
Extension Contract Period	means, if the Agreement is extended by the Authority in accordance with Clause 11.2 of this Agreement, the period commencing the day following the Initial Contract Period Expiry Date and expiring on the Extension Contract Period Expiry Date;
Extension Contract Period Expiry Date	means, where the Authority elects to extend the duration of the Agreement in accordance with Clause 11.2, the date on which the Agreement is to terminate;
Fixed Price	means an all-inclusive price that will not change;
FOC / Free of Charge	means without any charge;
FOIA	means the Freedom of Information Act 2000 as amended from time to time and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
Force Majeure Event	means any event which affects the performance by a Party of its obligations under this Agreement and arises directly from acts of God, fire, flood, war, acts of terrorism, riot, civil commotion, governmental actions, labour disputes (save where such disputes involve personnel of the non-performing Party) and any other events beyond the reasonable control of the non-performing Party;
Fraud	means any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts including acts of forgery;
FTP	File Transfer Protocol;

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GDPR	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016;
General Anti-Abuse Rule	means the legislation in Part 5 of the Finance Act 2013; and any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
General Change in Law	means a change in law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
GIS or Geographic Information System	means a system designed to capture, store, manipulate, analyze, manage, and present spatial or geographic data;
Goods	means any goods to be provided under this Agreement;
Good Industry Practice	means standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
Government	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
GPS	Geographical Positioning Software;
Health and Safety Policy	means the health and safety policy of the Authority and/or other relevant Central Government Body as provided to the Supplier on or before the Contract Execution Date and as subsequently provided to the Supplier from time to time except that any provision of any such subsequently provided policy that cannot be reasonably reconciled to ensuring compliance with applicable Law regarding health and safety;
Helpdesk	Means the provision of a helpdesk in accordance with Schedule 2.1 (Requirements) and set out in ESN_COV_CS_072 and 075
HTTP;	Hyper Text Transfer Protocol
Impact Assessment	means an assessment of a Variation request in accordance with Clause 28.1.2 (Variation Procedure);
Implementation Plan	has the meaning ascribed to it in Schedule 6.1 (Implementation);
Improvement Notice	means the notice issued by the Authority to the Supplier pursuant to Clause 44 (Authority Remedies) which will detail how the Supplier shall improve the provision of the Goods and/or Services;
Improvement Plan	means the plan required by the Authority from the Supplier which shall detail how the Supplier will improve the provision of the Goods and/or Services pursuant to Clause 44 (Authority Remedies);
Information	has the meaning given under section 84 of FOIA;
Initial Contract Period	means the period commencing with the Contract Commencement Date and expiring forty eight (48) months thereafter;
Initial Contract Period Expiry Date	means 23:59:59 on the date falling forty-eight (48) months after the Contract Commencement Date and is the date upon which the Initial Contract Period expires;
Insolvency Event	means, in respect of the Supplier:- (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

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	<p>(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</p> <p>(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</p> <p>(d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</p> <p>(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</p> <p>(f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</p> <p>(g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to 1 of the Insolvency Act 1986; or</p> <p>(h) where the Supplier 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</p> <p>(i) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;</p>
Intellectual Property Rights or IPR	<p>means:-</p> <p>(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 names, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>(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</p> <p>(c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
Invitation to Tender or ITT	has the meaning given to it in Recital B to this Agreement;
IPR Claim	means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Goods and/or Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Authority in the fulfilment of its obligations under this Agreement;
Key Performance Indicators or KPIs	means the performance measurements and targets set out in Contract Schedule 2.2 (Key Performance Indicators);
Key Personnel	means those persons appointed by the Supplier to fulfil the Key Roles, being the persons listed in Contract Schedule 4.3 (Key Personnel) against each Key Role as at the Contract Execution Date or as amended from time to time in accordance with Clause 32 (Supplier Personnel);
Key Sub-Contract	means each Sub-Contract with a Key Sub-Contractor;

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Key Sub-Contractors	means any Sub-Contractor which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Goods and/or Services;
Key Roles	a role described as a Key Role in Contract Schedule 4.3 (Key Personnel) and any additional roles added from time to time in accordance with Clause 31 (Supplier Personnel);
Know-How	Means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Goods and Services but excluding know-how already in the other Party's possession before the Contract Commencement Date;
KPI Failure	means a failure to meet a KPI Target;
KPI Target	means the acceptable performance level for a KPI as set out in relation to each KPI in Contract Schedule 2.2 (Key Performance Indicators);
Law	means any law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;
Legacy Goods and/or Services	means goods and/or services similar to the New Goods and/or Services and/or goods and/or services which interface with or are intended to interface with or be replaced by the New Goods and/or Services;
Licensed Software	means all and any Software made available to the Authority, User Organisations and/or Users for the purposes of providing the Coverage Assurance Goods and Services or otherwise pursuant to this Agreement;
Losses	means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation on otherwise and "Loss" shall be interpreted accordingly;
LTE	means Long-Term Evolution (LTE) as defined by the International Telecommunication Union (ITU-R);
Management Information or MI	means the management information specified in Agreement Schedule 8.3 (Management Information);
MI Failure	means when an MI Report: (a) contains any material errors or material omissions or a missing mandatory field; or (b) is submitted using an incorrect MI Reporting Template; or (c) is not submitted by the Reporting Date (including where a Nil Return should have been filed);
MI Report	means a report containing Management Information submitted to the Authority in accordance with Schedule 8.3 (Management Information) and shall include the Drive Test Service and Walk Test Service reports and the Performance Monitoring Report(s);
MI Reporting Template	means the form of report set out in the annex to Schedule 8.3 (Management Information) setting out the information the Supplier is required to supply to the Authority;
Milestone	means any of the milestones as set out at in the table at Annex 2 to Schedule 6.1 (Implementation Plan);
Milestone Achievement Certificate	means a certificate issued in accordance with Schedule 6.1 (Implementation Plan) which acknowledges that a Milestone has been Achieved substantially in the form set out in Annex 1 to that Schedule;

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Milestone Date	means the date by which a Milestone must be Achieved as set out for each Milestone in the fifth column headed "Milestone Date" in the table in Annex 2 to of Contract Schedule 6.1 (Implementation Plan);
Milestones	means the milestones listed in Schedule 6.1 (Implementation)
MNO	means mobile network operator;
MO or Mobile Originated	means the call or message is initiated /sent by the subscriber i.e. the subscriber is the calling party;
Month	means a calendar month and "Monthly" shall be interpreted accordingly;
Monthly Meeting	means the monthly meeting attended by the Supplier and the Authority in accordance with Schedule 8.1 (Governance);
Monthly Service Charges	means the charges payable at a monthly rate for the Services;
MS Supplier	means EE LIMITED, a company registered in England and Wales with company number 02382161 whose registered office is at Trident Place, Mosquito Way, Hatfield, Hertfordshire, AL10 9BW (or a subsequent supplier appointed by the Authority to supply lot 3 of the ESMCP as the case may be);
MSISDN	Mobile Station International Subscriber Directory Number being the mobile number assigned to a mobile sim;
MT or Mobile Terminated	means a call or message is terminated/received by the subscriber i.e. the subscriber receives a call;
Network Approval Testing Service or NATS	means a testing and certification service provided by the US Supplier to verify the correct interworking of third party systems needing to connect to ESN, including: (a) control room systems; (b) user devices and applications; and (c) external communications systems;
New Goods and/or Services	means goods and/or services which the Authority wishes to procure from a third party which are the same or similar to the Goods and/or Services;
Nil Return	has the meaning given to it in Paragraph 3.2 of Schedule 8.3 (Management Information);
Notifiable Default	has the meaning given to it in Clause 15.1 (Rectification Plan Process);
Occasion of Tax Non-compliance	means where:- (a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:- (i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction and/or (b) the Supplier's tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a penalty for civil fraud or evasion;
OJEU Notice	has the meaning given to it in Recital A to this Agreement;
Open Source	means that the relevant software's source code is freely available to the public. Open source software is typically free to download and use and does not include technical support;
Operating Level Agreement or OLA	means the rights and obligations as detailed in Contract Schedule 8.4 (Operating Level Agreement);

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Operating Service Level or OSL	is the required service level (KPI Target) associated with the KPI as set out in Schedule 2.2 (Key Performance Indicators);
Option 1	means the additional service described in Schedule 2.1 ESN_COV_4G_001 to ESN_COV_4G_014 and which may be ordered by the Authority in accordance with Schedule 9.1 (Ordering Procedure);
Option 2	means the additional service described in Schedule 2.1 ESN_COV_CS_002 and which may be Ordered by the Authority in accordance with Schedule 9.1;
Option 3	means the additional service described in Schedule 2.1 ESN_COV_4G_015 and which may be Ordered by the Authority in accordance with Schedule 9.1;
Optional Services	means the additional services described as Option 1, Option 2, and Option 3 in Schedule 2.1 ESN_COV_4G_001, ESN_COV_CS_002, and ESN_COV_4G_015 respectively, and which may be Ordered by the Authority in accordance with Schedule 9.1 (Ordering Procedure);
Order	means an order for the provision of the Coverage Assurance Goods and Services placed by the Authority with the Supplier under the Agreement;
Order Form	means the form used by the Authority to place Orders under the terms of this Agreement, substantively in the form (as amended from time to time) of the template order form set out in Schedule 9.1 (Ordering Procedure);
Order Fulfilment Points	means points used for calculating a percentage discount on the net value of an invoice in relation to an Order or Works Instruction in accordance with the provisions of Paragraph 10 of Schedule 7.1 (Charges and Invoicing) and paragraph 3 of Schedule 2.2 (Key Performance Indicators);
OTA	means over-the-air programming which refers to various methods of distributing new software, configuration settings, updating encryption keys, etc. to devices like mobile phones;
Other ESN Supplier	means a third party with whom the Authority enters into an agreement (or proposed agreement) for the provision of facilities, goods, services or other supply related to the ESMCP (including any Replacement Supplier);
Party	means the Authority or the Supplier and " Parties " shall mean both of them;
Pass Through Cost(s)	means the pass through elements include: (a) The cost from the US Supplier for NATS Testing subject to ESN_CV_ESN_009/022 of Schedule 2.1; and (b) the reasonable cost incurred under ESN_VOC_DT_007 of Schedule 2.1 relating to modification of Drive Test Vehicles and/or Walk Test Packs;
Passive Monitoring	Means the continuous, autonomous logging of Coverage metrics and events occurring on a Device without active injection of test traffic/calls;
PCI	means the Physical Cell ID on a wireless LTE network;
Performance Monitoring Report	means the report described in Part C to Schedule 2.2 (Key Performance Indicators);
Personal Data	shall have the meaning given to it in the Data Protection Legislation, as amended from time to time;
Physical Test Service	Means Drive Test Service and/or Walk Test Service;
Pilot	refers to the demonstration of the Coverage Solution capability as described in Schedule 6.1 under milestones MS1 and MS9;
PLMN or Public Land Mobile Network	means a network established by a mobile network operator (MNO) for the purpose of providing land and mobile telecommunications services and is identified by its public land mobile network code which is broadcast to and received by mobile devices;
POLQA	Means 'Perceptual Objective Listening Quality' and is an ITU standard for measuring voice quality;

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Prohibited Act	means:- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:- (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; or (b) committing any offence:- (i) under the Bribery Act 2010; or (ii) under legislation creating offences concerning Fraud; or (iii) at common law concerning Fraud; or (iv) committing (or attempting or conspiring to commit) Fraud;
Project Specific IPRs	means: (a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Agreement and updates and amendments of these items including (but not limited to) database schema; and/or (b) Intellectual Property Rights arising as a result of the performance of the Supplier's obligations under this Agreement; and (c) any Intellectual Property Rights arising from the Supplier providing the Development Services; but shall not include the Supplier IPRs Software;
PSCS or Public Safety Critical Service	means the service(s) being provided by the Lot 2 US Supplier in relation to the provision of the ESMCP;
PSCS Application	means the US Supplier's 'PSCS elements' that will be hosted on each Device and is used as the API between 3rd party software and access to ESN critical services, provided by the US Supplier;
QCI or Quality of Service Class Identifier	means the mechanism used in LTE to ensure the appropriate bearer is used to support the QoS needed for the traffic being carried;
QoS or Quality of Service	means the requirement to maintain a certain level of quality when transmitting data e.g. delay, jitter, throughput bit-error-rate etc;
Quality	refers to the measurement of the service provided by the MS Supplier to the ESMCP using, but not limited to, CQI, QCI, QoS, POLQA;
Quarter	means three consecutive Months;
RAN	Radio Access Network;
RAT	Radio Access Technology;
Rectification Plan	means a plan to address the impact of, and prevent the reoccurrence of, a Notifiable Default;

Rectification Plan Failure	<p>means:</p> <p>(a) the Supplier failing to submit or resubmit a draft Rectification Plan to the Authority within the timescales specified in Clauses 15.4 (Submission of the draft Rectification Plan) or 15.8 (Agreement of the Rectification Plan);</p> <p>(b) the Authority, acting reasonably, rejecting a revised draft of the Rectification Plan submitted by the Supplier pursuant to Clause 15.7 (Agreement of the Rectification Plan);</p> <p>(c) the Supplier failing to rectify a material Default within the later of:</p> <p style="padding-left: 40px;">(i) 30 Working Days of a notification made pursuant to Clause 15.2 (Notification); and</p> <p style="padding-left: 40px;">(ii) where the Parties have agreed a Rectification Plan in respect of that material Default and the Supplier can demonstrate that it is implementing the Rectification Plan in good faith, the date specified in the Rectification Plan by which the Supplier must rectify the material Default;</p> <p>(d) a KPI Failure re-occurring in respect of the same Key Performance Indicator for the same (or substantially the same) root cause in any of the 3 Months subsequent to the Month in which the initial KPI Failure occurred; and/or</p> <p>(e) following the successful implementation of a Rectification Plan, the same Notifiable Default recurring within a period of 6 months for the same (or substantially the same) root cause as that of the original Notifiable Default;</p>
Rectification Plan Process	means the process set out in Clauses 15.4 (Submission of the Rectification Plan) to 15.9 (Agreement of the Rectification Plan);
Relevant Person	means any employee, agent, servant, or representative of the Authority (including any Other ESN Supplier) or other public body;
Relevant Requirements	means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
Relevant Supplier	means a third party bidding to provide New Goods and/or Services;
"Replacement Goods and/or Services"	means any goods and/or services which are substantially similar to any of the Goods and/or Services and which are received in substitution for the Goods and/or Services following the expiry or termination of this Agreement;
Replacement Supplier	means any third party service provider of Replacement Goods and/or Services appointed by the Authority from time to time (or where the Authority is providing Replacement Goods and/or Services for its own account, the Authority);
Repeat KPI Failure	has the meaning given to it in paragraph 4.1 of Schedule 2.2 (Key Performance Indicators);
Regulations	means the Public Contracts Regulations 2015 (as amended) and/or the Public Contracts (Scotland) Regulations 2015 (as amended) (as the context requires) as amended from time to time;
Reporting Date	means the 7th of each Month following the Month to which the relevant Management Information relates, or such other date as may be agreed between the Parties;

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Requests for Information	means a request for information relating to this Agreement or the provision of the Goods and Services or an apparent request for such information under the Code of Practice on Access to Government Information, FOIA or the EIRs;
Requirements	means Schedule 2.1;
RF or rf	means radio frequency;
RF Scanner	means radio frequency scanner capable of fast-sampling/scanning and identifying all MS Supplier's and other MNOs' technologies and frequency bands;
Secure	means that the security standards set out in Schedule 2.1 and Schedule 2.3 together with any industry accepted security standards have been applied;
Security Requirements	means the security requirements set out in Schedule 2.1 (Requirements) and Schedule 2.3 (Standards);
Security Updates	means regular security related updates to the Software provided by the Supplier in accordance with Schedule 2.1 (Requirements) and ESN_COV_CS_072 in specific;
Server	means centralised collection server(s) dedicated to the collection, storage, and reporting of data collected in the execution of capability 1a, 1b, 2a, 2b as set out in the Authority Requirements;
Service Assurance	means the provision and support of an independent testing and reporting capability to assess the MS Supplier's and/or US Supplier's ESN Service provision as detailed in this Agreement and the ITT and, in particular, capability 1b, 2b, and 3b;
Service Charges	means the Monthly Service Charges and/or the Variable Service Charges described in Schedule 7.1 (Charges and Invoicing);
Service Credit Cap	means, in each calendar year during the Contract Period, 25% of the total Service Charges that accrue in that calendar year;
Service Credits	means credits payable by the Supplier due to the occurrence of one (1) or more KPI Failures, calculated in accordance with of Schedule 7.1 (Charges and Invoicing);
Service Failure	means any defect in, or failure of, any service which results in a failure to provide that service, or any part of that service, in accordance with the requirements of this Agreement;
Service Period	means: <ul style="list-style-type: none"> (a) the period commencing on (and including) the Contract Commencement Date an ending on (and including) the final date of the Month in which the Contract Commencement Date falls; (b) the period commencing on (and including) the first day of the Month in which the Expiry Date falls and ending on (and including) the Expiry Date; and/or (c) each Month during the Contract Period (excluding the Months identified at (a) and (b));
Service Points	means, in relation to a KPI Failure, the points that are set out against the relevant KPI in the third column of the tables in Paragraph 1.3 in Appendix 1 to Schedule 2.2 (Key Performance Indicators);
Services	means all the services to be provided under this Agreement, including the Coverage Assurance Goods and Services;
Software	means all software (including database software, linking instructions, compilation instructions) including all modification and/or enhancements of the same used for the purposes of or in connection with this Agreement;
Software Updates	means updates and fixes to the Software provided on a regular basis by the Supplier in accordance with Schedule 2.1 (Technical Requirements) and ESN_COV_CS_072 in specific;

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Specially Written Software	means any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-contractor or other third party on behalf of the Supplier) specifically for the purposes of this Agreement, including any modifications or enhancements to Supplier Software or Third Party Software created specifically for the purposes of this Agreement;
Specific Change in Law	means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply;
Standards	means: (a) any standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; (b) any standards detailed in Contract Schedule 2.1 (Requirements); (c) any standards detailed in the specification in Contract Schedule 2.3 (Standards); (d) any relevant Government codes of practice and guidance applicable from time to time;
Sub-Contract	means any contract or agreement or proposed agreement between the Supplier and any third party whereby that third party agrees to provide to the Supplier the Goods and Services (or any part thereof) or to provide facilities or services necessary for the provision of the Goods and Services (or any part thereof) or necessary for the management, direction or control of the provision of the Goods and Services or any part thereof;
Sub-Contractor	means the third party from the list of sub-contractors in Schedule 4.4 (Sub-Contractors) or any third party engaged by the Supplier from time to time under a Sub-Contract permitted pursuant to this Agreement;
Supplier	means the person, firm or company stated in the preamble to this Agreement;
Supplier Confidential Information	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;
Supplier IPRs	all IPRs (whether proprietary to the Supplier or not) used by the Supplier for designing, implementing and/or providing the Goods and Services and complying with its obligations under this Agreement ;
Supplier Personnel	means all persons employed or engaged by the Supplier together with the Supplier's servants, agents, suppliers, consultants and Sub-Contractors (and all persons employed by any Sub-Contractor together with the Sub-Contractor's servants, consultants, agents, suppliers and sub-contractors) used in the performance of its obligations under this Agreement;
Supplier Review Meeting	means a performance review meetings that will take place at the Authority's premises in accordance with paragraph 9.1.1 of Schedule 8.4;
Supplier Software	means software which is proprietary to the Supplier (or an Affiliate of the Supplier) and which is or will be used by the Supplier for the purposes of providing the Services
Supplier Solution	means the Supplier's solution to provide the Authority Requirements which solution is set out in Contract Schedule 4.1 (Supplier Solution);
Supplier's Project Manager	means the individual appointed as such as provided under paragraph 4.1 of Schedule 8.1 (Governance), if any;

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Supplier's Roadmap	means the product lifecycle information relating to the Goods provided by the Supplier and included and set out in the Supplier Solution which details the future releases and new versions of the Software and Devices which are to be made available during the Contract Period by the Supplier;
Supplier Termination Event	means the circumstances in which the Authority may terminate this Agreement as listed at Clause 45 (Termination Rights);
Talk Group	means an assigned group on a trunked radio system or ESN which uses a number of frequencies allocated to the system so that the group can use these frequencies seamlessly;
TCP	Transmission Control Protocol;
Tender	has the meaning given to it in recital C to this Agreement;
Termination Notice	means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Agreement on a specified date and setting out the grounds for termination;
Termination Payment	means the payment payable by the Authority to the Supplier where the Authority terminates this Agreement pursuant to Clause 45.6 (Termination Without Cause);
Test and Testing	means the tests and testing as outlined in Schedule 6.1 (Implementation);
Test Call(s)	means calls which replicate events on a telecoms network to identify potential issues;
Test Plan	means a plan: (a) for the Testing of Goods and Services; and (b) setting out other agreed criteria related to the achievement of Milestones as described further in Annex 2 of Schedule 6.1 (Implementation Plan) Testing Procedures;
Third Party Software	means software which is proprietary to any third party (other than an Affiliate of the Supplier) or any Open Source Software which in any case is, will be or is proposed to be used by the Supplier for the purposes of providing the Services;
Training Implementation Plan	means the training implementation plan described in Schedule 2.1 at ESN_COV_CS_74 and 76, and Schedule 6.1
Training Materials	Means the Approved training material provided by the Supplier in accordance with the Training & Documentation section in Schedule 2.1 (Requirements);
Training Services	means the training services provided by the Supplier pursuant to requirements ESN_COV_CS_074 to ESN_COV_CS_083 of Schedule 2.1 (Technical Requirements);
TUPE Regulations	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (246/2006) and/or any other regulations enacted for the purpose of implementing the Acquired Rights Directive (Council Directive 77/187/EEC as amended by Council Directive 98/50 EEC and consolidated in Council Directive 2001/23/EEC) into English law;
UDP	User Datagram Protocol;
UL/DL	means the upload / download ratio or the difference in speed between transmitting and receiving of packets;
US Supplier	means Motorola Solutions UK Limited, a company registered in England and Wales with company number 00912182 whose registered office is at Nova South, 160 Victoria Street, London, SW1E 5LB, UK (or a subsequent supplier appointed by the Authority to supply lot 2 of the ESMCP as the case may be);
User Organisation or UO	means an organisation that is authorised by the Authority to use the services delivered by the ESN, including 3ES;
Users	means users nominated and authorised by the Authority and any UO to act in the capacity as administrator or super user of the Server and/or with authority to access, analyse, and report on the data collected under capability 1a, 1b, 2a, and 2b;

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Variable Service Charges	means the monthly charges for the Option 2 hosting service that are subject to change in accordance with the duration that the hosting service is made available;
Variation	has the meaning given to it in Clause 28 (Variation);
Variation Form	means the form that will be completed and signed by the Parties to effect a Variation which shall be in the form set out in Contract Schedule 8.2 (Variation Form);
Variation Procedure	means the procedure for carrying out a Variation as set out in Clause 28 (Variation);
VAT	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
VoLTE	means voice calls over a 4G network;
Walk Test Pack	means a collection of test equipment for measuring 4G or ESN Coverage and Service (as contemplated in Schedule 2.1 under capability 3a and 3b) and contained in a portable back-pack or similar used for delivering the Walk Test Service. When “ESN” of “4G” precedes this term, it refers to the Walk Test Pack used to test the ESN Coverage or 4G Coverage, respectively;
Walk Test Service	means the Coverage Assurance and Service Assurance services provided by the Supplier using pedestrian conveyed Walk Test Packs to collect the data to deliver against the Authority Requirements set out in Schedule 2.1 capability 3a and 3b. When “ESN” of “4G” precedes this term, it refers to the Walk Test Service as applied to test the ESN or 4G, respectively;
Working Day	means any day other than a Saturday, Sunday or public holiday in England, Wales, or Scotland;
Working Hours	Means from 8:30 am to 5:30 pm on a Working Day; and
Works Instruction	Means the instruction stipulating how the Drive Test Service and Walk Test Service is to be deployed (as defined in Schedule 9.1 (Ordering Procedure)).

SCHEDULE 2.1
(Requirements)

1. Overview

The Supplier is appointed to provide, develop and support an independent testing and reporting Capability to initially assess the MS Supplier's commercial 4G Coverage followed by ESN.

The Coverage Solution will report on the level of Coverage experienced with data collected from Devices operating in the field.

The Coverage Solution will provide a GIS for visualisation and reporting to the Authority and User Organisations.

Coverage data will be harvested as part of normal operations and planned/un-planned Coverage testing from Devices placed in the 3ES vehicles. Depending on the availability of Devices and ESN at the time, Devices will be either 4G Devices, ESN Handheld Devices or ESN Vehicle Devices. It will also be possible to use ESN Handheld Devices out of a vehicle e.g. to assess outdoor handheld Coverage.

The Supplier is required to deliver a set of capabilities commencing with an assessment of the MS Supplier's 4G and VoLTE Coverage building towards measurement of the Coverage under ESN.

The diagram below provides a summary of the approach.

The Supplier's Solution as defined in Schedule 4.1 (Supplier Solution) must deliver the requirements outlined in this Schedule 2.1 (Requirements), comprising:

- 1.1 **Core Services** as set out in Annex 1;
- 1.2 **4G Capability 1a and 1b** as set out in Annex 2;
- 1.3 **ESN Capability 2a and 2b** as set out in Annex 3;
- 1.4 **Drive Test Services and Walk Test Services Capability 3a and 3b** as set out in Annex 4;
- 1.5 **User Device Reference Configuration** as set out in Annex 5.

Annex 1 – Core Services

ID	Requirement	MoSCoW priority
Core Services		
	General	
ESN_COV_CS_001	The Coverage Solution shall include a centralised web/application/database server solution that will be hosted on a Government secure cloud platform for the purpose of collecting, managing, storing, processing, analysing and reporting Coverage data provided by the Supplier's Coverage Application installed and activated on Devices in accordance with the Authority Requirements.	MUST
ESN_COV_CS_002	The Supplier shall offer as an option (Option 2), the hosting of their centralised web/application/database server solution either on their own Secure server/storage environment or hosted within an alternative, Secure, UK based cloud services. The Supplier shall ensure that the solution and all data can be readily transferred from the supplied hosting environment to the designated Authority cloud hosted environment when requested. The Supplier shall include all work and costs relating to the provision of Option 2, including any costs associated with the move to the designated Authority hosting solution, within their offer. The time to migrate from a Supplier hosted Server to an alternative Authority hosted Server shall not exceed 10 weeks from written instruction to commence. For avoidance of doubt the Supplier shall be responsible for configuring and setting-up the Coverage Assurance Solution including the hosting Service (whether Authority supplied or if Option 2 is selected for the hosting Service).	MUST
ESN_COV_CS_003	The cloud hosted components shall be provided using virtual mobile infrastructure and/or application containerisation environment.	MUST
ESN_COV_CS_004	The Supplier shall provide, Approved open interfaces to the Server database so that data can be freely accessed by other Approved connected systems with the appropriate roles and permissions. For example, access via SQL queries and REST API's.	MUST
ESN_COV_CS_005	The Supplier shall ensure that the Coverage Solution is capable of processing the anticipated volume of active devices/applications and maintain performance levels for data capture, processing and reporting. The Supplier shall state all design considerations, constraints and assumptions made relating to any third party provided hardware, Software, Licensed Software, architecture and configuration.	MUST
ESN_COV_CS_006	The data interface exchange between the Coverage Application installed on the Devices and Server shall conform to a common data interchange format, such as RESTful API.	SHOULD

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ESN_COV_CS_007	Data collected and transferred to the Server should be protected or encrypted using Advanced Encryption Standard (AES) or equivalent with a minimum 128 bit key.	SHOULD
ESN_COV_CS_008	The Supplier shall ensure that the Coverage Solution provides full access to the data i.e. all logged data collected shall be identifiable and available for further querying, export or retrieval for the purposes of analysis and reporting.	MUST
ESN_COV_CS_009	The Supplier shall provide full details of the format and structure of the database (the schema) from which The Authority can access raw data for processing and reporting.	MUST
ESN_COV_CS_010	The Supplier must ensure that it holds the necessary licenses for all Licensed Software and/or IPR in all supplied Software necessary for the operation, maintenance, support and further development of such software in delivering the Coverage Solution for the Contract Period.	MUST
ESN_COV_CS_088	The Supplier should provide their development roadmap for ensuring the Coverage Solution remains up-to-date, capable and supportable throughout the term of the Agreement. For example, the Supplier should detail any existing capabilities, future enhancements or new features that would extent the baseline capability such as the facility to measure coverage within buildings	SHOULD
Administration		
ESN_COV_CS_011	The Coverage Solution shall support 150 individual User accounts and 50 simultaneous User logins at any one time.	MUST
ESN_COV_CS_012	The system offered should support 250 individual User accounts and 100 simultaneous User logins at any one time.	SHOULD
ESN_COV_CS_089	The Supplier should provide a mechanism to actively manage the number of simultaneous User logins to maintain an efficient and fair usage at the limit of supported accounts for example Users are auto logged out after a pre-set period of inactivity to allow other User's to access the system	SHOULD
ESN_COV_CS_013	It shall be possible to assign different login types, access rights and privileges for each User account. For example: read, write, view, administrator, super user.	MUST
ESN_COV_CS_014	It shall be possible to restrict one or more Users to access only data and results associated with a particular set of Device IDs e.g. Devices associated with a particular 3ES organisation.	MUST
ESN_COV_CS_015	It should be possible to restrict one or more Users to access only data and results associated with a defined area e.g. county or 3ES boundary.	SHOULD
Analysis & Reporting		

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ESN_COV_CS_016	<p>The Coverage Solution shall include a GIS Capability which shall include a summary dashboard showing the overall system status and health of the core processing system, Coverage Applications, and ESN Devices (according to the information available).</p> <p>Dashboard reported information shall be relevant to the previous 60 seconds or last known time if no data is available. The time of last update should be indicated.</p> <p>The Dashboard shall indicate a summary and the means to report a subset or individual status if required e.g.:</p> <ul style="list-style-type: none"> - the number of active/inactive Devices; - the location of each Device; and/or - the status of each Device for example: available/unavailable, active/idle etc. 	MUST
ESN_COV_CS_017	<p>The GIS Capability provided shall report on collected data using vector mapping with a minimum resolution of 1:10,000 (~zoom level 16, small;) across the UK and include a range of thematic backdrop layers for satellite, terrain, roads, greyscale etc. Mapping should support OS Open Road mapping and locations shall be identifiable and searchable by both NGR and postcode. It shall be possible to export image, shape files and maps etc to other GIS programs such as Pitney Bowes MapInfo and ESRI ArcGIS for further processing.</p>	MUST
ESN_COV_CS_018	<p>The GIS Capability shall provide a feature rich presentation and associated toolkit of functions to support the detailed analysis and reporting of the data collected by the Coverage Apps installed on the Devices. For each measurement point it shall be possible for a User to apply different filters, ranges and relevant parameters to further inspect and interrogate the underlying data.</p>	MUST
ESN_COV_CS_019	<p>The Coverage Solution shall support binning of results using a filter allowing the user to visualise results by:</p> <ul style="list-style-type: none"> - time; - Device(s); - area, e.g. radius from a point, county boundary; - roads and other types of digital terrain; and - a User selected area e.g. a polygon. 	MUST

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ESN_COV_CS_020	The Coverage Solution should support binning of results using additional filters allowing the User to visualise results by, e.g. terrain density such as. rural, suburban, urban, dense urban; zoning categories such as residential, industrial, commercial etc.	SHOULD
ESN_COV_CS_021	The Coverage Solution shall provide a range of out-of-the-box reports showing of performance indicators and statistics resulting from measurements made including:	MUST)
	Connectivity: <ul style="list-style-type: none"> ○ in/out of service; and ○ idle/connected state; 	
	Voice Services: <ul style="list-style-type: none"> ○ setup time; ○ success rate; ○ dropped call rate; ○ duration; and ○ source/direction - originated/terminated; 	
	Data Services: <ul style="list-style-type: none"> ○ DL/UL rate & throughput; ○ file/data transfer time; ○ success rate; and ○ session time; and 	
	Coverage/Mobility: <ul style="list-style-type: none"> ○ handover/re-selection event times; ○ handover/re-selection success rate; ○ time on each cell/sector; ○ signal level & quality 	
ESN_COV_CS_022	The Coverage Solution should provide reports, performance indicators and statistics associated with congestion or capacity limits experienced on the RAN.	SHOULD
ESN_COV_CS_023	The Coverage Solution should provide reports, performance indicators and statistics associated with handover and reselection duration.	SHOULD

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ESN_COV_CS_024	<p>Working with the Authority, the Supplier shall develop the following customised reports which relate to the specific ESN results, including measurements listed under ESN_COV_CS_021:</p> <ul style="list-style-type: none"> - categorisation of results by road types (Major, Minor, Other); - categorisation of results by Device type e.g. Drive Test Service device or Walk Test Service device; - categorisation of results against unique kilometres covered within a 3ES or county area including percentage representation; - identification of outliers e.g. <= one kilometre sections of road where a set of samples/tests were above or below a set threshold; - statistics about the level of ESN defined Coverage & ESN Services provided; e.g. % probability of ESN Services access across % of major/minor road by type.- comparison and trend reporting; and - a high level summary/dashboard report showing the level of ESN Coverage provided and where Coverage not-spots, anomalies or inconsistencies exist. 	MUST
ESN_COV_CS_025	<p>The Coverage Solution should provide a self-service facility for a User to:</p> <ul style="list-style-type: none"> - customise an existing report; and - define a new report. 	SHOULD
ESN_COV_CS_026	<p>Working with the Authority, the Supplier should offer the Capability to develop additional customised reports (other than those listed under ESN_COV_CS_024) which relate to the specific ESN results, including measurements listed under ESN_COV_CS_021.</p>	SHOULD
ESN_COV_CS_027	<p>It shall be possible to export filtered data for reports to other Approved 3rd party applications using common data formats (csv, text, pdf, jpeg etc).</p>	MUST
ESN_COV_CS_028	<p>It shall be possible to export unfiltered (raw) measurement data via common data interchange formats.</p>	MUST
ESN_COV_CS_029	<p>It should be possible to automatically and manually schedule the production of a set of reports on a regular basis e.g. produce a monthly management report set.</p>	SHOULD
ESN_COV_CS_030	<p>The GIS system shall provide a replay facility to allow the User to start/stop/pause the sequential playback of a test associated with a specified Device and visualise the results. The start and end</p>	MUST

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	points of the replay shall be selectable by the User by various User selected parameters that identify the Device and test, e.g. date/time.	
ESN_COV_CS_031	The start and end points of the replay should be selectable by the user by location on the map.	SHOULD
ESN_COV_CS_032	The Coverage Solution shall report a range of statistical results for each metric type within the binned result set including max, min, mean, median, mode, range of percentiles and standard deviation.	MUST
ESN_COV_CS_033	It shall be possible to drill down on each data point to show other metrics captured but not displayed as well as supporting parameters such as GEO-location etc.	MUST
ESN_COV_CS_034	The GIS system shall present results in a variety of ways to easily visualise and make sense of the metric or performance indicators being reported for example geo-mapping, charts, graphs, tables, images and text.	MUST
ESN_COV_CS_035	The Coverage Solution should report metrics and performance indicators for mobility including but not limited to: - intra-RAT ESN/4G/3G; - handover time & distribution; and - handover success/failure rate.	SHOULD
ESN_COV_CS_036	The Coverage Solution should report Device uplink power.	SHOULD
ESN_COV_CS_037	The Solution shall capture and report the following status and events from the Device: - the status of the UE and its connection with the RAN; - all voice call events & responses; and - all data session events and responses.	MUST
Logging and Coverage App Control		
ESN_COV_CS_038	The Coverage Solution shall support Passive Monitoring i.e. continuous, autonomous logging of coverage metrics and events.	MUST
ESN_COV_CS_039	Passive Monitoring runs continuously in the background logging coverage metrics decoded by the Device as well as actions/events caused by operating the Device e.g. a user making or receiving a call or downloading a data file.	INFO
ESN_COV_CS_040	Devices shall be capable of operating as unattended, autonomous units i.e. without user intervention. This includes the logging of data, running of test scripts, the transfer of data and handling of unexpected operational conditions, exceptions and errors.	MUST

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ESN_COV_CS_041	The Coverage Solution shall log metrics associated with Coverage when the Device is: - out of ESN Services (de-registered) i.e. no communication is possible with the network; - registered but capable of 999 calls only; - in idle mode; and - in RRC connected mode.	MUST
ESN_COV_CS_042	The Coverage Solution should capture metrics and performance indicators to show QoS measures to demonstrate network and Coverage accessibility, integrity and retainability in accordance with Ref: ETSI TS 102 250 2 V2.5.1 (2016-06).	SHOULD
ESN_COV_CS_043	The Coverage Solution shall report 4G RAN metrics, including: - state: Idle, RRC connected; - signal level/power: RSRP, RSSI; - signal quality: RSRQ, SINR, CQI; - service/technology type: 4G VoLTE, 3G/HSPA; - frequency/Channel/Band e.g. EARFCN; - serving cell/sector: eNodeB, PCI, TAC; - neighbour cell/sectors: eNodeB, PCI, TAC; and - mobility: handover/re-selections between cells.	MUST
ESN_COV_CS_044	The Coverage Solution shall log and subsequently record Coverage metrics according to distance travelled or time elapsed. For example, a measurement shall be recorded every 5 metres or every 1 second interval. These settings shall be configurable.	SHOULD
ESN_COV_CS_045	The Coverage Solution shall continuously capture Coverage and event data prior to automatically uploading it via a wireless circuit to the Server provided under ESN_COV_CS_001 or ESN_COV_CS_002. In the event that there is no wireless path available, data shall be buffered and stored locally until the link is re-established at which point data shall continue to be uploaded.	MUST
ESN_COV_CS_046	It should be possible to configure the wireless access path that the Coverage Apps will use for transferring data e.g. mobile data or Wi-Fi.	SHOULD
ESN_COV_CS_047	It shall not be possible to lose measured data as a result of switching off a Device. Any logged data that has not been transferred to the Server shall remain stored on the Device until it can be transferred. It shall be possible to continue to measure coverage for at least 2 hrs without requiring upload to the Server. When the limit of local storage is reached the latest data shall begin to overwrite the oldest data in memory.	MUST

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ESN_COV_CS_048	All Software and related Core Services required to deliver Coverage Assurance and Service Assurance metrics must operate on the Device as a low level, low priority background process. It shall NOT in any way hinder or prevent normal operation of the Device by the Device user. The process of collecting, managing, storing and transmitting logged data back to the Server shall not unduly affect the performance of the Device. For example, the background upload of data to the Server will not take priority over other applications requiring access to the Device. The Coverage Solution including Software, Core Services and processes shall be designed in such a way as to consume as little Device battery power as possible. The Supplier should describe what techniques are deployed to minimise power consumption and provide evidence to show what consumption is used when operating in different operating profiles and environments. For example, operating over a 4hr or 8hr period when in poor, average or excellent coverage areas.	MUST
ESN_COV_CS_049	The amount of Device storage allocated for coverage logging should be configurable by the User.	SHOULD
ESN_COV_CS_050	It shall be possible to configure each Device to commence, cease or pause Coverage logging, testing and reporting data when triggered by: - switch on/off of the Device e.g. manually by the Device user or automatically according to the state of the attached power supply; - local Device user input to the Coverage App on the Device. The Coverage App shall including visual indication and feedback of this action; and - remote OTA command to the Device instigated by the User.	MUST
ESN_COV_CS_051	It should be possible to configure the Coverage Application to commence, cease or pause logging, testing and reporting Coverage data when triggered by: - entering/exiting an area that has been previously configured as a geo-fenced area by the User; - a pre-set time of day every day or selected days of the week; and - no movement detected for a period of time.	SHOULD
ESN_COV_CS_052	The Device shall provide a local visual indication of its health and operational status e.g. idle, testing, connected, in-call/data session, GPS in-fix.	MUST
ESN_COV_CS_053	The Coverage Application should provide a local audible alert for any critical error e.g. 'connection to server lost'. It should be possible to configure the Device's alert trigger point, audible level and whether alerts are on or off.	SHOULD
ESN_COV_CS_054	In the event of a Coverage Application crash or period of unexpected inactivity, it shall be possible to automatically re-start the Coverage Application and recover it to an operational state without local user intervention.	MUST
ESN_COV_CS_055	The Server should provide further alarm and status reporting capabilities to the Users such as remote alerting.	SHOULD
ESN_COV_CS_056	It should be possible to kill and re-start the Coverage Application using remote OTA commands instigated by a User.	SHOULD

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ESN_COV_CS_057	The User shall be able to identify and interrogate the status of each Coverage App.	MUST
ESN_COV_CS_058	It shall be possible to perform remote diagnostics and configuration changes of the Coverage App using OTA access.	MUST
ESN_COV_CS_094	For remote diagnostics and configuration the expectation would be that the a User should be presented with a response in less than 60s for a singular command/response sequence measured from the time of issuing the request to the display of the information at the User's terminal. In the case that a diagnostic routine needs to be run on the remote device to collect multiple metrics, the response time should be available to the user in < 180s total. Response times exclude any periods where the device is out of coverage or disconnected from the server.	SHOULD
	Timing & Location	
ESN_COV_CS_059	All measured events and metrics shall include a date/time stamp and geo-location.	MUST
ESN_COV_CS_060	The Coverage Solution shall identify all measurements where no geo-location was available or there was a significant reduction in the accuracy. It shall be possible to easily identify and filter these results from the collected data.	MUST
ESN_COV_CS_061	Where geo-location is lost it shall be possible to extrapolate the measurements made between the point when the position was lost to the time the position was re-acquired. Use of interpreted/extrapolated data points shall apply within defined limits of time and distance.	MUST
ESN_COV_CS_062	For fixed and static locations it shall be possible to pre-set the geo-location and identity of the measuring Device. For example, a Device may be placed in a building to monitor coverage over a period of time.	MUST
ESN_COV_CS_063	All logged metrics and events shall be time-stamped at source. All system components involved in the collection and logging of data shall maintain a common time reference across the system with an accuracy differential of no greater than 100ms.	MUST
	Performance & Availability	
ESN_COV_CS_064	The Server shall be capable of simultaneously processing all Coverage Assurance and Services Assurance data received from remote Devices actively logging and streaming such data in accordance with ESN_COV_CS_065/066/067.	INFO
ESN_COV_CS_065	The performance of the Coverage Solution shall not be degraded by the number of Devices either active on the system or being processed by the Server to the extent that screen refresh and response times to common User actions are >1 second other than where large data manipulations have been requested in which case the User should be provided with feedback to indicate this and/or the option to cancel/quit.	MUST

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ESN_COV_CS_066	The time between a Device logging Coverage Assurance and/or Service Assurance data and it being added to the Server shall be a maximum of 30 minutes excluding where Device is out of Coverage, or the Coverage App or Device is switched off.	MUST
ESN_COV_CS_067	The time elapsed from the data in ESN_COV_069 being uploaded to the Server and it subsequently being available for User display and reporting should not exceed 60 mins even when all Devices are actively logging such data.	SHOULD
ESN_COV_CS_068	The Supplier shall ensure that the Coverage App functions as normal and is available for >+ 90% of the time excluding the time that the ESN Device is switched off or the Coverage App has been disabled by the End User or a User; measured over each calendar month.	MUST
ESN_COV_CS_069	The Supplier shall ensure the Server functions efficiently and maintains an availability of >= 99.9% throughout each calendar month.	MUST
ESN_COV_CS_070	The Coverage App shall not adversely impact or degrade the normal operation and performance of the Device compared to if it were operated without the application being installed or operated.	MUST
Support & Maintenance		
ESN_COV_CS_071	The Supplier shall provide any additional services (e.g. development, test) that may be necessary following a material change to the US Supplier's PSCS Software or ESN Services .	MUST
ESN_COV_CS_072	The Supplier shall provide support and maintenance of all supplied components of the Coverage Solution over the term of the contract at an annual cost. This shall include the provision of updates to functionality, enhancements, bug fixes and security patches to include support for users during the installation and setup of the Coverage Application on to the Devices, the Supplier should provide comprehensive support via a telephone (normal business hours) and e-mail helpdesk.	MUST
ESN_COV_CS_073	The Supplier shall deposit all source code, compilers, software and tools needed to operate, maintain and further develop the supplied Coverage Solution to an Escrow agreement to be maintained for the duration of the contract.	MUST
Training & Documentation		
ESN_COV_CS_074	The Supplier shall develop and provide in accordance with Schedule 6.1 (Implementation): (a) a Training Implementation Plan; and (b) training Materials, to deliver the training set out in this Schedule 2.1.	MUST

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ESN_COV_CS_075	The Supplier shall provide training to the Authority and Users in: (a) the operation of the Coverage Solution, including the technical and functional characteristics of the Coverage Solution; and (b) supplier's support services and helpdesk engagement as envisaged under ESN_COV_CS_072; and (c) train-the-trainer training.	MUST
ESN_COV_CS_076	The Supplier shall set out in the Training Implementation Plan: (d) the recommended approach and duration of train-the-trainers training to be provided by the Supplier to Users; (e) the recommended approach and duration of training to be provided to Users covering the operation of the Coverage Solution, including the technical and functional characteristics of the solution; (f) the format and content of Training Materials to be provided by the Supplier; (g) the demonstrator equipment it will supply to support training delivery; (h) the process the Supplier will follow to assure their Training Materials and trainers; and (i) how the Training Materials will be kept current for the Contract Period.	MUST
ESN_COV_CS_077	The Supplier should provide trouble-shooting guides and training feedback questionnaires	MUST
ESN_COV_CS_078	The Supplier should provide 5 training sessions for up to 20 Users per session, as ordered in accordance with Schedule 9.1 (Ordering Procedure). Training sessions shall be delivered within a maximum of 4 weeks from order placement.	MUST
ESN_COV_CS_079	Supplier should offer a minimum of 3 refresher training courses over the Contract Period.	SHOULD
ESN_COV_CS_080	The Supplier shall submit a draft copy of the Training Materials at least 3 weeks in advance of providing training to Users and/or the Authority. The Supplier shall submit a final version of the Training Materials for approval 2 weeks in advance of providing training to Users and/or the Authority.	MUST
ESN_COV_CS_081	The Supplier shall maintain and update the Training Materials as required in response to changes to the Coverage Solution.	MUST
ESN_COV_CS_082	The Supplier shall make Training Materials available prior to starting training in portable data storage formats including CD, DVD or USB flash drive.	MUST
ESN_COV_CS_083	Supplier led training is expected to be provided at Authority provided facilities: The Supplier shall base the costs of providing all training from Authority provided facilities located in London.	MUST

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ESN_COV_CS_090	<p>The Authority is expecting a Coverage Assurance Solution that is secured appropriate for operating at a government security classification of OFFICIAL (as defined within the HM Government Security Policy Framework (https://www.gov.uk/government/publications/security-policy-framework). The Authority will assure the security of the system through assurance of the suppliers Information Security Management System (ISMS) and through IT Health Checks (ITHC). Prior to contract award the supplier is expected to outline their Security Management Plan that outlines the current baseline of information security practices and that shows the development path for implementation of a full ISMS if one is not already in place.</p> <p>To allow the Authority to assure the ISMS complies with the current version of SO/IEC 27001, the supplier shall provide visibility of all appropriate information related to the ISMS including the Statement of Applicability (SoA) and all of the documents referenced in the SoA.</p> <p>All IT Health Checks will be scoped and paid for by the authority and conducted by an Independent company under one of the CHECK/ CREST/ TIGER schemes. The first IT Health Check will be conducted at similar time as the pilot. Subsequent IT Health Checks will be planned after the first IT Health Check, based on the findings of the first IT Health Check. After the initial IT Health check activity the regularity of further IT Health Checks will be on a 1-2 year basis.</p>	INFO
ESN_COV_CS_091	The Coverage Assurance Solution shall be assured to work at OFFICIAL.	MUST
ESN_COV_CS_092	All staff with administrative access shall be UK based and must have a minimum of CTC clearance or be prepared to undergo CTC clearance.	MUST
ESN_COV_CS_093	The supplier shall support independent Authority scoped and funded IT Health Checks under one of CHECK /CREST/ TIGER schemes on the Coverage Assurance Solution. The supplier shall provide a Remediation Action Plan (RAP) to address and resolve issues identified within any IT Health Check and work to resolve those issues	MUST
	Scaling	
ESN_COV_CS_084	<p>The Supplier shall provide a total Coverage Solution that supports a minimum of 1,000 (one thousand) instances of the Coverage App deployed and installed on ESN Devices and active at any one time which shall be capable of simultaneously logging, processing and reporting information collected from all the Devices having an active Coverage App while maintaining the level of performance & availability set out in the Authority Requirements.</p> <p>The Supplier shall offer the flexibility to increase or decrease the number of instances of Coverage App installed and active on Devices from a baseline minimum of 1,000 up to a target maximum of 2,500 in increments/decrements of 500 as follows:</p>	MUST

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	<p>(a) baseline delivery of the Coverage App deployed, installed and activated on 1,000 Devices with the Coverage Solution capable of logging, processing, and reporting on data collected from all 1,000 simultaneously actively logging and reporting at any one time;</p> <p>(b) 1,500 instances of the Coverage App deployed, installed and activated on 1,500 ESN Devices with the Coverage Solution capable of logging, processing, and reporting on data collected from a minimum of 1,000 simultaneously actively logging and reporting at any one time;</p> <p>(c) 2,000 instances of the Coverage App deployed, installed and activated on 2,000 ESN Devices with the Coverage Solution capable of logging, processing, and reporting on data collected from a minimum of 1,250 simultaneously actively logging and reporting at any one time;</p> <p>(d) 2,500 instances of the Coverage App deployed, installed and activated on 2,500 ESN Devices with the Coverage Solution capable of logging, processing, and reporting on data collected from a minimum of 1,500 simultaneously actively logging and reporting at any one time.</p> <p>The Supplier shall clearly describe any consequences of increasing the number of supported Devices/Coverage App instances including any changes to the system architecture, components, licensing, performance, processing, reporting, storage and display.</p> <p>NOTE: ANY REQUESTED DECREASE OR INCREASE CAN OCCUR AT ANY TIME DURING CONTRACT DELIVERY BUT WILL NEVER GO BELOW THE 1,000 MINIMUM ONCE CAPABILITY 1a COVERAGE TESTING COMMENCES.</p>	
ESN_COV_CS_085	The Coverage Solution shall be capable of storing, processing retrieving, displaying and reporting data collected from the Coverage App installed on all supported Devices for a minimum of the preceding 6 months of activity (24 hrs/day, 7 days/week) while maintaining the level of performance & availability set out in this specification. For the avoidance of doubt the performance and scaling requirements apply to the Coverage Solution irrespective of whether hosted by the Authority or, if ordered under Option 2 by the Supplier. The Coverage Solution shall enable automatic archiving of data based on the age of the data such that information that can not be stored in the live system will be archived and retained for the duration of the contract. The Coverage Solution should enable some archive data to be brought back to the live system to enable analysis of the data related to specific geographic areas.	MUST
ESN_COV_CS_086	It shall be possible to redeploy the supplied Coverage App amongst the total population of Devices, at the Authority's discretion.	MUST
ESN_COV_CS_087	The Supplier shall be responsible for the installation, configuration and set-up of the supplied Coverage App when deployed to a Device.	MUST

Annex 2 – 4G Capability 1A and 1B

4G Capabilities		
	Devices (Option 1)	
ESN_COV_4G_001	The Supplier shall offer (Option 1) to supply, distribute, manage, support and integrate 1,000 (one thousand) 4G COTS Devices to UO's throughout Great Britain for initially measuring the MS Supplier's 4G Coverage. Devices shall be available for use with UO's within 6 weeks of Order if Option 1 is taken.	MUST
ESN_COV_4G_002	The Supplier provided Devices may be distributed to up to 150 different locations nationally amongst the Fire, Ambulance and Police in England, Wales and Scotland. The exact quantity of Devices allocated to each location will be determined following Contract Commencement Date. Devices shall provide all features and functions required for the purpose of collecting, managing and reporting Coverage metrics in support of delivering Capability 1a and 1b below.	MUST)
ESN_COV_4G_003	The COTS Devices shall operate on all the MS Supplier's UK commercial frequency bands and technologies using standard subscriptions including as a minimum 800MHz, 1800MHz and 2600MHz (3GPP Band 20, 3 & 7).	MUST
ESN_COV_4G_004	The Supplier shall arrange and provide a suitable MS Supplier subscription service data/voice plan and SIM for each Device. The cost of all services and usage shall be borne by the Supplier.	MUST
ESN_COV_4G_005	Devices shall be configured to support MS Supplier VoLTE services when operated on the MS Supplier's commercial network.	MUST
ESN_COV_4G_006	It shall be possible to band lock the Device to only operate on one or more frequency bands.	MUST
ESN_COV_4G_007	It shall be possible to configure the Device to only operate using the MS Supplier's 4G VoLTE network i.e. RAT lock.	MUST
ESN_COV_4G_008	It should be possible to lock the Device to only use a particular PLMN (e.g. ESN).	SHOULD
ESN_COV_4G_009	Devices shall conform to 3GPP Release 12 or higher.	MUST
ESN_COV_4G_010	Devices should operate with Android v7.0 Nougat or later.	MUST
ESN_COV_4G_011	The Supplier shall be responsible for the configuration and set-up of the Devices to operate and collect Coverage Assurance and Service Assurance data from the MS Supplier's 4G commercial network.	MUST

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ESN_COV_4G_012	The Supplier shall provide a minimum of 250 up to a maximum of 1,000 each of the following accessories: - 12v in-vehicle accessory charging cable; min 1.5m length; - vehicle mounting cradle and other accessories; and - screen protector and case.	MUST
ESN_COV_4G_013	Some UO's have expressed a desire to have the coverage measurement Device mounted as a semi-permanent installation within their vehicle; e.g. housed within a separate, securely mounted container. The intention is that the enclosure would help overcome the issues associated with working with a vehicle occupant being distracted by a temporary suction or dash-mounted Device in the front of the vehicle and also prevent any casual or un-intended operation of the Device.	INFO
ESN_COV_4G_014	The Supplier should offer a suitable solution within a 3ES vehicle such as providing an enclosure to house the Device and any associated hardware. Enclosures should be of minimal size and offer a range of fixing options to attach to the inside of a vehicle e.g. screw, magnetic and strap mounting. The supplier should provide information (including any measurements or assessments) explaining the effect or impact of operating the Device within the enclosure and include any assumptions, constraints or conditions. For example, how the performance or operation of the Device might change.	SHOULD

	4G Coverage App (Capability 1a and b)	
ESN_COV_4G_015	The Coverage App shall operate with Devices with the following minimum specification: - 3GPP Release 12 or later; - android v7.0 or later; and - support for VoLTE services (Capability 1b).	MUST
ESN_COV_4G_016	The Coverage App shall also operate with an Authority or Supplier supplied Device using an MS Supplier 4G subscription and SIM.	MUST
ESN_COV_4G_017	The Supplier may assume that the Device operated with an MS Supplier subscription and SIM will provide standard access to the MS Supplier commercial 4G network and android services.	INFO
ESN_COV_4G_018	The Supplier should provide details of any customisation of the stock Android OS or firmware required in order to provide the Coverage Solution drawing a distinction between capabilities 1a/b, 2a/b, and 3a/b (if any).	SHOULD
ESN_COV_4G_019	The Coverage Solution shall provide an automated call/data testing function that allows the Device to follow a sequence of voice and /or data tests according to a schedule.	MUST

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ESN_COV_4G_020	It shall be possible to set parameters for each test to allow for different types of voice and data test sequences, including: - destination; - duration of test; - interval between tests; - time to answer/connect; - voice sample or data file to transfer; and - timeout (max time to complete).	MUST
ESN_COV_4G_021	It shall be possible to execute tests through: - local manual initiation via the Coverage App hosted on the Device; and - automatically upon Coverage Application/Device start-up or application of power.	MUST
ESN_COV_4G_022	It shall be possible to apply or change which types of tests are executed by the Coverage App per Device e.g. select a voice only script or a data test.	MUST
ESN_COV_4G_023	The User should be able to remotely configure or set-up a Device/app to follow a particular test sequence or schedule via OTA access from the centralised control panel located on the Server.	SHOULD
ESN_COV_4G_024	The Coverage Solution should log events and timings associated with the setup, allocation and clear-down of default and priority bearers.	SHOULD
ESN_COV_4G_025	It should be possible to simultaneously test voice and data.	SHOULD
ESN_COV_4G_026	The Coverage Solution shall support both Mobile Originated and Mobile Terminated calls/sessions.	MUST
ESN_COV_4G_027	It shall be possible to initiate or terminate tests between different Devices that are: - co-located within the same vehicle or test-pack; and - located at separate locations.	MUST
ESN_COV_4G_028	Voice call testing shall capture events and metrics associated with the setup, retention and success of VoLTE calls, including: - call setup and establishment; - call setup success/failure rate and reason; - call duration; and - call success/failure rate including reason.	MUST
ESN_COV_4G_029	The Supplier should offer an option (Option 3) to provide equipment and services to support the measurement of voice Quality on the ESN using a subset of 50 dedicated Devices taken from the total population of Devices. The Supplier shall ensure that POLQA voice quality measurement is supported concurrently on up to 25 ESN Devices at any one time i.e. up to 25 separately derived voice quality	SHOULD

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	measurements across the network can be made at the same time. Voice quality measurement shall use ITU P.863 POLQA WB/SWB algorithm and scale. It shall be possible to use different male and female voice samples to test voice quality.	
ESN_COV_4G_030	Data testing shall capture events and metrics associated with the setup, retention, performance and success of data sessions and data/file exchanges.	MUST
ESN_COV_4G_031	The Coverage Solution shall support the measurement of TCP and UDP data sessions.	MUST
ESN_COV_4G_032	The Coverage Solution shall support the measurement of web page access using HTTP.	MUST
ESN_COV_4G_033	The Coverage Solution shall support the measurement of a file transfer using FTP.	SHOULD
ESN_COV_4G_034	The Coverage Solution shall support the measurement of latency and RTT using Ping.	SHOULD
ESN_COV_4G_035	The Coverage Solution shall report: <ul style="list-style-type: none"> - timings associated with establishing and closing a data session; - success rate; and - UL & DL raw data rate and application throughput: <ul style="list-style-type: none"> - averaged over the time to make the data transfer; and - averaged over a specific period e.g. 1 to 30 seconds. 	MUST
ESN_COV_4G_036	The Coverage Solution should report Coverage with reference to the performance of data testing including bandwidth, delay, jitter, and throughput and packet loss using iPerf or substantially similar.	SHOULD

Annex 3 – ESN Capability 2A and 2B

ESN Capabilities		
	ESN Coverage Assurance (Capability 2a)	
ESN_COV_ESN_001	The Supplier shall enhance its \ Coverage App such that it can be NATS certified (in accordance with ESN_COV_ESN_008 below) as an ESN compliant application for testing Coverage under ESN. This version of the Coverage App shall provide the same Coverage measurement Capability as defined for the standard 4G Coverage Assurance under Capability 1a above but using an ESN compliant device, subscription and SIM. Information regarding ESN and NATS certification is contained in ESN_COV_ESN_012 and 12a below.	MUST
ESN_COV_ESN_002	The Coverage App shall be installed and activated on up to 2,500 Devices provided by the Authority which will be made available to the UO's and or Supplier when required. Devices will be Samsung ruggedised smart phones incorporating additional interfaces and buttons. Each Device will be available with a mounting cradle and accessories suitable for use within a vehicle. Device details are as follows: Samsung Model SM-G950F Chipset - Exynos 8895 Octa software version – android v7.0 or later confirmation of GCF Compliancy - http://www.globalcertificationforum.org/devices/certified-devices/6167.html?view=terminal .	MUST
ESN_COV_ESN_003	Once the Coverage App is NATS certified, the Supplier shall replace all or a subset of the 4G version of the Coverage App with the ESN version of the Coverage App, in accordance with a Works Instruction issued by the Authority.	MUST
ESN_COV_ESN_004	The Supplier shall be responsible for the transfer, replacement or substitution of the 4G version of the Coverage App with the ESN version of the Coverage App as Devices are migrated from 4G to ESN (which may include by replacement of 4G SIMS with ESN SIMS only, or by the issue of new Devices with ESN SIMS) (the “ Coverage App Transfer Service ”).	MUST
ESN_COV_ESN_005	When considering the total instances of Coverage App deployed/installed and activated, both the 4G and ESN enhanced versions of the Coverage App shall be combined i.e. the total number of supported ESN Devices loaded with the Coverage App shall remain unchanged irrespective of whether they are operating on the 4G network or ESN.	MUST
ESN_COV_ESN_006	Access to developer material and support for the development of 3rd party applications on Devices shall be via the US Supplier ESN Gitlab environment.	INFO
ESN_COV_ESN_007	Due to security restrictions the Coverage App shall not require customisation or administrative control of Android and/or ESN services (root access) installed on the Device.	MUST

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ESN_COV_ESN_008	Prior to deployment, the Supplier shall fully test the Coverage App and shall achieve 3rd party application Approval through the NATS process as described in: - the Network Approval Testing Process; and - MOT000181_PROD_NetworkApprovalTestingProcess_Provider.	MUST
ESN_COV_ESN_009	The Supplier shall be responsible for any development and preparatory work leading up to formal submittal of the ESN version of the Coverage App to US Supplier or their affiliates for NATS certification. Costs levied by US Supplier or their affiliates for actual certification testing shall be borne by the Authority and passed through as charged with no additional mark-up. The Authority will cover the cost of a single NATS certification attempt and, if that attempt is unsuccessful, a single re-submission attempt following re-work by the Supplier. Any additional certification shall be at the Suppliers own expense.	MUST
ESN_COV_ESN_010	Once certified, the ESN Coverage App will need to be made available via the ESN AirWatch MDM environment for deployment to ESN registered devices.	INFO
ESN_COV_ESN_011	It is anticipated that a separate coverage test profile will be required within AirWatch to facilitate the deployment of the Coverage App.	INFO
ESN_COV_ESN_012	The ESN Network Approval Testing Services (NATs) ensures 3rd party applications do not impact the performance of mission critical or other ESN services. Details of the NATS process for application developers is contained in MOT000181 including details of how the Supplier can register and access the NATS Portal to obtain further details about developing applications for ESN.	INFO
ESN_COV_ESN_012a	Details of the deployment of 3 rd party apps for application developers is contained in MOT000221.	INFO

	ESN Service Assurance (Capability 2b)	
ESN_COV_ESN_013	The Supplier shall further develop the Coverage App to support ESN Service Assurance testing of PSCS critical services Coverage including the PSCS PTT ESN Services. The Coverage App shall continue to provide Coverage measurement capabilities but shall additionally provide Service Assurance by interfacing with the ESN PSCS core services, enablers and clients via an API. Access to developer materials and support for the development of 3rd party applications for ESN Devices used on ESN shall be via the US Supplier ESN Gitlab environment. The Supplier shall ensure that the Coverage App is submitted for ESN compliance testing via NATS.	MUST
ESN_COV_ESN_014	The Authority recognises that an amount of development and test work will be needed to deliver an ESN Service App. In order to contain the cost of development, the supplier is asked to quantify the amount of development and testing days available for a fixed price.	INFO

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ESN_COV_ESN_015	The ESN Gitlab is a portal that the US Supplier provides to assist the developer community and access is restricted. Its purpose is to hold developer documentation and tools and provide the ability to raise issues for discussion. Details for the ESN Gitlab on boarding process are contained in: Gitlab on boarding process.pdf.	INFO
ESN_COV_ESN_016	The supplier shall state the amount of development and development testing days offered for a fixed price of £100,000.	MUST
ESN_COV_ESN_017	The ESN Coverage App shall report events and parameters reported by the PSCS during the establishment and reception of a PSCS call and other subscribers.	MUST
ESN_COV_ESN_018	It shall be possible to set parameters within each test script to allow for different types of test sequences, including: <ul style="list-style-type: none"> - talk Group selection; - MSISDN destination; - duration of test; - interval between tests; - time to answer; - voice sample or data file to transfer; - packet size; - UL/DL destination; and - timeout (max time to complete). 	MUST
ESN_COV_ESN_019	For ESN Service Assurance voice tests it shall be possible to define: <ul style="list-style-type: none"> - call type e.g. Public Safety Voice (PTT) & Public Safety Telephony; - call destination; - call duration; - period between call attempts; - number of calls in sequence, including continuous; and - transfer of speech file in either direction – for measurement of voice quality. 	MUST
ESN_COV_ESN_020	The Coverage Solution shall support the measurement of PSCS voice services using priority bearers and QCI's.	INFO
ESN_COV_ESN_021	Prior to deployment, the Supplier shall fully test the ESN Service Assurance version of the Coverage App and shall achieve 3rd party application approval through the NATS process as described in: <ul style="list-style-type: none"> - the Network Approval Testing Process; and - MOT000181_PROD_NetworkApprovalTestingProcess_Provider. 	MUST

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ESN_COV_ESN_ 022	The Supplier shall be responsible for the development and preparatory work leading up to formal submittal of the ESN Service Assurance version of the Coverage App to the US Supplier or their affiliates for NATS certification. Costs levied by the US Supplier or their affiliates for actual certification testing shall be borne by the Authority and passed through as charged with no additional mark-up. The Authority will cover the cost of a single NATS certification attempt and, if that attempt is unsuccessful, a single re-submission attempt following re-work by the Supplier. Any additional certification shall be at the Suppliers own expense.	MUST
ESN_COV_ESN_ 023	The Authority shall retain ownership and IPR for all software and Capability resulting from the development work to deliver ESN Service Assurance Capability.	MUST

Annex 4 – Drive Test Services and Walk Test Services Capability 3a and 3b

Drive and Walk Testing		
Capability 3a & 3b – General		
ESN_COV_DT_001	<p>The Supplier is required to provide Drive Test Services and Walk Test Services Capability throughout the Contract Period. These Physical Test Services will be used as an ongoing continuous assurance of Coverage or when a targeted assessment is required e.g. when determining whether contractual levels of Coverage exist in a specific area or at a specific location.</p> <p>Drive Test Services and Walk Test Services will commence with a measurement of MS Supplier 4G commercial Coverage, and VoLTE services (Capability 3a); and later include and/or migrate to test ESN Coverage and Services when they become available (Capability 3b).</p> <p>For ESN Coverage testing, the Supplier will equip Drive Test Vehicles with appropriate test and measurement equipment to meet the requirements set out in Schedule 2.1, Annex 3.</p> <p>The Authority will provide all ESN specific equipment such as Devices and Accessories, FOC. to the Supplier, for use in delivering their Drive Test Service and Walk Test Service.</p> <p>For 4G Coverage testing the Supplier will use existing Drive Test Service equipment and adopt similar principles to Annex 3 Capability 3b, but with a reduced number of Devices and Test Call sequences appropriate for the testing of VoLTE calls in place of PTT calls.</p>	INFO
ESN_COV_DT_002	Drive Test Services and Walk Test Services will be ordered in accordance with Schedule 9.1 and will be directed using Authority issued Works Instructions for each area, location or combinations thereof.	INFO
ESN_COV_DT_003	As part of its Coverage Solution, the Supplier shall deliver the Drive Test Services and Walk Test Services using dedicated Drive Test Vehicles and Walk Test Packs respectively, to meet the requirements set out in this Schedule 2.1 and Annex 3 in particular.	MUST
ESN_COV_DT_004	The Supplier shall make available a minimum of 3 sets of Drive Test Vehicles and 3 sets of Walk Test Packs for delivering the Drive Test Services and Walk Test Services required to meet the requirements set out in this Schedule 2.1 under Capability 3a, including this Annex 3. This equipment shall be available after Contract Commencement Date in accordance with Schedule 6.1.	MUST
ESN_COV_DT_005	<p>The Supplier should offer additional Drive Test Vehicles and Walk Test Packs and resources for testing to supplement those provided under ESN_COV_DT_004.</p> <p>The Supplier should be prepared to have these available within 10 Working Days of receiving a relevant Works Instruction from the Authority.</p>	SHOULD

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ESN_COV_DT_006	The Supplier should allow for flexibility when implementing Schedule 2.1 to allow for potential future changes required in the Drive Test Service and Walk Test Service approach e.g. variations in the quantity of Devices required per Drive Test Vehicle, variations in underlying test sequences, etc.	SHOULD
ESN_COV_DT_007	When instructed by the Authority via an Order, the Supplier shall modify, as necessary, all or some of the Drive Test Vehicles used to deliver Capability 3a to make it capable of delivering Capability 3b. When ordered by the Authority via an Order, the Supplier shall modify, as necessary, all or some of the Walk Test Packs used to deliver Capability 3a to make it capable of delivering Capability 3b.	MUST
ESN_COV_DT_008	The reasonable cost associated ESN_COV_DT_007 shall be invoiced by the Supplier as a Pass Through Cost. The Authority shall provide the ESN Devices required.	MUST
ESN_COV_DT_009	The Supplier shall provide a minimum of 3 Drive Test Vehicles for use in delivering the Drive Test Service requirements set out in this Schedule 2.1, Annex 3 under Capability 3b. These shall be available for use within 12 weeks of the Authority placing the Order, subject to availability of the ESN Devices (which ESN Devices shall remain the property of the Authority).	MUST
ESN_COV_DT_010	The Supplier shall provide a minimum of 3 ESN Walk Test Packs for use in delivering the Walk Test Service requirements set out in this Schedule 2.1, Annex 3 under Capability 3b. These shall be available for use within 12 weeks of the Authority placing the Order, subject to availability of the ESN Test Devices (which ESN Devices shall remain the property of the Authority).	MUST
ESN_COV_DT_011	The Supplier should offer additional ESN Drive Test Vehicles & ESN Walk Test Packs and resources for testing to supplement those required in ESN_COV_DT_09 and ESN_COV_DT_010.	SHOULD
ESN_COV_DT_012	The Supplier shall ensure the Drive Test Services and Walk Test Services are available for deployment and test anywhere in Great Britain (England, Wales or Scotland) within 5 Working Days or less of receiving a relevant Works Instruction from the Authority.	MUST
ESN_COV_DT_013	During the delivery of Drive Test Services the Supplier shall remain within the legal speed limits appropriate for road types. In any event, all tests shall be conducted at a speed suitable to collect sufficient samples without adversely affecting sample integrity and at no more than 60mph including on Motorways.	MUST
ESN_COV_DT_014	The Supplier shall be prepared to undertake testing during Working Hours.	MUST
ESN_COV_DT_015	The Supplier should on request from time-to-time be available to undertake Drive Test Services and/or Walk Test Services outside of Working Hours; for example to accommodate times of peak network	SHOULD

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	consumer loading typically 7am to 8:30 am and 5:30 pm to 9pm or when access to test locations cannot be easily arranged within Working Hours.	
ESN_COV_DT_016	The Supplier shall be responsible for collecting and storing data efficiently and in accordance with Good Industry Practice and reporting thereon in the format agreed between the Parties, and in accordance with the Authority Requirements.	MUST
ESN_COV_DT_017	Any failure to collect or report data as a result of issues that are within the control of the Supplier (e.g. equipment failure or poor working practices/processes) shall not be chargeable to the Authority. Any re-testing required as a result of such failure to collect and report data shall be at the Supplier's own cost unless specifically agreed otherwise in writing as reflected in a new Works Instruction.	MUST
ESN_COV_DT_018	Any down-time or non-availability of a Drive Test Vehicle as a result of routine maintenance, repair or servicing shall be notified to the Authority in advance with a minimum of 2 weeks' notice.	SHOULD
ESN_COV_DT_019	All equipment used for providing Drive Test Services and Walk Test Services shall remain calibrated in accordance with the manufacturers' guidance. Calibration certificates shall be supplied to the Authority forthwith on demand.	MUST
ESN_COV_DT_020	Suitable RF filtering, screening and protection shall be provided to minimise interference between equipment being operated within the Drive Test Vehicle or Walk-Test Pack. The Supplier shall state in their design the level of isolation required between each antenna or test device for each of MS Supplier's 4G and ESN operating frequency bands. Evidence of the actual level of isolation achieved shall be provided to the Authority at the vehicle acceptance stage.	MUST
ESN_COV_DT_021	For both 4G and ESN, the Supplier shall provide two types of Drive Test Services and Walk Test Services. Type A: Targeted drive and/or walk testing of a specific location or area. Type B: drive testing of randomised routes or areas as a means to gradually build up a collective map of delivered Coverage to GB roads and areas.	INFO
ESN_COV_DT_022	Prior to commencing Type A testing, and in accordance with Schedule 9.1, the Supplier shall agree with the Authority an estimate of the number of Drive Test Days required to complete the work which shall result in one or more Work Instructions.	MUST
ESN_COV_DT_023	The Supplier shall produce, in the format agreed with the Authority, report(s) for Type A testing within 5 Working Days of completion of each Works Instruction.	MUST
ESN_COV_DT_024	For the delivery of Type B testing, the Authority and Supplier shall agree in advance each month via a Works Instruction a schedule for Drive Test Services and Walk Test Services for the testing and reporting on different areas and routes.	MUST

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ESN_COV_DT_025	The Supplier shall produce reports for Type B testing, in the format agreed with the Authority, within 5 Working Days of completion of each stage of testing as detailed in the Works Instruction.	MUST
ESN_COV_DT_026	The Supplier shall maintain a detailed record of Drive Test Services and Walk Test Services undertaken for review as part of the MI reporting each month, including: <ul style="list-style-type: none"> • reports submitted/accepted/rejected; • Drive Test Days used/remaining; • areas/locations completed/planned with relevant dates; • total distance covered for each category of road; and • summary results for each area/location completed. 	MUST
ESN_COV_DT_027	The Supplier shall provide a minimum of two licenses to the Authority to allow the use of any Licensed Software used in the provision of the Drive Test Services and/or Walk Test Services. The Licensed Software shall provide the same Capability to the Authority as to the Supplier to process, analyse and produce reports from the collected data.	MUST
ESN_COV_DT_028	All test data should be logged locally within the Drive Test Vehicle or Walk Test Pack during testing. Prior to it being uploaded to the central Server.	SHOULD
ESN_COV_DT_029	Supplementary information that is also logged during the delivery of Drive Test Services and Walk Test Services and which can be used to further support the primary metrics and parameters needed for reporting may be stored separately but shall remain available for use if needed – e.g. during later off-line analysis to investigate an anomaly.	SHOULD
ESN_COV_DT_030	All raw data collected during the provision of Drive Test Services and Walk Test Services including all data sets reflecting processing of that raw test data shall be transferred each day for permanent storage on a Drive Test Server located within the same secure UK based cloud server environment provided under ESN_COV_CS_01 or ESN_COV_CS_02. Once transferred to the Drive Test Server all other instances and copies of the collected data shall be removed/purged from the Drive Test Vehicle or Walk Test Packs.	MUST
ESN_COV_DT_031	The data collected under the execution of the Drive Test Service and the Walk Test Service shall be accessible by Drive Test Users for further processing and reporting using the appropriate applications and Licensed Software provided by the Supplier in the delivery of these services.	MUST
ESN_COV_DT_032	The Supplier shall be responsible for the set-up, configuration, maintenance and management of the Drive Test Server within the cloud hosting environment.	MUST

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ESN_COV_DT_033	<p>The Drive Test Server shall provide:</p> <ul style="list-style-type: none"> • a centralized storage repository to host the Drive Test Service data and Walk Test Service data; • a centralized web-based server to host the software and applications; suitable for processing, analysing and disseminating the reports and data sets; and • controlled access to data and applications. 	MUST
ESN_COV_DT_034	During the collection of data the file format shall be kept in the native format of the test tools used.	MUST
ESN_COV_DT_035	The Drive Test Service and Walk Test Service shall provide a wide range of graphical, textual and GIS mapped presentations for the purposes of analysis and reporting of the collected data sets. Support for OS Open Roads and Strategic mapping shall be provided.	MUST
ESN_COV_DT_036	<p>The Supplier shall provide reports for each drive/walk test undertaken, in the format agreed with the Authority. The reporting will meet the minimum of, but not be restricted to;</p> <ul style="list-style-type: none"> - description of the routes/locations tested, method, equipment used etc.; - KPI values and thresholds; - detailed analysis of the results supported by a range of statistical and special type reports; - critique of the results including summary, conclusions and recommendations; and - drive/walk plot with legend and header. 	MUST

ESN_COV_DT_0 37	<p>The Drive Test Service and Walk Test Service shall provide a number of out-of-the-box reports showing a range of KPIs and statistics resulting from measurements made including:</p> <p>ESN Service type:</p> <ul style="list-style-type: none"> ○ e.g. VoLTE, MCPTT, data, messaging; <p>Connectivity:</p> <ul style="list-style-type: none"> ○ network; ○ in/out of service; and ○ idle/connected state; <p>Voice Services:</p> <ul style="list-style-type: none"> ○ setup time; ○ success rate; ○ dropped call rate; ○ duration; and ○ source/direction - originated/terminated; <p>Data Services:</p> <ul style="list-style-type: none"> ○ DL/UL rate & throughput; ○ file/data transfer time; ○ success rate; and ○ session time; <p>Coverage/Mobility:</p> <ul style="list-style-type: none"> ○ handover/re-selection event times; ○ handover/re-selection success rate; ○ time on each cell/sector; and ○ signal level & quality; and <p>Miscellaneous:</p> <ul style="list-style-type: none"> ○ dropped call/data sessions; ○ error and fault codes. 	MUST
ESN_COV_DT_0 38	The Supplier should develop the following customised reports:	SHOULD

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	<ul style="list-style-type: none"> - categorisation of results by road types (major, minor, other) - categorisation of results by Device type (e.g. ESN Vehicle Device or ESN Handheld Device reference setup); - categorisation of results against unique kilometres covered within a 3ES or County area including percentage representation; - identification of outliers e.g. \leq one kilometre sections of road where a set of samples/tests were above or below a set threshold; - statistics about the level of Coverage provided; e.g. % probability of ESN Services access across % of major/minor road by type.- comparison and trend reporting; and - a high level summary/dashboard report showing the level of Coverage provided and where coverage not-spots, anomalies or inconsistencies exist. 	
ESN_COV_DT_039	The Supplier should be capable of developing up to 10 further customised reports (other than those listed under ESN_COV_DT_038 which relate to the assurance of Coverage using information collected by the Drive Test Service and Walk Test Service and developed in accordance with the Authority's direction.	SHOULD
ESN_COV_DT_040	The Supplier shall provide all reports each month as part of the MI Report in accordance with Schedule 8.3 (Contract Management Information).	MUST
ESN_COV_DT_041	It shall be possible to export and share filtered data to other 3 rd party software and applications using common data interchange formats and standards (csv, text, xml, pdf, jpeg etc).	MUST
ESN_COV_DT_042	It should be possible to automatically and manually schedule the production of a set of reports on a regular basis e.g. produce a weekly consolidated set of reports.	SHOULD
ESN_COV_DT_043	<p>It should be possible to report a set of summary Call Detail Records (CDR) giving high level view of each test, including:</p> <ul style="list-style-type: none"> - date/time of test; - type of test; - outcome of each discrete Test call, i.e. success, fail; - start and end location of test (for Annex E locations waypoints will be marked); - start and end technology layer; - start and end PLMN; - start and end eNodeB ID/PCI; 	SHOULD

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	<ul style="list-style-type: none"> - start and end EARFCN; - value recorded (e.g. MOS, peak/min/average data throughput); - identity of other log files containing supplementary and lower level detail; - sog files containing lower level detail including L1-L2-L3, TCP/UDP; - audio files from speech Quality testing; and - in cases where failures exist and where available, network traces to be provided. 	
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Capability 3a – 4G Testing		
ESN_COV_DT_044	The Drive Test Service and Walk Test Service shall measure and report Coverage from MS Suppliers 4G commercial ESN Services. Although the MS Supplier 4G network will be the primary focus for measurement, the Capability to assess other MNOs and technologies shall also be included.	MUST
ESN_COV_DT_045	The Drive Test Service and Walk Test Service shall be capable of providing 4G Test Calls using appropriate bearer types for: <ul style="list-style-type: none"> • VoLTE telephony including MO and MT calls; and • UDP (UL) & TCP (DL) data including file transfer and web page access. 	MUST
ESN_COV_DT_046	The Drive Test Service and Walk Test Service shall be capable of making and receiving 4G Test Calls between a co-located 4G Device and/or a remotely located 4G Device.	MUST
ESN_COV_DT_047	The Drive Test Service and Walk Test Service should be designed to perform a similar, sequence and distribution of Test Calls as those defined within Annex 3 for Capability 3b for ESN but accounting for the differences that exist between a VoLTE telephony service and the PSCS (ESN) PTT service.	SHOULD
ESN_COV_DT_048	The Drive Test Service and Walk Test Service shall record and report signal levels (e.g. Reference Signal Received Power), “ RSRP ” – and quality (e.g. Reference Signal Received Quality . “ RSRQ ” –, SINR, SNR, CQI) and Mobility (e.g. PLMN, transition between RAT and cell/sector) during all 4G Test Call activity when in call or idle. All other measurements and events associated with making and receiving voice and data 4G Test Calls shall be recorded and reported.	MUST
ESN_COV_DT_049	All handover/re-selection states, times, duration and serving sector ID changes that occur shall be recorded together with any associated L1 and L2 messaging reported by the 4G Devices and RF Scanner.	MUST
ESN_COV_DT_050	The Supplier shall as part of their solution, provide a minimum of 6, 4G Devices per vehicle for the purpose of delivering the requirements set out in Annex 3 for Capability 3a.	MUST
ESN_COV_DT_051	The 4G Drive Test Vehicle shall be equipped with all the equipment required to deliver the Drive Test Services on 4G, including as a minimum, a computing device(s) loaded with the software for testing 4G Coverage and Services, an RF Scanner (capable of fast-sampling/scanning and identifying all MS Supplier's and other MNO's technologies and frequency bands) and all antenna, power and ancillary equipment required for operation of the equipment.	MUST

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ESN_COV_DT_052	The Supplier shall as part of their solution, provide a minimum of 4, 4G Test Devices per Walk Test Pack for the purpose of delivering the requirements set out in this Annex 3 for Capability 3a.	MUST
ESN_COV_DT_053	The 4G Walk Test Pack shall be easily carried by a person and equipped with all the equipment required to deliver the Walk Test Service on 4G, including as a minimum, a computing device(s) loaded with the software for testing 4G Coverage, an RF Scanner (capable of fast-sampling/scanning and identifying all MS Supplier's and other MNO's technologies and frequency bands) and all antenna, power and ancillary equipment required for operation of the equipment.	MUST
ESN_COV_DT_054	Devices shall be capable of operating and locking to all 4G technology and frequency bands operated by MS Supplier including 800MHz, 1800MHz and 2600MHz.	MUST
ESN_COV_DT_055	The Device should be capable of reporting the presence of both the PLMN code it is attached to and the presence of other PLMN codes broadcast by the RAN including ESN.	SHOULD
ESN_COV_DT_056	The Device used within the Drive Test Vehicles and Walk Test Packs should be capable of detecting and reporting the presence of all PLMN codes broadcast by MS Supplier's RAN including both 4G commercial and ESN.	SHOULD
ESN_COV_DT_057	It should be possible to adjust the overall antenna path gain of the Device used within the Drive Test Vehicles and Walk Test Packs to represent different configurations of use e.g. Vehicle or Handheld Device configurations.	SHOULD
ESN_COV_DT_058	The RF Scanner should be capable of detecting and reporting the energy level of all RF carriers and associated MNC codes broadcast by all operators including both 4G commercial and ESN.	MUST
ESN_COV_DT_059	4G Devices shall be capable of operating and locking to all 4G technology and frequency bands operated by other UK MNOs.	SHOULD
ESN_COV_DT_060	The Supplier shall provide all necessary SIMs and voice/data subscriptions required to undertake testing in accordance with Capability 3a.	MUST
ESN_COV_DT_061	The Supplier should, if necessary, increase the quantity of Devices within each Drive Test Vehicle to achieve a sample collection density high enough to deliver a high (>80%) confidence level that the probability of access to 4G Voice and data services are broadly in accordance with those specified within Annex 3 Capability 3b; i.e. 96% probability of access to ESN Services along 99% of Major roads and 87% along 99% of minor roads in each County. If necessary the Supplier may consider providing additional Devices towed in a trailer.	SHOULD
ESN_COV_DT_062	The Supplier shall incorporate methods to remove or account for the potential bias introduced when collecting multiple samples at the same location e.g. when a Drive Test Vehicle or Walk Test Pack is stationary for a period of time.	MUST

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ESN_COV_DT_063	The Supplier shall at all times be capable of providing resources to operate the Drive Test Vehicles and the Walk Test Packs as directed by the Works Instruction. These resources shall be available on the Commencement Date in accordance with the implementation plan, Schedule 6.1.	MUST
ESN_COV_DT_064	The Supplier shall deliver a test plan in accordance with Schedule 6.1 describing the equipment, configuration and methodology for delivering the Drive Test Service.	MUST

Capability 3b – ESN Testing		
ESN_COV_DT_065	The Supplier shall use ESN Devices for the purpose of testing ESN Coverage. The Authority shall loan to the Supplier (free of charge) all ESN Devices and ancillaries to incorporate as part of a Drive Test Vehicle or Walk Test Pack for the purpose of delivering the Physical Test Services under Capability 3b. The Supplier shall be responsible for the supply of all other aspects of the Drive Test Vehicles and Walk-Test Packs.	MUST
ESN_COV_DT_066	All ESN Devices provided by the Authority for operation on ESN will have completed the MS Supplier designated ESN conformance test; User Device Technical Assurance Specification (UDTAS).	INFO
ESN_COV_DT_067	A high level description of the ESN Vehicle Devices and antenna is provided in the accompanying data room.	INFO
ESN_COV_DT_068	The Supplier shall use either the Coverage App developed as part of Capability 2b (or the EEI to control the ESN Device and make Test Calls.	MUST
ESN_COV_DT_069	The ESN Drive Test Service shall support measurement and testing of ESN Coverage utilising Test Calls across appropriate bearer types. <ul style="list-style-type: none"> • telephony Test Calls – demonstrated by the use of VoLTE on ESN; • group call (PTT) – demonstrated by the establishment of PSCS PTT calls on ESN; and • data Sessions – demonstrated by speed & throughput tests to measure UL and DL data rates on ESN. 	MUST
ESN_COV_DT_070	The ESN Drive Test Service shall be capable of making and receiving Test Calls between a co-located ESN Device and/or a remotely located ESN Device.	MUST
ESN_COV_DT_071	The ESN Drive Test Service should deliver a sequence and distribution of Test Calls to deliver the services identified in ESN_COV_DT_069 and broadly adhere to the 3 types of sequences detailed in ESN_COV_DT_072, ESN_COV_DT_074, ESN_COV_DT_075 & ESN_COV_DT_076. Note: the description of these test sequences are provided as examples and may be subject to refinement and change prior to final deployment.	SHOULD

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ESN_COV_DT_072	<p>The ESN Drive Test Service should deliver high density short duration Test Calls to allow a high density of measurement across the test location to accurately demonstrate Coverage. High density short duration test calls will result in ESN dedicated bearer activity when the communications between members reoccurs before the ESN hang timers or ESN bearer timers can expire. Thus ESN dedicated bearers for signalling and payload will persist and are reused by successive communications within the Talk Group.</p> <p>One high density short duration test call should be attempted every 7 seconds per nominated Device. These Test Calls should be held for 2 seconds then the PTT call or VoLTE call should be released. This should then be followed by a period of Device inactivity. The inactivity period should be 2 seconds for a short duration VoLTE test call. For a short duration PTT test call the inactivity period will be set to less than the duration of the PSCS call hang timer.</p>	SHOULD
ESN_COV_DT_073	<p>The RRC inactivity timer will be pre-set by the MNO to approximately 5 seconds during the period of testing to support use of the 3 types of Test Call sequences.</p> <p>The duration of the PSCS call hang timer will be approximately 3 seconds.</p>	INFO
ESN_COV_DT_074	<p>The ESN Drive Test Service should deliver medium density medium duration Test Calls to allow a medium density of measurement across the test location to accurately demonstrate coverage. Medium density medium duration Test Calls reflect ESN dedicated bearer activity where pauses in communications between group members allow the ESN hang timers and the ESN bearer timers to expire. This means that subsequent communications between communication group members would utilise newly established PSCS signalling and codec payload bearers on each call.</p> <p>Medium density medium duration communication group Test Calls should be attempted every 17 seconds per nominated Test Device. These Test Calls should be held for 4 seconds, then the PTT should be released. This should then be followed by Device inactivity of 11 seconds to allow the expiry of the PSCS hang timer and the teardown of all dedicated bearers.</p>	SHOULD
ESN_COV_DT_075	<p>The ESN Drive Test Service should deliver low density long duration Test Calls to extend the time a call is active in order to capture any dropped calls. In addition long duration Test Calls should allow the Device to enter RRC idle state for longer durations to more frequently demonstrate the cell reselection from device RRC Idle states.</p> <p>Low density long duration test calls should be attempted every 30 seconds per nominated Device. These Test Calls should be held for 17 seconds then the PTT released. This is then followed by Test Device inactivity of 11 seconds to allow the expiry of the PSCS hang timer and the teardown of all dedicated bearers.</p>	SHOULD

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ESN_COV_DT_076	<p>The ESN Drive Test Service should measure TCP performance on the downlink of a single Device. The TCP data rate should be recorded every 1 second for assessment on a rolling 30 second window basis. The TCP data rate test cycle should persist for 360 seconds before being re-established. The TCP test cycle re-establishment should result in 10 second period when no data rate measurements are taken.</p> <p>The ESN Drive Test Service should measure UDP performance on the uplink of a single Device. The UDP data rate should be recorded every 1 second for assessment on a rolling 30 second window. The UDP data rate test cycle should persist for 360 seconds before being re-established. The UDP test cycle re-establishment should result in 10 second period when no data rate measurements are taken.</p> <p>Where the duration of the testing of a small location or short tunnel is less than 360 seconds the data rate test call cycles will be terminated before 360 seconds and the manual termination recorded in the testing logs.</p>	SHOULD
ESN_COV_DT_077	Based on the Test Call sequences described in ESN_COV_DT_072, ESN_COV_DT_074, ESN_COV_DT_075 & ESN_COV_DT_076 and speed constraints stated in ESN_COV_DT_013, the Supplier should equip each ESN Drive Test Vehicle with sufficient ESN Devices to achieve a voice services Test Call rate of a minimum of 40 per km of road by type.	SHOULD
ESN_COV_DT_078	Based on the Test Call sequences described in ESN_COV_DT_072, ESN_COV_DT_074, ESN_COV_DT_075 & ESN_COV_DT_076 and speed constraints stated in ESN_COV_DT_013, the Supplier should equip each ESN Drive Test Vehicle with sufficient ESN Devices to achieve a voice services Test Call rate of ≥ 80 per km of road by type.	SHOULD
ESN_COV_DT_079	Based on the Test Call sequences described in ESN_COV_DT_072, ESN_COV_DT_074, ESN_COV_DT_075 & ESN_COV_DT_076 the density of Test Calls made over any given km or road should be high enough such that any derived measure of ESN Coverage, as defined by the probability of access to mobile communication services, has a confidence level of $> 80\%$ with a margin of error of $< 5\%$. For example, sufficient measurements must be made along each section of road to be able to assess that the achieved probability of gaining access to the ESN Service was $> 95\%$ for Major roads or $> 87\%$ for Minor roads each with a CL of $> 85\%$ and margin of error of $< 5\%$.	MUST
ESN_COV_DT_080	Based on the Test Call sequences described in ESN_COV_DT_072, ESN_COV_DT_074, ESN_COV_DT_075 & ESN_COV_DT_076 the density of Test Calls made over any given km or road should be high enough such that any derived measure of ESN Coverage; as defined by the probability of access to mobile communication services, has a confidence level of $> 90\%$ with a margin of error of $< 5\%$. For example, sufficient measurements must be made along each section of road to be able to assess	SHOULD

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	that the achieved probability of gaining access to the ESN Services was > 95% for Major roads or >87% for Minor roads each with a confidence level of >85% and margin of error of <5%.	
ESN_COV_DT_081	<p>The Supplier should use the following arrangement as an example of how the ESN Devices within a vehicle should be used to achieve the requirements set out in ESN_COV_DT_077, ESN_COV_DT_078, and ESN_COV_DT_079.</p> <p>10 Devices in each vehicle will establish test calls for voice bearers.</p> <p>The 10 Devices for test call establishment will operate in pairs. Device pairs will be in mobile to mobile configuration or in mobile to static configuration.</p> <p>4 Devices in the vehicle (2 pairs) will operate in the mobile to mobile configuration, with a Device in the Drive Test Vehicle always calling its nominated paired Device in the Drive Test Vehicle and will be performing short duration calls.</p> <p>4 Devices in the Drive Test Vehicle will operate in the mobile to static configuration, with the in Drive Test Vehicle Device always calling its paired static Device at the fixed location. The static Devices always being the call terminating Devices.</p> <p>Of the 4 Devices in the mobile to static configuration, 2 Devices will perform long duration test calls.</p> <p>Of the 4 Devices in the mobile to static configuration, 2 Devices will perform medium duration test calls.</p> <p>Each Device pair nominated to perform communication group test calls will utilise a unique Talk Group with the Device pair being the only group members.</p> <p>For VoLTE test calls each Device pair will call the appropriate MSISDN for the MS Supplier commercial network.</p> <p>The 2 remaining Devices will perform data Test Calls.</p> <p>A single unpaired mobile Device will perform uplink UDP data rate tests to a nominated test server.</p> <p>A single and separate unpaired mobile Device will perform downlink TCP data rate tests utilising File Transfer Protocol download of a nominated data file from the test server.</p> <p>The same test server(s) will be used for both UDP (UL) and FTP (DL) testing.</p>	INFO
ESN_COV_DT_082	The ESN Drive Test Service shall record and report signal levels (e.g. RSRP), and quality (e.g. RSRQ, SINR, SNR, CQI) and Mobility (e.g. PLMN, transition between RAT and cell/sector) during all Test Call activity when in call or idle. All other measurements and events associated with making and receiving voice and data Test Calls shall be recorded and reported.	MUST
ESN_COV_DT_083	All handover/re-selection states, times, duration and serving sector ID changes that occur shall be recorded together with any associated L1 and L2 messaging reported by the ESN Devices and RF Scanner.	MUST

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ESN_COV_DT_084	The ESN Drive Test Vehicle shall be equipped with a computing device(s) loaded with the software for testing Coverage of the ESN, an RF Scanner (capable of fast-sampling/scanning and identifying all MS Supplier's and other MNO's technologies and frequency bands) and all antenna, power and ancillary equipment required for operation of the equipment.	MUST
ESN_COV_DT_085	Where necessary, the Supplier may utilise Devices towed in a trailer on roads.	INFO
ESN_COV_DT_086	Within each Walk Test Pack, a minimum of 2 ESN Devices shall be configured to undertake voice Test Calls and a further 2 ESN Devices minimum shall undertake data Test Calls (TCP DL and UDP UL).	MUST
ESN_COV_DT_087	ESN Devices designated for voice Test Calls shall implement a suitable short call sequence in mobile to static configuration between the test location and a complementary set of static Devices at an alternative location.	MUST
ESN_COV_DT_088	ESN Devices designated for data Test Calls shall transfer TCP downlink and UDP uplink data between the test location and remote data servers used for the ESN Drive Test Service.	MUST
ESN_COV_DT_089	The ESN Walk Test Pack shall be easily carried by a person or pulled in a cart and equipped with a computing device(s) loaded with the software for testing Coverage of the ESN, an RF Scanner (capable of fast-sampling/scanning and identifying all MS Supplier's and other MNO's technologies and frequency bands) and all antenna, power and ancillary equipment required for operation of the equipment.	MUST
ESN_COV_DT_090	The ESN Walk Test Pack shall offer the Capability to adjust the antenna gain to deliver an equivalent vehicle and/or hand-portable configuration in accordance with the Device, antenna and physical mounting outlined in Annex 5.	MUST

Annex 5 - User Device Reference Configuration

User Device Type	Configuration Characteristic	Specification
Vehicle Device	Roof height	1.4m
	Antenna gain	2.3dBi – dual antenna
	User Device receiver sensitivity	As per the relevant 3GPP standards
	User Device transmit power	As per mode valid for the radio technology implemented
	Connector losses	1dB
Handheld Device	User Device worn on body	At lapel height
	User Device receiver sensitivity power	As per the relevant 3GPP standards
	User Device transmit power	As per mode valid for the radio technology implemented
	Antenna height above ground/floor	1.2m
	Antenna gain (including body and cable loss)	Minus 11dBi

Agreement relating to Coverage Assurance Goods and Services

Schedule 2.2 (Key Performance Indicators)

- 1.1 The purpose of this Schedule 2.2 (Key Performance Indicators) is to set out:
 - 1.1.1 the standard and KPIs by which the Supplier's overall performance under this Agreement shall be monitored and managed;
 - 1.1.3 the mechanism by which Service Credits will be applied; and
 - 1.1.4 the Authority's requirements for the Performance Monitoring Report for Service-related Management Information reporting.
- 1.2 Any changes to the Service Credit regime shall be agreed between the Authority and the Supplier in accordance with Clause 28 (Variation).
- 1.3 The Supplier shall comply with all its obligations related to KPIs set out in this Agreement, and shall meet the KPI Targets as set out as an Operating Service Level per KPI in Appendix 1 to this Schedule 2.2 (Key Performance Indicators). The start and end time or other applicable metric for each KPI is set out in Part A to this Schedule 2.2 (Key Performance Indicators).

Part A – Service Levels

1. OVERVIEW

- 1.1 This Part A details for each aspect of the Services a Key Performance Indicator that will apply.
- 1.2 The KPIs are intended to ensure that the Services are of a consistently good quality and meet the Requirements as to performance and reliability as set out in the relevant sections of Schedule 2.1 (Requirements).
- 1.3 The Supplier's performance for each KPI will be measured in accordance with the requirements set out in the table below, and by reference to Schedule 2.1 (Requirements) as required.

Ref:	Key Performance Indicator	Measured by:
A01	Coverage Solution Server availability:	<p>The Supplier shall measure and report on the:</p> <ul style="list-style-type: none"> (i) uptime of the Server; and (ii) available functionality, including full access to the data i.e. all logged data collected shall be identifiable and available for further querying, export or retrieval for the purposes of analysis and reporting and viewing via the GIS capability of the Server; and (iii) if Option 2 is ordered, the availability of the hosted service. <p>(the “Measured Services”)</p> <p>The metric is calculated as the total number of minutes of downtime of the Measured Services in a given Service Period divided by the total number of minutes in that Service Period expressed as a percentage.</p>
A03	Management Information Report	<p>The Supplier shall ensure the Management Information Report, including (where appropriate) a Nil Return, is delivered monthly via email to the Authority by the date agreed in Schedule 8.3 paragraph 3.1 and:</p> <ul style="list-style-type: none"> (i) does not contain any material errors or omissions; and (ii) is submitted in the correct, agreed format. <p>The Supplier shall measure the number of days that elapse from (and including) the date agreed in Schedule 8.3 paragraph 3.1 top (and including) the date on which the compliant MI Report is delivered.</p>
A04	Performance Monitoring Report	<p>The Supplier shall ensure the Performance Monitoring Report:</p> <ul style="list-style-type: none"> (i) is made available to the Authority via a 24-hour online portal;

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		<p>(ii) contains all the information set out in paragraph 3 of Schedule 2.2; and</p> <p>(iii) does not contain any material errors or omissions.</p> <p>(the “MI Compliance Criteria”)</p> <p>The Supplier shall measure the number of minutes in each Service Period that the MI Compliance Criteria are not met.</p> <p>This metric shall be calculated as the total number of minutes in a Service Period that the MI Compliance Criteria are not met divided by the total number of minutes in that Service Period expressed as a percentage.</p>
A05	Drive/Walk Test Service	<p>The Supplier shall commence either Drive Test Services or Walk Test Services of any area or location within mainland GB within 5 Working Days of the required date for delivery of Drive Test Services and/or Walk Test Services stated by the Authority in a Works Instruction under paragraph 3.2.3 of Schedule 9.1 (Ordering Procedure).</p> <p>The Supplier shall measure the number of days that elapse from (and including) the date for delivery of Drive Test Services and/or Walk Test Services stated by the Authority in a Works Instruction under paragraph 3.2.3 of Schedule 9.1 (Ordering Procedure) to the date on which the relevant Walk Test Services and/or Drive Test Services are performed. This KPI applies to each Works Instruction under paragraph 3.2.3 of Schedule 9.1 (Ordering Procedure).</p>
A06	Drive/Walk Test Service reporting	<p>The time taken by Supplier to provide Drive Test Service reports and/or Walk Test Service reports following completion of Drive Test Services and/or Walk Test Services pursuant to a Works Instruction.</p> <p>This metric shall be measured from (and including) the date identified by the Authority for the delivery of Drive Test Services pursuant to paragraph 3.2.3 of Schedule 9.1 (Ordering Procedure) to (and including) the date on which the relevant Drive Test Services reports and/or Walk Test Service Reports are delivered to the Authority. This KPI applies to each Works Instruction under paragraph 3.2.3 of Schedule 9.1 (Ordering Procedure).</p>
A07	Coverage Assurance and Service Assurance data upload time (ESN_COV_CS_066)	<p>The time between the Device logging Coverage Assurance and/or Service Assurance data (“Recorded Data”) and that Recorded Data being added to the Server.</p> <p>The metric will be measured by reporting the average time taken to upload Recorded Data taken from the logs of at least 100 unique Devices (identified by relevant EMEI) per Service Period.</p>

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A08	Optional Service 2: Order-to-Delivery of hosting solution for Coverage Solution Server	This metric shall be measured by recording the time that elapses from (and including) the date stated in the Order Form that Option 2 hosting will be required by under paragraph 2.2.2 of Schedule 9.1 (Ordering Procedure) to (and including) the date on which the Supplier's hosting service is accepted by the Authority and is ready to host the Server.
A09	Coverage Application availability	<p>The Supplier shall ensure the Coverage Application functions properly and efficiently and remains available on each Device for a minimum of $\geq 90\%$ of each Service Period, excluding the time that:</p> <ul style="list-style-type: none"> (i) the Device is switched off; (ii) the Coverage App has been disabled by the Device user or a User; (iii) Approved maintenance to the App is taking place. <p>(“Allowable Downtime”)</p> <p>The metric shall be calculated as the total number of minutes of non-reachability, downtime, and unavailable functionality (excluding Allowable Downtime) in the Service Period divided by the total number of minutes in that Service Period expressed as a percentage.</p>
A10	Data Transfer: (ESN_COV_CS_067)	The Supplier shall log, record, and report on the time elapsed from the collected data being uploaded to the Server and the time when it is available for User display and reporting.
A11	Training Services (delivery) (ESN_COV_CS_078)	The Supplier shall measure the time that elapses from (and including) the date stated in the Order Form under paragraph 2.2.2 of Schedule 9.1 (Ordering Procedure) that Training Services are required to be delivered to (and including) the date on which the Training Services are delivered.
A12	Training Services – Training Materials (ESN_COV_CS_080)	<p>The Supplier shall submit for approval the Training Materials at least 2 weeks in advance of providing Training Services to Users and/or the Authority.</p> <p>This metric shall be measured by recording the number of days that elapse from (and including) the provision of the Training Materials to (and including) the date on which the relevant Training Services are delivered.</p> <p>This metric shall not be measured where fewer than 14 days elapse from (and including) the date on which the Authority provides the relevant Order Form for Training Services to (and including) the date stated in the Order Form under paragraph 2.2.2 of Schedule 9.1 (Ordering Procedure) on which the Training Services are to be delivered.</p>
A13	Order-to-delivery of Drive Test Vehicles and/or Walk Test Packs (ESN_COV_DT_004/005/009/010)	The Supplier shall measure the number of days that elapse from (and including) the date stated under paragraph 2.2.2 of Schedule 9.1 (Ordering Procedure) that additional Drive Test Vehicles and/or Walk Test Packs are required by to (and including) the date on

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		which the Supplier confirms that the Drive Test Vehicles and Walk Test Packs are available for service.
A14	Optional Service 1: Order-to-Delivery of 4G COTS Devices (ESN_COV_4G_001)	Where Option 1 is ordered, the Supplier shall measure the number of days that elapse from (and including) the date stated under paragraph 2.2.2 of Schedule 9.1 (Ordering Procedure) that Optional Service 1 is required to (and including) the date of acceptance of the delivery of ready for service 4G Devices.
A15	Optional Service 1: User Organisation/Authority rejects / returns	<p>Where option 1 is ordered, the Supplier shall measure and report on the number of 4G Devices delivered to User Organisations and/or the Authority where:</p> <ul style="list-style-type: none"> (i) the delivery quantities are incorrect (less than, or more than the quantity ordered; (ii) 4G Devices are damaged or lost; (iii) 4G Devices are dead on arrival/installation; and/or (iv) otherwise rejected and not accepted by the User Organisation and/or Authority. <p>(“Failed Deliveries”)</p> <p>The metric shall be calculated as the total Failed Deliveries divided by the number of actually ordered quantities expressed as a percentage.</p>

Part B – Service Credit Regimes

- 2.1 This Part B details the Service Points and Order Fulfilment Points that will apply to each applicable Key Performance Indicator in the event of a failure to meet the required service level and the method of calculation for the Service Points for each applicable Key Performance Indicator.
- 2.2 Service Points will be used to calculate Service Credits (if any) in accordance with Schedule 7.1 (Charges and Invoicing).
- 2.3 The Service Points and Order Fulfilment Points are intended to provide a mechanism whereby the Supplier recognises the inconvenience and/or loss to the Authority resulting from the Supplier's failure to deliver the level of service which it has contracted to deliver. Service Credits and Order Fulfilment Points shall be calculated and applied in accordance with paragraphs [X] and [X] (to be agreed) of Schedule 7.1 (Charges and Invoicing) respectively.
- 2.4 Service Points and/or Order Fulfilment Points calculations for any future Key Performance Indicators shall be provided in the relevant Variation introducing such future Key Performance Indicators.
- 2.5 For each KPI up to three performance bands are defined:
- 2.5.1 The Operating Service Level (OSL) / KPI Target;
 - 2.5.2 Failure Level 1 (FL1); and
 - 2.5.3 Failure Level 2 (FL2: the severe failure level).
- 2.6 If the Supplier's level of performance of a KPI achieves the OSL, no Order Fulfilment Points or Service Points will accrue to the Supplier in relation to that KPI.
- 2.7 If:
- 2.7.1 the Supplier's level of performance of a KPI for which Order Fulfilment Points accrue is within FL1 (i.e. in the range between FL1 and FL2), the appropriate number of Order Fulfilment Points applicable to an FL1 KPI Failure in relation to that KPI (as indicated in the table at paragraph 1.3 of Appendix 1 to this Schedule 2.2 (Key Performance Indicators)) shall accrue in respect of that Order; and
 - 2.7.2 the Supplier's level of performance of a KPI for which Service Points accrue during a Service Period is within FL1 (i.e. in the range between FL1 and FL2), the appropriate number of Service Points for an FL1 KPI Failure in relation to that KPI (as indicated in the table at paragraph 1.3 of Appendix 1 to this Schedule 2.2 (Key Performance Indicators)) shall accrue in respect of that KPI.
- 2.8 If:
- 2.8.1 the Supplier's level of performance of a KPI for which Order Fulfilment Points Accrue equals or exceeds the FL2 threshold, the full amount of Order Fulfilment Points applicable to the KPI shall accrue to the Supplier in respect of that Order; and
 - 2.8.2 the Supplier's level of performance of a KPI during a Service Period equals or exceeds FL2 the full amount of Service Points applicable to the KPI will accrue in respect of that KPI.
- 2.9 The number of Service Points or Order Fulfilment Points that shall accrue in respect of each KPI is set out in Appendix 1 to this Schedule 2.2 (Key Performance Indicators).

- 2.10 The Authority shall use the MI Reports provided in accordance with Part C of this Schedule 2.2 (Key Performance Indicators), Schedule 2.1 (Requirements) and Schedule 8.3 (Management Information) to monitor the KPIs for each Service Period and each Order.

3. REPEAT FAILURES

- 3.1 If the Supplier fails to achieve any OSL which result in the accrual of Service Points, as set out in paragraph 7.3 of Appendix 1 to this Schedule 2.2 (Key Performance Indicators) in two (2) consecutive Service Periods, then the second such failure by the Supplier shall be a “Repeat KPI Failure”.
- 3.2 Each subsequent failure in succeeding Service Period(s) by the Supplier to achieve that OSL shall also be a Repeat KPI Failure until the Supplier’s performance of the KPI meets the OSL in two (2) consecutive Service Periods, at which time the next (if any) failure by the Supplier to achieve that OSL shall be treated as an initial failure for the purposes of paragraph 4.1.
- 3.3 If any Repeat KPI Failure occurs, the number of Service Points that shall accrue shall be the number of Service Points that would normally accrue for the relevant level of KPI Failure multiplied in accordance with the following table:

Number of Repeat KPI Failures	Service Points
0 (Initial Failure)	1.0
1	1.5
2	2.0
3	3.0
4	4.0
5 (and each subsequent Repeat KPI Failure)	5.0

- 3.4 Service Credits accrued through failures by the Supplier to meet OSLs associated with KPIs related to the provision of the Services will be retained by the Authority; however, once the Supplier meets the OSL for the relevant KPI in two (2) consecutive Service Periods (a “**KPI Failure Rectification**”) the Service Points accrued in relation to the relevant Service Failure for the Service Period immediately preceding the KPI Failure Rectification will be refunded to the Supplier. Please see the example at Appendix 2, paragraph 1.3 for illustration of the application of this provision.
- 3.5 Where a Repeat KPI Failure occurs in any five (5) consecutive Service Periods, this shall be deemed a material Default that shall constitute a Notifiable Default for the purposes of Clause 15 (Rectification Plan Process).
- 3.6 Worked examples may be found in Appendix 2.

Part C – Performance Monitoring

5. PERFORMANCE MONITORING AND PERFORMANCE REVIEW

5.1 The Supplier shall provide a report (including the mechanism by which each KPI is measured) to the Authority's Project Manager which summarises the performance by the Supplier against each of the Key Performance Indicators as described in this Schedule 2.2 (Key Performance Indicators) (the "**Performance Monitoring Report**").

Performance Monitoring Report

5.2 The Performance Monitoring Report shall be in such format as agreed between the Parties from time to time and contain, as a minimum, the following information:

Information in respect of the Month just ended

- (a) the date of the Performance Management Report;
- (b) details of the Month(s) addressed;
- (c) for each Key Performance Indicator reported:
 - (i) the description of the Key Performance Indicator and associated reference;
 - (ii) the applicable OSL, FL1 and FL2 measures;
 - (iii) the actual measured performance in accordance with the calculation methodology set out in this Schedule 2.2 (Key Performance Indicators);
 - (iv) "Red" (FL2), "Amber" (FL1), "Green" (OSL) highlight, indicating at a glance whether the performance measure is within the OSL, between FL1 and FL2 (if applicable) or exceeds FL2;
 - (v) the applicable Service Points or Order Fulfilment Points applied; and
 - (vi) the applicable multiplier applied to Service Points in accordance with paragraph 4.3 to this Schedule 2.2 (Key Performance Indicators);
- (d) the total number of Service Points and Order Fulfilment Points accrued in that Month;
- (e) the status of any outstanding Rectification Plan processes, including:
 - (1) whether or not a Rectification Plan has been agreed; and
 - (2) where a Rectification Plan has been agreed, a summary of the Supplier's progress in implementing that Rectification Plan;
- (f) for any Repeat Failures, actions taken to resolve the underlying cause and prevent recurrence;
- (g) relevant particulars of any aspects of the Supplier's performance which fail to meet the requirements of this Agreement;
- (h) such other details as the Authority may reasonably require from time to time; and

Information in respect of the next Quarter

- (i) any scheduled Software Updates and/or Security Updates that has been agreed between the Authority and the Supplier for the next Quarter.

5.3 The Performance Monitoring Report shall be reviewed and its contents agreed by the Parties at the next Monthly Meeting held in accordance with Schedule 8.1 (Governance).

6. PERFORMANCE RECORDS

6.1 The Supplier shall, in accordance with Clause 27 (Records and Audit), keep appropriate documents and records in relation to the Goods and Services being delivered. Without prejudice to the generality of the foregoing, the Supplier shall maintain accurate records of call histories, Help Desk records, staff records, timesheets, training programmes, staff training records, goods received documentation, supplier accreditation records, complaints received, etc. for a minimum of eighteen (18) months and provide prompt access to such records to the Authority upon the Authority's request. The records and documents of the Supplier shall be available for inspection by the Authority and/or its nominee during normal business hours and the Authority and/or its nominee may make copies of any such records and documents.

6.2 In addition to the requirement in paragraph 6.1 to maintain appropriate documents and records, the Supplier shall provide to the Authority such supporting documentation as the Authority may reasonably require in order to verify the level of the performance of the Supplier and the calculations of the amount of Service Credits for any specified period.

Appendix 1: Service Levels, Order Fulfilment Points & Service Points

7. OVERVIEW

- 7.1 The following service levels and associated Service Credits shall apply to each KPI defined in Part B of this Schedule 2.2 (Key Performance Indicators).
- 7.2 The following KPIs, for which Order Fulfilment Points accrue, are associated with the Order Fulfilment Services and correct delivery of Goods.
- 7.3 The following KPIs, for which Service Points accrue, are associated with the Services and the customer experience of the provision of Services.

Ref: A01	KPI: Coverage Solution Server availability:	
Performance	Standard Required:	Service Points:
OSL	$\leq 0.01\%$	0
FL 1	$> 3.00\%$ but $\leq 5.00\%$	18
FL 2	$> 5.00\%$	36

Ref: A02	NOT USED	

Ref: A03	KPI: Management Information Report:	
Performance	Standard Required:	Service Points:
OSL	Less than or equal to 5 Working Days	0
FL 1	Agreed date + 5 working days	12
FL 2	Agreed date + 10 working days	24

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Ref: A04	KPI: Performance Monitoring Report:	
Performance	Standard Required:	Service Points:
OSL	Less than or equal to 5 Working Days	0
FL 1	Agreed date + 5 working days	12
FL 2	Agreed date + 10 working days	24

Ref: A05	KPI: Drive/Walk Test Service:	
Performance	Standard Required:	Order Points Fulfilment
OSL	Less than or equal to 5 Working Days	0
FL 1	Less than or equal to 10 Working Days	20
FL 2	Less than or equal to 15 Working Days	50

Ref: A06	KPI: Drive/Walk Test Service Report:	
Performance	Standard Required:	Order Points Fulfilment
OSL	Less than or equal to 5 Working Days	0
FL 1	More than 5 but less than or equal to 10 Working Days	20
FL 2	More than 10 Working Days	50

Ref: A07	Coverage Assurance and Service Assurance data upload time	
Performance	Standard Required:	Service Points:

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OSL	< 60 minutes	N/A
FL 2	> 60 minutes	N/A

Ref: A08	Optional Service 2: Order-to-Delivery of hosting solution for Coverage Solution Server - to be defined on Order of Option 2	
Performance	Standard Required:	Service Points:
OSL	< [X] days	N/A
FL 2	> [X] days	N/A

Ref: A09	Coverage Application availability	
Performance	Standard Required:	Service Points:
OSL	< 90%	N/A
FL 2	> 90%	N/A

Ref: A10	KPI: Data Transfer	
Performance	Standard Required:	Service Points:
OSL	< 60 minutes	N/A
FL 2	> 60 minutes	N/A

Ref: A11	Training Services (delivery)	
Performance	Standard Required:	Service Points:
OSL	< 4 Weeks from Order	N/A

FL 2	> 4 Weeks from Order	N/A
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Ref: A12	Training Services – Training Materials	
Performance	Standard Required:	Service Points:
OSL	> 6 Weeks from Contract Commencement	N/A
FL 2	< 6 Weeks from Contract Commencement	N/A

Ref: A13	Order-to-delivery of Drive Test Vehicles and/or Walk Test Packs- to be defined at MS9	
Performance	Standard Required:	Service Points:
OSL	< [X] days	N/A
FL 2	> [X] days	N/A

Ref: A14	Optional Service 1: Order-to-Delivery of 4G COTS Devices	
Performance	Standard Required:	Service Points:
OSL	< 6 Weeks	N/A
FL 2	> 6 Weeks	N/A

Ref: A15	Optional Service 1: User Organisation/Authority rejects / returns	
Performance	Standard Required:	Service Points:
OSL	< 10 %	N/A
FL 2	> 10 %	N/A

Appendix 2: Service Levels, Order Fulfilment Points & Service Points Examples

8. DRIVE TEST SERVICE AND WALK TEST SERVICE - related examples

8.1 Example 1 – failure to meet KPI A06: Report submission

In this example, the time elapsed from the completion of the Work Instruction to the Supplier providing an accepted report for that Work Instruction is 13 Working Days.

In accordance with the KPI, FL2 applies.

TSP = 50 Order Fulfilment Points

These Order Fulfilment Points are then used to calculate the credit notes due to be applied to the applicable Service Period payments in accordance with paragraph 10 of Schedule 7.1 (Charges and Invoicing).

8.2 Example 2 (Month 5) – three subsequent successive failures to meet KPI A04: Performance Monitoring Report submission followed by one Service Period meeting OSL and then a subsequent failure

In this example, the Supplier has achieved a mixture of OSL, FL1 and FL2 and the implications of this are as follows when considering the Repeat Failure multiplier:

Month	1	2	3	4	5
SLA (A04) 5 Working Days	12	11	8	3	14
Service Level	FL2	FL2	FL1	OSL	FL2
Service Points (calculated)	24	24	12	0	24
Repeat KPI Failure Multiplier	1.0	1.5	2.0	2.0	3.0
Service Points	24	36	24	0	72

TSP = 72 Order Fulfilment Points

But as this is the fourth occurrence, without two consecutive Service Periods where the KPI met OSL, this count as the third Repeat KPI Failure and the Service Points are multiplied by 3.0 taken from the table in paragraph 4.3 of Part B Service Credit Regime.

TSP = 24 x 3.0 = 72 Service Points

8.3 Example 3 – release of retained Service Credits / Points

In this example, the Server Availability (A01) has now met the OSL in the last two consecutive Service Periods, and there have been no other Service Points accrued against other Services-related KPIs in this Service Period. In this case the 54 Service Points of Example 4 are credited to the Supplier.

Month	1	2	3	4	5	6	7
SLA (A01) ≥ 99.10%	96.00%	93.00%	96.50%	95.50%	99.10%	98.90%	99.20%
Service Level	FL1	FL2	FL1	FL1	OSL	OSL	OSL
Service Points (calculated)	18	36	18	18	0	0	0
Repeat KPI Failure Multiplier	1.0	1.5	2.0	3.0	3.0	3.0	0
Service Points	18	54	36	54	0	0	-54

9. Minimum Total Order Fulfilment Points and Service Points

- 9.1 The following total Order Fulfilment Points are associated with the Order Fulfilment Services Key Performance Indicators.

Ref:	SLA	FL1: Order Fulfilment Points
A05	Drive Test Service and Walk Test Service	20
A06	Drive Test Service and Walk Test Service Report	20

- 9.2 The following total Service Points are associated with the related Key Performance Indicators.

Ref:	SLA	FL1: Service Points
A01	Coverage Solution Server availability	18
A02	NOT USED	
A03	MI Report	12
A04	Performance Monitoring Report	12

10. Maximum Total Order Fulfilment Points and Total Service Points

- 10.1 The following total Order Fulfilment Points are associated with the Order Fulfilment Services Key Performance Indicators.

Ref:	SLA	FL2: Order Fulfilment Points
A05	Drive Test Service and Walk Test Service	50
A06	Drive Test Service and Walk Test Service Report	50

- 10.2 The following total Service Points are associated with the related Key Performance Indicators.

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Ref:	SLA	FL2: Service Points
A01	Coverage Solution Server availability	36
A02	NOT USED	
A03	MI Report	24
A04	Performance Monitoring Report	24

Contract Schedule

Relating to Coverage Assurance

Schedule 2.3 (Standards)

SCHEDULE 2.3

STANDARDS

1. DEFINITIONS

In this Schedule, the following definitions shall apply:

"Standards Hub"	the Government's open and transparent standards adoption process as documented at http://standards.data.gov.uk/
"Suggested Challenge"	a submission to suggest the adoption of new or emergent standards in the format specified on Standards Hub

2. GENERAL

- 2.1 Throughout the Contract Period, the Parties shall monitor and notify each other of any new or emergent standards which could affect the provision and/or receipt of the Goods and/or Services. Any changes to the Standards, including the adoption of any such new or emergent standard, shall be agreed in accordance with the Variation Procedure.
- 2.2 Where a new or emergent standard is to be developed or introduced by the Authority, the Supplier shall be responsible for ensuring that the potential impact on the provision and/or receipt of the Goods and/or Services is explained to the Authority (in a reasonable timeframe), prior to the implementation of the new or emergent standard.
- 2.3 Where Standards referenced conflict with each other or with Good Industry Practice, then the later Standard or best practice shall be adopted by the Supplier. Any such alteration to any Standard(s) shall require the prior written agreement of the Authority and shall be implemented within an agreed timescale.
- 2.4 Where a standard, policy or document is referred to by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Supplier shall notify the Authority and the Parties shall agree the impact of such change.

3. TECHNOLOGY AND DIGITAL SERVICES PRACTICE

- 3.1 The Supplier should note when designing and providing Goods and/or Services to the Authority the intention of the Authority is to conform to HM Government's ICT Strategy and the set of standards related to that strategy.
- 3.2 The Supplier shall (when designing, implementing and providing the Goods and/or Services) adopt the applicable elements of HM Government's Technology Code of Practice as documented at <https://www.gov.uk/service-manual/technology/code-of-practice.html>.

4. OPEN DATA STANDARDS & STANDARDS HUB

- 4.1 The Supplier shall comply to the extent within its control with UK Government's Open Standards Principles as documented at <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles>, as they relate to the specification of standards for software interoperability, data and document formats in the IT Environment.
- 4.2 Without prejudice to the generality of Paragraph 2.2, the Supplier shall, when implementing or updating a technical component or part of the Software or Supplier Solution where there is a requirement under this Contract or opportunity to use a new or emergent standard, submit

a Suggested Challenge compliant with the UK Government's Open Standards Principles (using the process detailed on Standards Hub and documented at <http://standards.data.gov.uk/>). Each Suggested Challenge submitted by the Supplier shall detail, subject to the security and confidentiality provisions in this Contract, an illustration of such requirement or opportunity within the IT Environment, Supplier Solution and Government's IT infrastructure and the suggested open standard.

- 4.3 The Supplier shall ensure that all documentation published is provided in a non-proprietary format (such as PDF or Open Document Format (ISO 26300 or equivalent) as well as any native file format documentation in accordance with the obligation under paragraph 4.1 to comply with the UK Government's Open Standards Principles, unless the Authority otherwise agrees in writing.

5. TECHNOLOGY ARCHITECTURE STANDARDS

- 5.1 Where there is a requirement under this Contract, the Supplier shall produce full and detailed technical architecture documentation for the Supplier Solution in accordance with Good Industry Practice. If documentation exists that complies with TOGAF 9.1 or its equivalent, then this shall be deemed acceptable.

6. ACCESSIBLE DIGITAL STANDARDS

- 6.1 The Supplier shall comply with (or with equivalents to):
- 6.1.1 the World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI) Web Content Accessibility Guidelines (WCAG) 2.0 Conformance Level AA; and
 - 6.1.2 ISO/IEC 13066-1: 2011 Information Technology – Interoperability with assistive technology (AT) – Part 1: Requirements and recommendations for interoperability.

7. SERVICE MANAGEMENT SOFTWARE & STANDARDS

- 7.1 Where there is a requirement under this Contract and subject to paragraphs 2 to 4 (inclusive), the Supplier shall reference relevant industry and Government standards and best practice guidelines in the management of the provision of the Services, including the following and/or their equivalents:

- 7.1.1 ITIL v3 2011;
- 7.1.2 ISO/IEC 20000-1 2011 "**ITSM Specification for Service Management**";
- 7.1.3 ISO/IEC 20000-2 2012 "**ITSM Code of Practice for Service Management**";
- 7.1.4 ISO 10007 "**Quality management systems management**"; and Guidelines for configuration;

- 7.2 For the purposes of the provision of the Goods and/or Services, the Supplier shall make use of Software that complies with Good Industry Practice including availability, change, incident, knowledge, problem, release & deployment, request fulfilment, service asset and configuration, service catalogue, service level and service portfolio management. If such Software has been assessed under the ITIL software scheme as being compliant to "Bronze Level", then this shall be deemed acceptable.

8. ENVIRONMENTAL STANDARDS

- 8.1 The Supplier warrants that it has obtained ISO 14001 (or equivalent) certification for its environmental management and shall comply with and maintain certification requirements throughout the Contract Period. The Supplier shall follow a sound environmental management policy, ensuring that all Goods and Services are procured, produced, packaged, delivered,

and are capable of being used and ultimately disposed of in ways appropriate to such standard.

- 8.2 The Supplier shall comply with relevant obligations under the Waste Electrical and Electronic Equipment Regulations 2006 in compliance with Directive 2002/96/EC and subsequent replacements (including those in compliance with Directive 2012/19/EU).
- 8.3 The Supplier shall (when designing, procuring, implementing and providing the Goods and/or Services) ensure compliance with Article 6 and Annex III of the Energy Efficiency Directive 2012/27/EU and subsequent replacements.
- 8.4 The Supplier shall comply with the EU Code of Conduct on Data Centres' Energy Efficiency. The Supplier shall ensure that any data centre used in providing the Goods and/or Services are registered as a Participant under such Code of Conduct.
- 8.5 The Supplier shall comply with the Authority and Government's objectives to reduce waste and meet the aims of the Greening Government: IT strategy contained in the document **"Greening Government: ICT Strategy issue (March 2011)"** at <https://www.gov.uk/government/publications/greening-government-ict-strategy>.

9. HARDWARE SAFETY STANDARDS

- 9.1 The Supplier shall comply with those BS or other standards relevant to the provision and/or receipt of the Goods and/or Services, including the following or their equivalents:
 - 9.1.1 any new hardware required for the provision of the Goods and/or Services, shall conform to BS EN 60950-1:2006+A12:2011 or subsequent replacements. In considering where to site any such hardware, the Supplier shall consider the future working user environment and shall position the hardware sympathetically, wherever possible;
 - 9.1.2 any new audio, video and similar electronic apparatus required for the provision of the Goods and/or Services, shall conform to the following standard: BS EN 60065:2002+A12:2011 or any subsequent replacements;
 - 9.1.3 any new apparatus for connection to any telecommunication network, and required for the provision of the Goods and/or Services, shall conform to the following safety Standard: BS EN 41003:2009 or any subsequent replacements.
 - 9.1.4 Any DOT standards on the use and operation of telecommunication and radio transmitting equipment within vehicles.
- 9.2 Where required to do so as part of the provision of Goods and/or Services, the Supplier shall perform electrical safety checks in relation to all equipment supplied under this Contract in accordance with the relevant health and safety regulations.

10. RADIO STANDARDS/OS STANDARDS

- 10.1 The ESN Devices provided to the Supplier will comply to the EE MNRI EE000269.
- 10.2 The ESN Devices provided to the Supplier will comply to the UDDS MOT000216.
- 10.3 The 4G COTS Devices shall comply to 3GPP Release 12 or later.

11. SECURITY STANDARDS

- 11.1 The Supplier shall provide details of its Information Security Management System which should adhere to the principles of ISO 27000 including ISO 27001 and ISO 27002 (or equivalent).
- 11.2 The Supplier shall apply NCSC guidelines and principles in developing security of any delivered cloud services <https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>.

12. QUALITY ASSURANCE

- 12.1 The Supplier and Sub-Contractors shall maintain ISO 9001 certification or an equivalent auditable quality assurance and control certification. The Supplier will procure that such Sub-Contractors provide certificates of quality assurance and comply with applicable legal requirements in Great Britain in respect of the Goods supplied under this Contract.

Agreement relating to Coverage Assurance Goods and Services

Schedule 2.5 (Insurance)

SCHEDULE 2.5

INSURANCE REQUIREMENTS

1. OBLIGATION TO MAINTAIN INSURANCES

- 1.1 Without prejudice to its obligations to the Authority under this Agreement, including its indemnity obligations, the Supplier shall for the periods specified in this Schedule take out and maintain, or procure the taking out and maintenance of the insurances as set out in Appendix 1 and any other insurances as may be required by applicable Law (together the "**Insurances**"). The Supplier shall ensure that each of the Insurances is effective no later than the Contract Commencement Date.
- 1.2 The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time.
- 1.3 The Insurances shall be taken out and maintained with insurers who are:
- 1.3.1 of good financial standing;
 - 1.3.2 appropriately regulated; and
 - 1.3.3 except in the case of any Insurances provided by an Affiliate of the Supplier, of good repute in the international insurance market.
- 1.4 Where any Insurances are provided by an Affiliate of the Supplier, the Supplier shall provide to the Authority on the Commencement Date (or inception of the relevant Insurances if later) and thereafter within ten (10) Working Days of written request from the Authority evidence of good financial standing of the relevant Affiliate in a form satisfactory to the Authority. The Authority shall not make any such request more than annually.
- 1.5 The Supplier shall ensure that the third party public and products liability policy shall contain an indemnity to principals clause or additional insureds equivalent under which the Authority shall be indemnified in respect of claims made against the Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Goods and/or Services and for which the Supplier is legally liable.

2. GENERAL OBLIGATIONS

- 2.1 Without limiting the other provisions of this Agreement, the Supplier shall:
- 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to the Goods and Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
 - 2.1.2 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3. FAILURE TO INSURE

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.

- 3.2 Where the Supplier has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, the Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances, and the Authority shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

4. EVIDENCE OF INSURANCES

- 4.1 The Supplier shall upon the Commencement Date and within fifteen (15) Working Days after the renewal or replacement of each of the Insurances, provide evidence, in a form satisfactory to the Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule. Receipt of such evidence by the Authority shall not in itself constitute acceptance by the Authority or relieve the Supplier of any of its liabilities and obligations under this Agreement.

5. AGGREGATE LIMIT OF INDEMNITY

- 5.1 Where the minimum limit of indemnity required in relation to any of the Insurances is specified as being "in the aggregate":

- 5.1.1 if a claim or claims which do not relate to this Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Supplier shall immediately submit to the Authority:

- (a) details of the policy concerned; and
- (b) its proposed solution for maintaining the minimum limit of indemnity specified; and

- 5.1.2 if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Agreement are paid by insurers, the Supplier shall:

- (a) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Agreement; or
- (b) if the Supplier is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the Authority full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

6. CANCELLATION

- 6.1 Subject to paragraph 6.2, the Supplier shall notify the Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.

- 6.2 Without prejudice to the Supplier's obligations under paragraph 4, paragraph 6.1 shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Schedule.

7. INSURANCE CLAIMS

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Goods and/or the Services and/or this Agreement for which it may be entitled to claim under

any of the Insurances. In the event that the Authority receives a claim relating to or arising out of the Goods and/or the Services and/or this Agreement, the Supplier shall co-operate with the Authority and assist it in dealing with such claims at its own expense including without limitation providing information and documentation in a timely manner.

- 7.2 Except where the Authority is the claimant party, the Supplier shall give the Authority notice within twenty (20) Working Days after any insurance claim in excess of £100,000 relating to or arising out of the provision of the Goods and/or the Services and/or this Agreement on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Authority) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Agreement or otherwise.

APPENDIX 1

REQUIRED INSURANCES

PART 1

THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE

1. Insured

The Supplier

2. Interest

2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

2.1.1 death or bodily injury to or sickness, illness or disease contracted by any person; and

2.1.2 loss of or damage to property,

happening during the period of insurance (as specified in paragraph 1.1) and arising out of or in connection with the provision of the Goods and/or the Services and in connection with this Agreement.

3. Limit of indemnity

Not less than £10,000,000 in respect of any one occurrence, the number of occurrences being unlimited, but £10,000,000 in the aggregate per annum in respect of products and pollution liability.

4. Territorial limits

United Kingdom

5. Period of insurance

From the date of Contract Execution Date for the Contract Period and renewable on an annual basis unless agreed otherwise by the Authority in writing.

6. Cover features and extensions

Indemnity to principals or additional insured clause under which the Authority shall be indemnified in respect of claims made against the Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Goods and/or Services and for which the Supplier is legally liable.

7. Principal exclusions

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

7.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured during the course of their employment.

7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.

- 7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- 7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

8. Maximum deductible threshold

Not to exceed **[Redacted]** for each and every third party property damage claim (personal injury claims to be paid in full).

PART 2

PROFESSIONAL INDEMNITY INSURANCE

1. Insured

The Supplier

2. Interest

To indemnify the Insured for all sums which the Insured shall become legally liable to pay (including claimants' costs and expenses) as a result of claims first made against the Insured during the period of insurance (as specified in Paragraph 0) by reason of any negligent act, error and/or omission arising from or in connection with the provision of the Products and/or the Services.

3. Limit of indemnity

Not less than £2,000,000 in respect of any one claim and in the aggregate per annum, exclusive of defence costs which are payable in addition.

4. Territorial Limits

United Kingdom

5. Period of insurance

From the date of this Agreement and renewable on an annual basis unless agreed otherwise by the Authority in writing (a) throughout the Contract Period or until earlier termination of this Agreement and (b) for a period of 6 years thereafter.

6. Cover features and extensions

Retroactive cover to apply to any "claims made policy wording" in respect of this Agreement or retroactive date to be no later than the Execution Date.

7. Principal exclusions

7.1 War and related perils

7.2 Nuclear and radioactive risks

8. Maximum deductible threshold

Not to exceed **[Redacted]** for each and every claim, increasing to **[Redacted]** in respect of USA/Canada for each and every claim.

PART 3

UNITED KINGDOM COMPULSORY INSURANCES

The Supplier shall meet its insurance obligations under applicable Law in full, including United Kingdom employers' liability insurance (of £5,000,000 each and every occurrence the number of occurrences being unlimited in any annual period of insurance) and motor third party liability insurance as required by Law for the purposes of this Agreement.

Agreement relating to coverage assurance goods and services

Schedule 2.6 (Data Protection)

SCHEDULE 2.6

1. DEFINITIONS

In this Schedule 2.6 (Data Protection) the following definitions shall apply:

“Controller”	takes the meaning given in the GDPR;
“Data Protection Impact Assessment”	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
“Data Protection Officer”	takes the meaning given in the GDPR;
“Data Loss Event”	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier 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;
“Data Subject”	takes the meaning given in the GDPR;
“Data Subject Access Request”	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;
“DPA 2018”	Data Protection Act 2018;
“LED”	Law Enforcement Directive (<i>Directive (EU) 2016/680</i>);
“Personal Data Breach”	takes the meaning given in the GDPR;
“Processor”	takes the meaning given in the GDPR;
“Protective Measures”	the measures set out in the Security Requirements and other 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; and
“Sub-processor”	any third Party appointed to process Personal Data on behalf of the Supplier related to this Agreement.

2. DATA PROTECTION

- 2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is listed in Annex A to this Schedule 2.6 (Data Protection) by the Authority and may not be determined by the Supplier.

- 2.2 The Supplier shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- 2.3 The Supplier shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 2.4 The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- (a) process that Personal Data only in accordance with Annex A to this Schedule 2.6 (Data Protection), unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that:
 - (i) the Supplier Personnel do not process Personal Data except in accordance with this Agreement (and in particular Annex A to this Schedule 2.6 (Data Protection));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Supplier's duties under this paragraph;
 - (B) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
 - (C) 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 the Authority or as otherwise permitted by this Agreement; and

- (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
 - (i) the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Authority;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier 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 the Authority in meeting its obligations); and
 - (iv) the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
- (e) at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Agreement unless the Supplier is required by Law to retain the Personal Data.

2.5 Subject to paragraph 2.6, the Supplier shall notify the Authority immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - (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
- (f) becomes aware of a Data Loss Event.

2.6 The Supplier's obligation to notify under paragraph 2.5 shall include the provision of further information to the Authority in phases, as details become available.

2.7 Taking into account the nature of the processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 2.5 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

- (a) the Authority with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;

- (d) assistance as requested by the Authority following any Data Loss Event;
- (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.

2.8 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this paragraph. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:

- (a) the Authority determines that the processing is not occasional;
- (b) the Authority 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
- (c) the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

2.9 The Supplier shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor.

2.10 The Supplier shall designate a data protection officer if required by the Data Protection Legislation.

2.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier shall:

- (a) notify the Authority in writing of the intended Sub-processor and processing;
- (b) obtain the written consent of the Authority;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Schedule 2.6 (Data Protection) such that they apply to the Sub-processor; and
- (d) provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.

2.12 The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.

2.13 The Authority may, at any time on not less than thirty (30) Working Days' notice, revise this paragraph 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).

2.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may on not less than thirty (30) Working Days' notice to the Supplier amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

ANNEX A

Schedule of Processing, Personal Data and Data Subjects

1. The Supplier shall comply with any further written instructions with respect to processing by the Authority.
2. Any such further instructions shall be incorporated into this Annex A of Schedule 2.6 (Data Protection).

Description	Details
Subject matter of the processing	The storage and use of personal data related to this Agreement.
Duration of the processing	For the duration of this Agreement and the obligations set out in Clause 27 (Records and Audit).
Nature and purposes of the processing	The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) in relation to this Agreement and statutory obligations.
Type of Personal Data	<p>These are:</p> <ul style="list-style-type: none">a) name;b) job role or functionc) business address;d) business telephone numbers;e) business email addresses;f) security clearance level;g) Location Information;h) ID of Device issued, allocated or used by the data subject <p>and where applicable details required for security purposes including but not limited to:</p> <ul style="list-style-type: none">a) date of birth;b) country of birth;c) organisation/employee numberd) place of birth; ande) national insurance number

OFFICIAL – COMMERCIAL
AGREEMENT RELATING TO COVERAGE ASSURANCE GOODS AND SERVICES

Categories of Data Subject	<p>All those formally involved with ESMCP including those invited by the Authority to attend, participate or contribute in relation to this Agreement, including but not limited to:</p> <ul style="list-style-type: none">a) Home Office staff;b) NHS staff;c) ambulance staff;d) police officers;e) police staff;f) fire officers;g) fire staff;h) military officers;i) military staff;j) members of other Government departments and <p>contractors, advisors and consultants engaged by any of the organisations listed above.</p>
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>As set out in Clause 27 (Records and Audit).</p>

Agreement relating to Coverage Assurance Goods and Services

Schedule 3.1 (Authority Responsibilities)

1. INTRODUCTION

- 1.1 The responsibilities of the Authority set out in this Schedule shall constitute the Authority Responsibilities under this Agreement. Any obligations of the Authority in Schedule 2.1 (Requirements) and Schedule 4.1 (Supplier Solution) shall not be Authority Responsibilities and the Authority shall have no obligation to perform any such obligations.
- 1.2 The responsibilities specified within this Schedule shall be provided to the Supplier free of charge, unless otherwise agreed between the Parties.

2. GENERAL RESPONSIBILITIES

2.1 The Authority shall:

- (i) perform those obligations of the Authority which are set out in the Clauses of this Agreement and the Paragraphs of the Schedules and the Operating Level Agreement excluding Schedule 4.1 (Supplier Solution) use its reasonable endeavours to provide the Supplier with access to appropriate members of the Authority's staff, as such access is reasonably requested by the Supplier in order for the Supplier to discharge its obligations throughout the Contract Period;
- (ii) provide sufficient and suitably qualified staff to fulfil the Authority's roles and duties under this Agreement;
- (iii) use its reasonable endeavours to provide such documentation, data and/or other information that the Supplier 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 the Authority and is authorised for release by the Authority;
- (iv) make available to the Supplier, at the Contract Commencement Date, an electronic document management system ("EDMS") for the submission of documentary deliverables;
- (v) subject to availability, distribute to 3ES Users a fully configured ESN Device (including an ESN SIM). The Supplier will provide assistance to 3ES Users when downloading the ESN Service Application.
- (vi) Provide the Supplier with a Works Instruction setting out Physical Testing Services.

3. SUPPLIER PROPOSED AUTHORITY RESPONSIBILITIES

- 3.1 In addition to the General Responsibilities as set out above, the Supplier has identified a number of Supplier Proposed Authority Responsibilities as set out in the table below. The Authority will endeavour to comply with the Supplier Proposed Authority Responsibilities as long as in doing so there is no conflict with the terms and conditions of Contract or, in the Authority's opinion, no negative impact on the delivery of the requirements / service, such decision to be at the Authority's sole discretion.
- 3.2 The Supplier shall provide an impact statement within a reasonable timescale in the event that that the Supplier considers that the Authority has not met one of the Authority Responsibilities outlined below.

Schedule 3.1 Authority responsibilities

Document	Responsibility
Schedule 2.1	The Authority shall carry out the responsibilities included by the Authority in schedule 2.1 and in the ITT to an acceptable standard and within the timescales required by the Supplier to fulfil its obligations under the contract.
Schedule 2.1	Where the solution is hosted on an Authority Cloud platform, then the Authority shall be responsible for providing and configuring all non- Coverage Application items to the specification defined by the Supplier.
Schedule 2.1	Where the solution is hosted on an Authority Cloud platform, then the Authority shall be responsible for all non-Coverage Application costs, including Servers, Storage, Networks, Firewalls, VPNs, Windows Server (inc IIS) Licences, SQL Server Licences, Anti-Virus software, Security Patch Updates, Bandwidth and Support.
Schedule 2.1	Where the solution is hosted on an Authority Cloud platform, then the Authority shall provide access to the monitoring system for that infrastructure, in order to aid the Supplier's diagnosis of issues.
Schedule 2.1	Where the solution is hosted on an Authority Cloud platform, the Authority shall provide support to the Supplier for any issues identified with services provided by the Authority or any other third party, that impact on the Supplier being able to perform the Services.
Schedule 2.1	In the event that the solution is hosted on an Authority Cloud platform, the suitability of the Authority Cloud platform and reliability of its use to provide the Services is the responsibility of the Authority. Any delays or interruptions to the Services incurred as a result of the use of the Authority Cloud platform shall be the responsibility of the Authority.
Schedule 2.1	The test numbers, test URLs and Collection URLs used by the Coverage Applications shall be free-rated by the Authority/EE (zero cost to the Supplier).
Schedule 2.2	The Authority shall be responsible for all return costs associated with any warranty returns for Option 1 items.
Schedule 6.1	The Authority shall be responsible for carrying out its roles and responsibilities as identified in the Detailed Implementation Plan (or revised Detailed Implementation Plan) in a timely manner to allow the Supplier to complete the Implementation Plan as agreed.

Document	Responsibility
Schedule 6.1	<p>The Authority shall be responsible for:</p> <ul style="list-style-type: none"> the review and approval of documentation in a timely manner; and ensuring that comments / changes required are reasonable in the context of the document and the timescales for completion of the Implementation Plan.
Schedule 6.1	The Authority shall be responsible for the overall coordination and management of users and other Authority third-parties and shall facilitate and coordinate their involvement as required in a timely manner.
Schedule 6.1	The Authority shall approve all documentation within a reasonable timescale. Approvals shall not be unreasonably withheld.
Schedule 6.1	The Authority shall provide all Internal Technical Information (including but not limited to IP address ranges) required for Hosted Server connections in a timely manner as requested by the Supplier.
Schedule 6.1	Project Change Control Notifications, Request For Changes and associated rectification documentation shall be submitted within agreed timescales.
Schedule 6.1	The Authority shall provide full access to the ESN lab/test facility, AirWatch and Service as required by the Supplier during the stages detailed within Schedule 6.1 (Implementation Plan).
Schedule 4.1	The Authority shall provide and maintain remote access to the Authority's chosen Cloud hosting environment and take and store regular backups of the hosted server platform to enable recovery in the event of a disaster.
Schedule 2.2 (KPI ref: A01)	The Authority shall ensure that their chosen Cloud hosting has a higher availability of 99.99% in order for the Supplier to achieve a 99.99% availability target.
Schedule 4.1	In order to maximise solution availability, the Authority shall report all issues with the Coverage Solution and/or Drive and Walk tests to the Suppliers Helpdesk as soon as reasonably possible.
Schedule 4.1	Should the Authority take up Option 3, for the Coverage Application to accurately measure POLQA results on any Authority provided ESN devices; the Authority shall ensure that the Supplier's Application is granted access to the required permissions (e.g. appropriate audio hardware controls) on that device.