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Call-Off Ref: C293083 Digital UEC Transformation Delivery

RM6100 Technology Services 3 Framework Schedule 4 Annex 1 Lot 4 Order Form

Order Form

This Order Form is issued in accordance with the provisions of the Technology Services 3 Framework Contract RM6100 between the Supplier (as defined below) and the Minister for the Cabinet Office (the "**Framework Contract**") and should be used by Buyers conducting a further competition under the Framework Contract.

The Contract, referred to throughout this Order Form, means the contract between the Supplier and the Buyer (as defined below) (entered into pursuant to the terms of the Framework Contract) consisting of this Order Form and the Call Off Terms. The Call Off Terms are substantially the terms set out in Annex 2 to Schedule 4 to the Framework Contract and copies of which are available from the Crown Commercial Service website. The agreed Call Off Terms for the Contract being set out as the Annex 1 to this Order Form.

The Supplier shall provide the Services and/or Goods specified in this Order Form (including any attachments to this Order Form) to the Buyer on and subject to the terms of the Contract for the duration of the Term.

In this Order Form, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) of the Call-Off Terms.

This Order Form shall comprise:

1. This document headed "Order Form";
2. The following Attachments with reference to the corresponding Schedule in the Call-Off Terms. Attachments to this Order Form either (i) replaces an Annex to a Schedule in the Call-Off Terms or (ii) replaces a Schedule to the Call-Off Terms in its entirety (for example, Attachment 2.1 (Services Description)) or (iii) provides amendments to the Call Off Contract Terms, including Schedules needed to reflect the use of Statements of Work to deliver agile service provision (for example, Schedule 12 (NHS England Provisions)):

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Attachment to the Order Form	Schedule to the Call-Off Terms
Attachment 2.1 (Services Description)	See Schedule 2.1 (Services Description)
Attachment 2.2 (Key Performance Indicators and Subsidiary Performance Indicators Tables)	See Schedule 2.2 (Performance Levels)
Attachment 2.3 (Environmental Requirements)	See Schedule 2.3 (Standards)
Attachment 2.4 (Information Management System)	See Schedule 2.4 (Security Management)
Attachment 3 (Buyer Responsibilities)	See Schedule 3 (Buyer Responsibilities)
Attachment 4.1 (Supplier Solution)	See Schedule 4.1 (Supplier Solution)
Attachment 4.2 (Commercially Sensitive Information)	See Schedule 4.2 (Commercially Sensitive Information)
Attachment 4.3 (Notified Key Sub-Contractors)	See Schedule 4.3 (Key Sub-Contractors)
Attachment 4.4 (Third Party Contracts)	See Schedule 4.4 (Third Party Contracts)
Attachment 5 (Software)	See Schedule 5 (Software)
Attachment 6.1 (Implementation Plan)	See Schedule 6.1 (Implementation Plan)
Attachment 6.2 (Test Success Criteria)	See Schedule 6.2 (Testing Procedures)
Attachment 7.1 (Charges)	See Schedule 7.1 (Charges and Invoicing)
Attachment 7.2 (Maximum Payments on Termination)	See Schedule 7.2 (Payments on Termination)
Attachment 7.3 (Approved Benchmarkers)	See Schedule 7.3 (Benchmarking)
Attachment 7.4 (Financial Distress)	See Schedule 7.4 (Financial Distress)
(No corresponding Attachment)	(Schedule 7.5 (Financial Reports and Audit Rights))
Attachment 7.6 (Anticipated Savings)	See Schedule 7.6 (Anticipated Savings)
Attachment 8.1 (Representation and Structure of Boards)	See Schedule 8.1 (Governance)
Attachment 8.2 (Change Control Procedure)	Schedule 8.2 (Change Control Procedure)
(No corresponding Attachment)	(Schedule 8.3 (Dispute Resolution Procedure))
Attachment 8.4 (Transparency Reports and Records to Upload to Virtual Library)	See Schedule 8.4 (Reports and Records Provision)
(No corresponding Attachment)	Schedule 8.5 (Exit Management)
(No corresponding Attachment)	Schedule 8.6 (Service Continuity Plan and Corporate Resolution Planning)
(No corresponding Attachment)	Schedule 8.7 (Conduct of Claims)
Attachment 9.1 (Notified Sub-Contractors)	See Schedule 9.1 (Staff Transfer)
Attachment 9.2 (Key Personnel)	See Schedule 9.2 (Key Personnel)
Attachment 11 (Processing Personal Data)	See Schedule 11 (Processing Personal Data)
Attachment 12 (NHS England Provisions)	Forms Schedule 12 (NHS England Provisions)
Attachment 13 (Contract Management)	N/A

3. Annex 1 – Call-Off Terms and Additional/Alternative Clauses.

The Order of Precedence shall be as set out in Clause 1.4 of the Call-Off Terms being:

- (a) the Framework, except Framework Schedule 18 (Tender);

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- (b) the Order Form and its Attachments (other than Attachment 4.1 (Supplier Solution) and its Annexes) and Schedule 2.2 (Performance Levels) and its Annexes);
- (c) any executed Statements of Work;
- (d) the Call-Off Terms (including the Schedules and their Annexes) (other than Schedule 2.2 (Performance Levels) and its Annexes which is dealt with above in (b));
- (e) Attachment 4.1 (Supplier Solution) and its Annexes (if any); and
- (f) Framework Schedule 18 (Tender).

Section A**General Information**

Contract Details	
Contract Reference:	C293083
Contract Title:	Digital UEC Transformation Delivery
Contract Description:	Provision of Transformation Delivery services to provide support across the Urgent and Emergency Care agenda. This includes but is not limited to Directory of Services, Urgent and Emergency Care Data, Interoperability, Urgent and Emergency Care Digital Services (111 online) and NHS Pathways.
Call-off Contract Value Initial period (excl. Vat):	[REDACTED] GBP [REDACTED]
Call-Off Contract Value Total Period Including Extension option (excl. Vat):	[REDACTED] GBP [REDACTED] [REDACTED]

Buyer details
Buyer organisation name NHS England
Billing address NHS England X24 Payable K005 PO Box 312 LEEDS LS11 1HP
Buyer representative name [REDACTED]

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Buyer representative contact details

Role: [REDACTED]
Email address: [REDACTED]@nhs.net
Address: 7 and 8 Wellington Place, Leeds, LS1 4AP

Buyer Project Reference

C147989

Supplier details

Supplier name

KAINOS SOFTWARE LIMITED

Supplier address

Kainos House,
4-6 Upper Crescent
Belfast
BT7 1NT
Northern Ireland

Supplier representative name

[REDACTED]

Supplier representative contact details

Tel: [REDACTED]
Email: [REDACTED]@kainos.com

Order reference number

N/a

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Section B

Part 1 – Framework Lots (for multi-Lots only)

Framework Lot under which this Order is being placed

Guidance Note: where a buyer is conducting a multi-lot procurement and Lot 4 is one of those (which in that case this Order Form and corresponding Call-Off Terms will apply to all Lot(s) under that procurement, tick below which Lot(s) apply in addition to Lot 4. Where this is not a multi-lot procurement and only Lot 4 applies, this Part 1 does **not need** to be completed.

- | | |
|---|-------------------------------------|
| 1. TECHNOLOGY STRATEGY & SERVICES DESIGN | <input type="checkbox"/> |
| 2. TRANSITION & TRANSFORMATION | <input type="checkbox"/> |
| 3. OPERATIONAL SERVICES | |
| a: End User Services | <input type="checkbox"/> |
| b: Operational Management | <input type="checkbox"/> |
| c: Technical Management | <input type="checkbox"/> |
| d: Application and Data Management | <input type="checkbox"/> |
| 4. MAJOR SERVICES TRANSFORMATION PROGRAMMES | <input checked="" type="checkbox"/> |
| 5. SERVICE INTEGRATION AND MANAGEMENT | <input type="checkbox"/> |

Part 2 – Contract Details

Term

Initial Term

3 years

Extension Period

12 months

Sites for the provision of the Services

The Supplier shall provide the Services from the following Sites:

Buyer Premises:

The location of the Services will be carried out in the Buyer’s premises in either London or Leeds (20%) and through Homeworking (80%) with some travel expected to regional locations as required or otherwise specified in the SOWs.

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No travel expenses or subsistence payments will be due for travel to/from the Buyer's premises listed above, except when Supplier Personnel is required to travel to a Buyer's Premises which is not the base location of the person. All expenses will be subject to compliance with the Buyer's expenses policy set out in Annex 2 (Expenses Policy) of Order form Attachment 7.1 – Charges, which may be amended by the Buyer from time to time.

Supplier Premises:

Services may be delivered from Supplier and Subcontractor Premises, remotely and/or any other locations mutually agreed between the parties, providing that requirements for site attendance on Buyer's premises are prioritised and met.

Third Party Premises:

Not Applicable

Buyer Assets

Not Applicable

Insurance

Third Party Public Liability Insurance (£) – minimum limit of [REDACTED] for each individual claim
 Professional Indemnity Insurance (£) - minimum limit of [REDACTED] for each individual claim
 Employers' liability insurance (£) – minimum limit of [REDACTED] indemnity
 Product liability insurance (£) – minimum limit of [REDACTED] for each individual claim

Goods

Not Applicable

Security Management – Option Part A or Part B

Guidance Note: Schedule 2.4 (Security Management) of the Call-Off Terms has two options in respect of Security Management. Refer to Schedule 2.4 (Security Management) for detailed guidance on which Part to select.

Security Management Schedule	Tick as applicable
Part A – Security Assurance	Y
Part B – Security Accreditation	N

The Part selected above shall apply this Contract.

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Section C**Part 1 – Additional and Alternative Buyer Terms****Alternative Clauses and Additional Clauses** (see Annex 3 of Framework Schedule 4)

This Annex can be found on the RM6100 CCS webpage. The document is titled RM6100 Alternative and Additional Terms and Conditions Lot 4

Part A – Additional Clauses

Additional Clauses	Tick as applicable
C1: Collaboration Agreement	<input type="checkbox"/>
C2: MOD Clauses	<input type="checkbox"/>

Where selected above the Additional Schedules and/or Clauses set out in document RM6100 Alternative and Additional Terms and Conditions Lot 4 shall be incorporated into this Contract.

Part B - Alternative Clauses

The following Alternative Clauses will apply:

Alternative Clauses	Tick as applicable
Scots Law	<input type="checkbox"/>
Northern Ireland Law	<input type="checkbox"/>

Where selected above the Alternative Clauses set out in document RM6100 Alternative and Additional Terms and Conditions Lot 4 shall be incorporated into this Contract.

Part 2 - Additional Information Required for Additional Clauses Selected in Part 1**Additional Clause C1 (Collaboration Agreement)**

Not Applicable

An executed Collaboration Agreement shall be delivered from the Supplier to the Buyer within the stated number of Working Days from the Effective Date:

Not Applicable

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Section D
Contract award

This Contract is awarded in accordance with the provisions of the Technology Services 3 Framework Contract RM6100.

SIGNATURES

For and on behalf of the Supplier:

[Redacted Signature]

Full Name: [Redacted]

Job Title/Role: [Redacted]

Date Signed: 29/07/24

For and on behalf of NHS ENGLAND (the Buyer):

[Redacted Signature]

Full Name: [Redacted]

Job Title/Role: [Redacted]

Date Signed: 14/08/2024

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Annex 1 – Call Off Terms and Additional/Alternative Clauses

The Services provided under this Order Form require an agile response and as such amendments have been made to the Call Off Contract to reflect the fact that provision of the Services and payment for the Services to be delivered through a series of Statements of Work. The amendments and alternative provisions (including definitions, clauses and schedules) applicable to this Order Form are set out below.

Contract Amendments**1. Additional/Alternative Definitions**

For the purposes of incorporation of Call Off Schedule 1 (Definitions), the following definitions shall be added (and where such terms are already defined, such definitions shall be replaced with the corresponding definitions below):

“Charges”	the charges for the provision of the Services set out in or otherwise calculated in accordance with Schedule 7.1 (Charges and Invoicing) and Attachment 7.1 (Pricing Mechanism, Charging Mechanism, Adjustments, Risk Register and Allowable Assumptions) of the Order Form, including any Milestone Payment or Service Charge and as laid out in each individual Statement of Works;
“Critical KPI Failure”	has the meaning given in Part A paragraph 1 of Attachment 2.2 (Performance Levels) of the Order Form;
“Critical Performance Failure”	shall have the same meaning as Critical KPI Failure;
“Controller”	shall take the meaning given in the UK GDPR as supplemented by the DPA 2018;
“Data Protection Legislation”	means (i) the UK GDPR, the LED and any applicable national Laws implementing them as amended from time to time and any data protection laws substantially amending, replacing or superseding the GDPR following the United Kingdom’s exit from the European Union, or, and to the extent applicable, the data protection or privacy laws of any country, (ii) the DPA 2018 (iii) all applicable Law concerning privacy, confidentiality or the processing of personal data including, but not limited to, the Human Rights Act 1998, the Health and Social Care (Safety and Quality) Act 2015, the duty of confidentiality and the Privacy and Electronic Communications (EC Directive) Regulations 2003;

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“Deductions”	all Compensation for Delay Payments or any other deduction which is paid or payable to the Buyer under this Contract;
“Detailed Implementation Plan”	is amended in accordance with Attachment 6.1 (Implementation Plan);
“Due Diligence Information”	any information supplied to the Supplier by or on behalf of the Buyer prior to the Effective Date and prior to each relevant SOW;
“GDPR”	means UK GDPR;
“Implementation Plan”	has the meaning given in paragraph 2 of Attachment 6.1 (Implementation Plan) of the Order Form;
“Implementation Services”	The implementation services described as such in the Services Description and/or the relevant SOW Specification;
“Implementation Services Commencement Date”	the date on which the Supplier is to commence provision of the first of the Services under a SOW;
“Initial Implementation Plans”	has the meaning given in paragraph 3 of Attachment 6.1 (Implementation Plan) of the Order Form;
“Intervention Trigger Event”	<p>any event falling within limb (a), (b), (c), (e), (f) or (g) of the definition of a Supplier Termination Event;</p> <p>(a) a Default by the Supplier that is materially preventing or materially delaying the performance of the Services or any material part of the Services;</p> <p>(b) Not used</p> <p>(c) Not used</p> <p>(d) the Supplier not Achieving a Key Milestone within seventy-five (75) days of its relevant Milestone Date;</p>
“Key Personnel”	those persons appointed by the Supplier to fulfil the Key Roles, being the persons listed in Attachment 9.2 (Key Personnel) of the Order Form against each Key Role as at the Effective Date, the persons listed in any Statement of Work, or as amended from time to time in accordance with Clauses 14.5 and 14.6 (Key Personnel);
“Milestone”	an event or task described in the Implementation Plan or Statement of Work which, if applicable, shall be completed by the relevant Milestone Date;
“Milestone Date”	the target date set out against the relevant Milestone in the Implementation Plan or any Statement of Works by which the Milestone must be Achieved;

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“Minor KPI Failure”	has the meaning given in Part A paragraph 1 of Attachment 2.2 (Performance Levels) of the Order Form;
“LED”	the Data Protection Law Enforcement Directive (EU) 2016/680 (LED);
“Operational Changes”	is deleted
“Operational Service Commencement Date”	in relation to an Operational Service, the later of: (a) the date identified in each Implementation Plan upon which the relevant Operational Service is to commence; and (b) where an Implementation Plan states that the Supplier must have Achieved the relevant ATP Milestone before it can commence the provision of that Operational Service, the date upon which the Supplier Achieves the relevant ATP Milestone;
“Optional Services”	the services described as such in Attachment 2.1 (Services Description) of the Order Form and each SOW Specification which are to be provided by the Supplier if required by the Buyer in accordance with Clause 5.10 (Optional Services);
“Optional Services Implementation Plan”	the implementation plan(s) to affect the Optional Services agreed between the Parties prior to the Effective Date and, if not agreed prior to the Effective Date, to be developed by the Supplier and approved by the Buyer for each SOW;
“Optional Services”	“the services described as such in Attachment 2.1 (Services Description) of the Order Form which are to be provided by the Supplier if required by the Buyer as part of the commission of a Statement of Work or otherwise in accordance with Clause 5.10 (Optional Services);
“Outline Implementation Plan”	is amended in accordance with Attachment 6.1 (Implementation Plan) of the Order Form;
“Performance Monitoring Report”	has the meaning given in Part A paragraph 1 of Attachment 2.2 (Performance Levels) of the Order Form;
“Rectification Plan Failure”	has the meaning given in Part A paragraph 1 of Attachment 2.2 (Performance Levels) of the Order Form;
“Serious KPI Failure”	has the meaning given in Part A paragraph 1 of Attachment 2.2 (Performance Levels) of the Order Form;
“Service Credit Cap”	is deleted;

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“Service Credits”	is deleted;
“Service Points”	is deleted;
“Services Description”	the services description set out in Attachment 2.1 (Services Description) of the Order Form and each SOW Requirement;
“SOW Commissioning Process”	the process set out in Section 8 (Statement of Work Commissioning Process) of Attachment 2.1;
“SOW Requirements”	has the meaning given to it in Section 8 (Statement of Work Commissioning Process) of Attachment 2.1;
“SOW Solution”	has the meaning given to it in Section 8 (Statement of Work Commissioning Process) of Attachment 2.1;
“Statement of Works” “(SOW)”	the document which, upon its execution by the Buyer and Supplier, shall become incorporated into their Call-Off Contract and outlines the agreed body of works to be undertaken as part of the Call-Off Contract Deliverables. There may be any number of Statements of Work incorporated into a Call-Off Contract and each Statement of Work may include (but is not limited to) the Statement of Requirements, identified output(s), completion date(s) and charging method(s);
“Statement of Works Template”	has the meaning given to it in Section 8 (Statements of Work) of Attachment 2.1;
“Supplier Solution”	the Supplier's solution for the Services provided as part of its tender response and each SOW Solution;
“Term”	shall be amended to “the period commencing on the Effective Date and ending on the earlier of: <ul style="list-style-type: none"> (a) expiry of the Initial Term or any Extension Period; (b) the date of completion of the last Deliverable due under the last Statement of Work under the Call-Off Contract; (c) termination of this Contract or the last Statement of Work under the Call-Off Contract;
“Termination Payments”	has the meaning given in paragraph 2 of Attachment 7.2 (Maximum Payments on Termination);
“UK GDPR”	Regulation (EU) 2106/679 as transposed into the United Kingdom's national law by the operation of section 3 of the EU (Withdrawal) Act 2018 (and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019);

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2. Additional/Alternative Call-Off Contract terms**2.1. Clauses 1.4, 1.5 and 1.6 (Definitions and Interpretation)**

For the purposes of this Order Form, Clauses 1.4, 1.5 and 1.6 (Definitions and Interpretation) of the Call Off Contract is amended to read as follows:

1.4 If there is any conflict between the Order Form (including Attachments and any Annexes), these Call Off Terms (including Schedules and its Annexes) and the provisions of the Framework, the conflict shall be resolved in accordance with the following order of precedence:

- (a) the Framework, except Framework Schedule 18 (Tender);*
- (b) the Order Form and its Attachments (other than Attachment 4.1 (Supplier Solution) and its Annexes) and Schedule 2.2 (Performance Levels) and its Annexes;*
- (c) any executed Statement of Work;*
- (d) these Call-Off Terms (including the Schedules and their Annexes) (other than Schedule 2.2 (Performance Levels) and its Annexes which is dealt with above in (b));*
- (e) Attachment 4.1 (Supplier Solution) and its Annexes (if any); and*
- (f) Framework Schedule 18 (Tender).*

1.5 The Schedules and their Annexes and Order Form (including Attachments and their Annexes) and executed Statements of Work form part of this Contract.

1.6 In entering into this Contract the Buyer is not acting as part of the Crown.

2.2. Clause 3.3 (Warranties)

For the purposes of this Order Form, Clause 3.3 (Warranties) of the Call Off Contract is amended to read as follows:

3.3 The representations and warranties set out in Clause 3.2 shall be deemed to be repeated by the Supplier on the Effective Date (if later than the date of signature of this Contract) and the date of each Statement of Works by reference to the facts then existing.

2.3. Clause 5.1 (Services)

For the purposes of this Order Form, Clause 5.1 (Services) of the Call Off Contract is amended to read as follows:

5.1 The Supplier shall provide:

- (a) the Implementation Services from (and including) the relevant Implementation Services Commencement Date; and*
- (b) the Operational Services in each case from (and including) the relevant Operational Service Commencement Date.*

2.4. Clause 6 (Implementation Plan)

For the purposes of this Order Form, Clause 6 (Implementation Plan) of the Call Off Contract is amended in accordance with Attachment 6.1 (Implementation Plan) of the Order Form.

2.5. Clause 7 (Performance Indicators)

For the purposes of this Order Form, Clause 7 (Performance Indicators) has been deleted and replaced with a new Clause 7 as set out in Part A paragraph 2.1 of Attachment 2.2 (Performance Levels) of the Order Form.

2.6. Clauses 9.1 and 9.4 (Equipment and Maintenance)

For the purposes of this Order Form, Clause 9.1 (Equipment and Maintenance) of the Call Off Contract is amended to read as follows:

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9.1 The Supplier shall be solely responsible for the cost of carriage of Supplier Equipment to the Sites and to the Buyer Premises, including its off-loading, removal of all packaging and all other associated costs. Likewise on termination or expiry of this Contract and/or a SOW the Supplier shall be responsible for the removal and safe disposal of all relevant Supplier Equipment from the Sites and the Buyer Premises, including the cost of packing, carriage and making good the Sites and/or the Buyer Premises following removal, and taking account of any sustainability requirements, including safe removal of data and recycling requirements.

For the purposes of this Order Form, Clause 9.4 (Equipment and Maintenance) of the Call Off Contract is amended to read as follows:

9.4 Where, as part of the Services, the Supplier is to provide maintenance services, the Supplier shall create and maintain a rolling schedule of planned maintenance to the IT Environment (the "Maintenance Schedule") which shall be agreed with the Buyer. Once the Maintenance Schedule has been agreed with the Buyer Representative, the Supplier shall only undertake such planned maintenance (which shall be known as "Permitted Maintenance") in accordance with the Maintenance Schedule.

2.7. Clause 10.1 and Clauses 10.6 and 10.7 (Financial and Taxation Matters)

For the purposes of this Order Form, Clause 10.1 (Financial and Taxation Matters) of the Call Off Contract is amended to read as follows and a new Clause 10.1A is added:

10.1 In consideration of the Supplier carrying out its obligations under this Contract, including the provision of the Services, the Buyer shall pay the Charges to the Supplier in accordance with the pricing and payment profile and the invoicing procedure specified in Schedule 7.1 (Charges and Invoicing) and as detailed for each SOW.

10.1A Clause 10.1 shall be subject to the maximum amount agreed under each separate Statement of Work ("Maximum Amount"), and such Maximum Amount shall not be exceeded unless authorised in writing by the Buyer in advance. The Supplier will notify the Buyer as soon as reasonably practicable after becoming aware that it will be necessary to exceed the Maximum Amount in order to complete a Statement of Work.

For the purposes of this Order Form, Clauses 10.6 and 10.7 (Financial and Taxation Matters) of the Call Off Contract are amended to read as follows:

10.6 The Buyer may set off any amount owed by the Supplier to the Buyer or any part of the Buyer against any amount due to the Supplier under this Contract or under any other agreement between the Supplier and the Buyer.

10.7 If the Buyer wishes to:

- (a) set off any amount owed by the Supplier to the Buyer or any part of the Crown (including the Buyer) against any amount due to the Supplier pursuant to Clause 10.6; or*
- (b) exercise its right pursuant to Clause 7.2(d)(ii) (Performance Failures) to withhold payment of a proportion of the Service Charges,*

it shall give notice to the Supplier within thirty (30) days of receipt of the relevant invoice, setting out the Buyer's reasons for withholding or retaining the relevant Charges.

2.8. Clause 14.1(b) (Supplier Personnel)

For the purposes of this Order Form, Clause 14.1(b) (Supplier Personnel) of the Call Off Contract is amended as follows:

(b) ensure that all Supplier Personnel:

- (i) are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;*

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- (ii) *are vetted in accordance with Good Industry Practice and, where applicable, the security requirements set out in Attachment 2.1 (Services Description) of the Order Form and Schedule 2.4 (Security Management) or as otherwise required under a SOW; and*
- (iii) *comply with all reasonable requirements of the Buyer concerning conduct at the Buyer Premises, including the security requirements as set out in Schedule 2.4 (Security Management);*

2.9. Clause 17.3 Supplier Software and Supplier Background IPRs

For the purposes of this Order Form, Clause 17.3 (Supplier Software and Supplier Background IPRs) of the Call Off Contract is amended to read as follows:

17.3 The Supplier shall not use any Supplier Non-COTS Software or Supplier Non-COTS Background IPR in the provision of the Services without the Buyer's prior written agreement.

2.10. Clause 25.4(c) (Financial and Other Limits)

For the purposes of this Order Form, Clause 25.4(c) (Financial and Other Limits) of the Call Off Contract is deleted.

2.11. Clause 27 (Rectification Plan Process)

For the purposes of this Order Form, Clause 27 of the Call Off Contract has been deleted and replaced with a new Clause 27 as set out in Part A paragraph 2.2 of Attachment 2.2 (Performance Levels) of the Order Form

2.12. Clause 29 (Remedial Adviser)

For the purposes of this Order Form, Clause 29 (Remedial Adviser) of the Call Off Contract has been amended in accordance with paragraph 2.3 of Part A of Attachment 2.2 (Performance Levels).

2.13. Clause 31.1(iv)(A) (Buyer Cause)

For the purposes of this Order Form, Clause 31.1(iv)(A) (Buyer Cause) of the Call Off Contract is deleted.

2.14. Clause 32.6(b)(i)(C) (Force Majeure)

For the purposes of this Order Form, Clause 32.6(b)(i)(C) (Force Majeure) of the Call Off Contract is amended as follows:

(C) to withhold any of the Service Charges pursuant to Clause 7.2(d)(ii) (Performance Failures) or withhold and retain any of the Service Charges as compensation pursuant to Clause 7.4(a) (Unacceptable KPI Failure) to the extent that a Performance Failure has been caused by the Force Majeure Event; and

2.15. New Clause 33.2A Termination of SOWs

For the purposes of this Order Form, a new Clause 33.2A has been added to the Call Off Contract:

33.2A.1 Without prejudice to the rights and liabilities of the Parties under Clause 33 (Termination Rights) of the Call Off Contract Terms, and subject to the provisions of paragraph 33.2A.2 below, the Buyer has the right to terminate a Statement of Work at any time without reason and without compensation or costs by giving the Supplier not less than 30 days' written notice.

33.2A.2 Where the Buyer exercises its rights to terminate a SOW in accordance with Clause 33.2A.1 above, the provisions of Clause 34.3 (Consequences of Expiry or Termination) of the Call Off Contract Terms will apply to the termination of a SOW and the Deliverables under it in the same way such apply to termination of the Call-Off Contract under Clause 34.3 of the Call Off Contract.

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33.2A.3 The right of the Buyer under Clause 33.2 (Termination Rights) of the Call Off Contract to serve a Termination Notice requiring the partial termination of this Contract shall include the right to require termination of one or more Statements of Work to the extent that it relates to any part of the Services which are materially affected by the relevant circumstances.

3. Alternative / Amended Schedules**3.1. Schedule 2.2 (Performance Levels)**

For the purposes of this Order Form, Schedule 2.2 (Performance Levels) of the Call Off Contract has been amended in accordance with Paragraph 3 of Part A of Attachment 2.2 (Performance Levels) of the Order Form.

3.2. Schedule 2.3 (Standards and Environmental Requirements)

For the purposes of this Order Form, Schedule 2.3 (Standards and Environmental Requirements) of the Call Off Contract has been amended in accordance with Attachment 2.3 Part A of the Order Form.

3.3. Schedule 4.1 (Supplier Solution)

For the purposes of this Order Form, Schedule 4.1 (Supplier Solution) of the Call Off Contract is amended in accordance with Attachment 4.1 (Supplier Solution) of the Order Form.

3.4. Schedule 6.1 (Implementation Plan)

For the purposes of this Order Form, Schedule 6.1 (Implementation Plan) of the Call Off Contract is replaced Attachment 6.1 (Implementation Plan) of the Order Form.

3.5. Schedule 8.1 (Governance)

For the purposes of this Order Form, Schedule 8.1 (Governance) of the Call Off Contract is not used and is replaced with Attachment 13 (NHSE Contract Management) of the Order Form.

3.6. New Attachment 12 (NHSE Required Terms)

New Attachment 12 (NHSE Required Terms) of the Order Form applies to this Order Form.

3.7. New Attachment 13 (Contract Management)

New Attachment 13 (Contract Management) of the Order Form applies to this Order Form.



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**RM6100 Technology Services 3
Lot 4 Order Form Attachments**

These Attachments include amendments to the Call Off Contract Schedules as summarised in Annex 1 (Call Off Terms and Additional/Alternative Clauses) of the Order Form.

Contents

Attachment to the Order Form	Schedule to the Call-Off Terms
Attachment 2.1 (Services Description)	See Schedule 2.1 (Services Description)
Attachment 2.2 (Key Performance Indicators and Subsidiary Performance Indicators Tables)	See Schedule 2.2 (Performance Levels)
Attachment 2.3 (Environmental Requirements)	See Schedule 2.3 (Standards)
Attachment 2.4 (Information Management System)	See Schedule 2.4 (Security Management)
Attachment 3 (Buyer Responsibilities)	See Schedule 3 (Buyer Responsibilities)
Attachment 4.1 (Supplier Solution)	See Schedule 4.1 (Supplier Solution)
Attachment 4.2 (Commercially Sensitive Information)	See Schedule 4.2 (Commercially Sensitive Information)
Attachment 4.3 (Notified Key Sub-Contractors)	See Schedule 4.3 (Key Sub-Contractors)
Attachment 4.4 (Third Party Contracts)	See Schedule 4.4 (Third Party Contracts)
Attachment 5 (Software)	See Schedule 5 (Software)
Attachment 6.1 (Implementation Plan)	See Schedule 6.1 (Implementation Plan)
Attachment 6.2 (Test Success Criteria)	See Schedule 6.2 (Testing Procedures)
Attachment 7.1 (Charges)	See Schedule 7.1 (Charges and Invoicing)
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Attachment 7.3 (Approved Benchmarkers)	See Schedule 7.3 (Benchmarking)
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Attachment 8.4 (Transparency Reports and Records to Upload to Virtual Library)	See Schedule 8.4 (Reports and Records Provision)
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Attachment 9.2 (Key Personnel)	See Schedule 9.2 (Key Personnel)
Attachment 11 (Processing Personal Data)	See Schedule 11 (Processing Personal Data)
Attachment 12 (NHS England Provisions)	Additional provisions required to reflect the nature of NHS England as an organisation (NHS England Provisions)
Attachment 13 (Contract Management)	N/A



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Attachment 2.1 – Services Description

Please refer to Call Off Contract Schedule 2.1 (Services Description)



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Attachment 2.2 – Key Performance Indicators and Subsidiary Performance Indicators Tables

This Attachment 2.2 sets out the following:

Part A – amendments and additions to the Call off Contract for service levels and performance indicators (Clauses 7 (Performance Indicators), 27 (Rectification Plan Process) and 29 (Remedial Adviser), and Schedule 1 (Definitions) and Schedule 2.2 (Performance Levels) of the Call off Contract.

Part B - the Service Level provisions for this contract, together with the Key Performance Indicators and Subsidiary Indicators (if any) to the Contract as a whole. Additional or supplementary Key Performance Indicators and Subsidiary Indicators shall be detailed in each individual Statement of Work.

Attachment 2.2 Part A – Amendments to Definitions, Clauses 7, 27 and 29 and to Schedule 2.2 of the Call Off Contract

1. Additional/Amended Definitions

The following new and amended definitions shall apply to this Order Form:

“Critical KPI Failure” shall be a Serious KPI Failure that has occurred and repeated within 2 months consecutively (across one or more SOWs);

“Minor KPI Failure” shall be a failure to meet the relevant KPI and/or Target Performance Level designated to be a Minor KPI Failure in the KPI Table set out in Part B of Attachment 2 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of the Order Form;

“Performance Monitoring Report” has the meaning given to it in new Clause 7.5 (as set out in Part A of Attachment 2.2 of the Order Form);

“Rectification Plan Failure” limb (d) of the definition of Rectification Plan Failure shall not apply to this Order Form;

“Serious KPI Failure” shall be a failure to meet the relevant KPI and/or Target Performance Level designated to be a Serious KPI Failure in the KPI Table set out in Part B of Attachment 2 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of the Order Form;



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2. Amendments to the Call Off Contract

2.1 Amendments to Clause 7 (Performance Indicators)

Clause 7 of the Call Off Contract shall be deleted and replaced with the following provisions for the purposes of this Order Form:

Performance Obligations

7.1 The Supplier shall:

- (a) provide the Operational Services in such a manner so as to meet or exceed the Target Performance Level for each Performance Indicator; and
- (b) comply with the provisions of Schedule 2.2 (Performance Levels) (as amended by Attachment 2.2) in relation to the monitoring and reporting on its performance against the Performance Indicators.

Performance Failures

7.2 If the level of performance of the Supplier:

- (a) is likely to or fails to meet any of the Minor KPI Failure threshold as set out in Part B of Attachment 2.2 (Key Performance Indicators and Subsidiary Performance Indicators Tables); or
- (b) is likely to cause or causes a Serious KPI Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

- (i) require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Minor KPI Failure or Serious KPI Failure from taking place or recurring; and/or
- (ii) instruct the Supplier to comply with the Rectification Plan Process.

7.3 If a Critical Performance Failure occurs, the Buyer may exercise its rights to terminate this Contract in whole or in part (including the termination of a SOW) pursuant to Clause 33.1 or 33.2 (Termination by the Buyer).



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Performance Monitoring and Performance Review

7.4 Within twenty (20) Working Days of the start date of the contract the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of KPIs will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.

7.5 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to this Clause 7.4 which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:

- (a) for each KPI, the actual performance achieved over the KPI for the relevant Service Period (1 month);
- (b) a summary of all failures to achieve Service Levels that occurred during that Service Period (1 month);
- (c) details of any Serious KPI Failures;
- (d) for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence; and
- (e) such other details as the Buyer may reasonably require from time to time.

7.6 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:

- (a) take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
- (b) be attended by the Supplier's Representative and the Buyer's Representative; and
- (c) be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.

7.7 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.

7.8 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier.

Changes to Performance Indicators



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7.9 Not more than once in each Contract Year the Buyer may, on giving the Supplier at least 3 months' notice change the weighting that applies in respect of one or more specific Key Performance Indicators.

7.10 The Supplier shall not be entitled to object to any changes made by the Buyer under Clause 7.9, or increase the Service Charges as a result of such changes provided that:

(a) the total number of Key Performance Indicators does not exceed 10; and

(b) the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards.

7.11 The provisions of clauses 7.9 and 7.10 do not limit the ability of the Buyer to set additional Key Performance Indicators for each SOW.

2.2 Amendments to Clause 27 (Rectification Plan Process)

Clause 27.1 of the Call Off Contract shall be deleted and replaced with the following provisions for the purposes of this Order Form. Clauses 27.2 to 27.9 apply as set out in the Call Off Contract:

27.1 In the event that:

(a) there is, or is reasonably likely to be, a Delay; and/or

(b) in any Service Period there has been a KPI Failure; and/or

(c) 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),

(each a "**Notifiable Default**"), the Supplier shall notify the Buyer 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 Buyer may not terminate this Contract in whole or in part on the grounds of the Notifiable Default without first following the Rectification Plan Process.



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2.3 Deletion of Clause 29 (Remedial Adviser)

Clause 29 (Remedial Adviser) shall not apply to this Order Form.

3. Amendments to Schedule 2.2 (Performance Levels)

3.1 Deletion of Parts A and B of Schedule 2.2

Parts A and B of Call Off Contract Schedule 2.2 (Performance Levels) shall be deleted and replaced with the following provisions for the purposes of this Order Form:

1. PERFORMANCE INDICATORS

1.1 Attachment 2.2 (Key Performance Indicators and Subsidiary Performance Indicators) of the Order Form sets out the Key Performance Indicators and Subsidiary Performance Indicators which the Parties have agreed shall be used to measure the performance of the Services by the Supplier.

1.2 The Supplier shall monitor its performance against each Performance Indicator and shall send the Buyer a report detailing the level of service actually achieved in accordance with the provisions of new Clause 7 (as set out in Part A of Attachment 2.2).

3.2 Annex 1 to Schedule 2.2

Annex 1 to Schedule 2.2 shall apply to this Order Form.



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Attachment 2.2 Part B - Key Performance Indicators and Subsidiary Performance Indicators

The Key Performance Indicators and Subsidiary Performance Indicators that shall apply to the Operational Services are set out below:

1. Key Performance Indicators

No.	Key Performance Indicator Title	Definition	Frequency of Measurement	Severity Levels	Service Points	Publishable Performance Information
[Redacted Content]						



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[Redacted]					
[Redacted]					

Additional KPI's will be detailed in individual SOWs using the format above.

2. Subsidiary Performance Indicators

No.	Subsidiary Performance Indicator Title	Definition	Frequency of Measurement	Severity Levels	Publishable Performance Information
	Not used				

Additional Subsidiary Performance Indicators will be detailed in individual SOWs using the format above.



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Attachment 2.3 – Standards and Environmental Requirements

This Attachment 2.3 sets out the following:

Part A – Additional Standards

Part B - the Tables referenced in the Annex to Schedule 2.3 (Environmental Requirements).

Attachment 2.3 Part A - Additional Standards

In addition to the Standards set out at Schedule 2.3 (Standards) the following additional standards shall apply to this Order Form and all references to Standards in the Contract shall include the standards marked as “Applies” in the tables below:

Standard	Applies
COMMERCIAL STANDARDS	
BS ISO 22301 Business Continuity Accreditation certificate or Evidence of a robust Business Continuity and Disaster Recovery Plan	<input checked="" type="checkbox"/>
NHS IT Contracting Model	<input type="checkbox"/>
ISO 14001 Environmental Management	<input type="checkbox"/>
BS9997 Fire Risk Management Systems compliance	<input type="checkbox"/>
Compliance with Waste Electrical and Electronic Equipment Directive (WEEE Directive 2012/19/EU)	<input type="checkbox"/>
Compliance with Directive 2007/47/EC where a product contains phthalates, this must be indicated on the packaging of the product in line with the Directive.	<input type="checkbox"/>
Compliance with Restriction of the use of certain hazardous substances in electrical and electronic equipment directive (RoHS 2 Directive 2011/65/EU)	<input type="checkbox"/>
Compliance with the Sanctions, Embargoes and Restrictions government policy	<input type="checkbox"/>
ISO 50001 Energy Management Systems compliance or accreditation	<input type="checkbox"/>
Compliance with EU Code of Conduct	<input type="checkbox"/>
Compliance with the NHS Network QoS (Quality of Service) Policy	<input type="checkbox"/>
Supplier code of conduct	<input type="checkbox"/>
INFORMATION GOVERNANCE, DATA SECURITY AND QUALITY STANDARDS	
ISO 9001:2015 Quality management systems certification or an equivalent recognised quality management system (QMS) certification	<input checked="" type="checkbox"/>
BS ISO 22301:2012 Societal security – Business Continuity management systems – Requirements	<input checked="" type="checkbox"/>
BS ISO 27001:2013 Information and Data Security	<input checked="" type="checkbox"/>
BS ISO/IEC 27002:2013 Information technology — Security techniques — Code of practice for information security controls	<input checked="" type="checkbox"/>
Cyber Essentials	<input checked="" type="checkbox"/>



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Standard	Applies
Cyber Essentials Plus	<input checked="" type="checkbox"/>
National Data Guardian's Data 10 Security Standards compliance https://www.ncsc.gov.uk/guidance/10-steps-cyber-security	<input checked="" type="checkbox"/>
Demonstrate compliance with all mandatory assertions in the NHS Data Security and Protection Toolkit (DSPT) for the relevant organisation type.	<input checked="" type="checkbox"/>
BS 10008:2014 Evidential Weight and Legal Admissibility of Electronic Information (Code of Practice) - Accreditation	<input type="checkbox"/>
BS ISO 15489-1:2016 Information and Documentation Records Management compliance	<input type="checkbox"/>
BS7858:2012 Security Screening of Individuals Employed in a Security Environment (Code of Practice) compliance	<input checked="" type="checkbox"/>
BS EN 15713:2009 Secure Destruction of Confidential Material (Code of Practice) certification	<input type="checkbox"/>
Compliance / accreditation to NHS and social care data: offshoring and the use of public cloud services guidance	<input checked="" type="checkbox"/>
DEVELOPMENT AND DESIGN STANDARDS	
BS ISO/IEC 12207:2017 Systems and software engineering.	<input checked="" type="checkbox"/>
BS 8878:2010 Web accessibility. Code of Practice.	<input checked="" type="checkbox"/>
Open Standards: "Open Standards Principles 2018: For software interoperability, data and document formats in government IT specifications" (which can be found at https://www.gov.uk/government/publications/open-standards-principles) and any supplementary or replacement government guidance.	<input checked="" type="checkbox"/>
Adopted Open Standards as detailed on the Standards Hub https://www.gov.uk/government/publications/open-standards-for-government	<input checked="" type="checkbox"/>
Web Content Accessibility Guidelines (WCAG) 2.0 to level AA; or WCAG 2.1, (as updated pursuant to the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018).	<input checked="" type="checkbox"/>
Compliance with MHRA medical device standards where the Solution is considered by the supplier to be a medical device.	<input type="checkbox"/>
Compliance with BS EN 60601-1-2:2015 Medical Electrical Equipment	<input type="checkbox"/>
BS EN 80601-2-30:2010+A1:2015 Medical Electrical Equipment compliance – Product must be registered / approved with the British and Irish Hypertension Society and meet at least one of the following testing standards: • ESH International Protocol 2002 (IP1)	<input type="checkbox"/>
Safety Data Sheets (SDS) for all products that fall under REACH (Registration, Evaluation, Authorisation and restriction of Chemicals) 2007 – more specifically, a SDS must be provided if a substance or a mixture supplied is classified as hazardous under t	<input type="checkbox"/>
The International Software Testing Standard – ISO/IEC/IEEE 29119 is a guide to suppliers on what level of quality NHS England expects from software development testing.	<input checked="" type="checkbox"/>



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Standard	Applies
Compliance with Medical Devices Directive 93/42/EEC. All products must have their CE marking evident on the product and/or packaging. Class IIa Medical Device	<input type="checkbox"/>
Compliance with Directive 2006/95/EC (as amended and replacing Directive 73/23/EEC) for electrical equipment designed for use within certain voltage limits.	<input type="checkbox"/>
Compliance with Electromagnetic Compatibility Directive 2004/108/EC	<input type="checkbox"/>
BS EN 50600 series; - Building construction - Power Distribution accreditation - Environmental Control - Telecommunications cabling infrastructure - Security Systems - Management and operational information - Overview of and general requirements for key	<input type="checkbox"/>
BS EN 50131-1:2006 intrusion and hold-up alarm systems (I&HAS) compliance	<input type="checkbox"/>
Encryption Accredited to FIPS 140-2 and have received Augmented Grade Commercial Product Assurance (CPA) accreditation.	<input type="checkbox"/>
HEALTH RELATED INFRASTRUCTURE AND SERVICE STANDARDS	
NHS Service Standards (and references therein): http://service-manual.nhs.uk/service-standard	<input checked="" type="checkbox"/>
The NHS digital, data and technology standards and clinical information standards as set out in this link and associated pages (as updated from time to time): http://digital.nhs.uk/about-nhs-digital/our-work/nhs-digital-data-and-technology-standards	<input checked="" type="checkbox"/>
The Health and Social Care Network (HSCN)	<input checked="" type="checkbox"/>
SPINE	<input checked="" type="checkbox"/>
Care Identity Service	<input checked="" type="checkbox"/>
NHS Identity OpenID Connect:	<input checked="" type="checkbox"/>
NHS Identity OAUTH2:	<input checked="" type="checkbox"/>
NHS Identity FIDO2:	<input checked="" type="checkbox"/>
The e-RS (e-Referral Service)	<input type="checkbox"/>
INFRASTRUCTURE STANDARDS	
DCB0129 compliance – Clinical Safety Risk assessment	<input checked="" type="checkbox"/>
DCB01260 compliance – Clinical Safety Case	<input checked="" type="checkbox"/>
Health and Social Care email services must be designed in accordance with the principles of DCB 1596 secure email standard.	<input checked="" type="checkbox"/>



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Standard	Applies
INTEROPERABILITY STANDARDS	
Use the SNOMED CT Standard as defined by SNOMED International. SNOMED CT (SCCI 0034) and the NHS Digital Terminology Service (as updated from time to time).	<input checked="" type="checkbox"/>
Registration and accreditation with NHS Digital Technology Assessment Criteria (DTAC) (as updated from time to time) or evidence registration has commenced with an aim to obtain accreditation by 31st December 2021 or by the latest 31st March 2022	<input type="checkbox"/>
Interoperability must comply with relevant NHS Digital Interoperability Standards (as updated from time to time)	<input checked="" type="checkbox"/>
Fast Healthcare Interoperability Resources (FHIR) standards developed by HL7.	<input checked="" type="checkbox"/>
CLINICAL INFORMATION STANDARDS	
Compliance with ICD-10 (International Statistical Classification of Diseases and Related Health Problems) where ICD encoding is required	<input type="checkbox"/>
Compliance with OPCS-4 standard where OPCS encoding is required (the statistical classification for clinical coding of hospital interventions and procedures undertaken by the NHS).	<input type="checkbox"/>
Compliance with Access to Health Records Act (1990) in respect of Information Governance.	<input checked="" type="checkbox"/>
Compliance with NHS Act 2006 (Section 251) (previously Section 60 of the Health and Social Care Act 2001) in respect of Information Governance.	<input checked="" type="checkbox"/>
Compliance with NHS (Venereal Diseases) Regulations (1974) in respect of Information Governance.	<input type="checkbox"/>
Compliance with NHS Data Dictionary and Manual in respect of Information Governance.	<input checked="" type="checkbox"/>
Compliance with Records Management - NHS Code of Practice (DHSC) in respect of Information Governance.	<input checked="" type="checkbox"/>
Compliance with NIST Cryptography Standards in respect of Information Governance.	<input checked="" type="checkbox"/>
Compliance with ISB 0149 NHS Number Standard	<input checked="" type="checkbox"/>
Compliance with ISB 1077 - AIDC for Patient Identification where Automatic identification and data capture (AIDC) is used	<input type="checkbox"/>
Compliance with ISB 0108 - AIDC Automatic Identification and Data Capture where Automatic identification and data capture (AIDC) is used	<input type="checkbox"/>



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Attachment 2.3 Part B – Environmental Requirements

TABLE A – Prohibited Items

The following consumer single use plastics are Prohibited Items:	Catering <ul style="list-style-type: none"> • Single use sachets e.g. coffee pods, sauce sachets, milk sachets • Take away cutlery • Take away boxes and plates • Cups made wholly or partially of plastic • Straws • Stirrers • Water bottles
	Facilities <ul style="list-style-type: none"> • Single use containers e.g. hand soap, cleaning products • Wipes containing plastic
	Office Supplies <ul style="list-style-type: none"> • Plastic envelopes • Plastic wrapping for brochures • Paper or card which is bleached with chlorine
	Packaging <ul style="list-style-type: none"> • Single use plastic packaging from deliveries where avoidable e.g. shrink wrapped packaging from office supplier or facilities products. • Single use carrier bags
Buyer specific Prohibitions	Not used
Project specific Prohibitions	Not used



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TABLE B – Permitted Items

Buyer Permitted Items	Not used
Project Specific Permitted Items	Not used

TABLE C – Sustainability Reports

The supplier is required to complete the Social Value KPI Return Template contained in the Bid pack post award which shall be incorporated into this Order Form. Please refer to the template for Social Value KPI reporting requirements.



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Attachment 2.4 – Information Management System

Not Applicable.



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Attachment 3 – Buyer Responsibilities

1. Introduction

- 1.1. The responsibilities of the Buyer set out in Attachment 3 (Buyer Responsibilities) of the Order Form shall constitute the Buyer Responsibilities under this Contract. Any obligations of the Buyer in Attachment 2.1 (Services Description) of the Order Form, Attachment 4.1 (Supplier Solution) of the Order Form and any SOW Solution shall not be Buyer Responsibilities and the Buyer shall have no obligation to perform any such obligations unless they are specifically stated to be “Buyer Responsibilities” and cross referenced in the table in Attachment 3 (Buyer Responsibilities) of the Order Form or a Statement of Work.
- 1.2. The responsibilities specified within this Schedule and Attachment 3 (Buyer Responsibilities) of the Order Form and any additional responsibilities specified in any Statement of Work shall be provided to the Supplier free of charge, unless otherwise agreed between the Parties.

2. General

The Buyer shall, in relation to this Contract perform the Buyer's responsibilities identified as such in each Statement of Work and below:

- 2.1. Defining outline SOW requirements;
- 2.2. Participating in all Governance forums as detailed in Attachment 13 (Contract Management);
- 2.3. Providing management decisions in a timely manner and arranging for a delegate for any period of absence;
- 2.4. Operational processes - for example, defining and setting up an effective organisation, people and processes;
- 2.5. Agreeing appropriate data processing agreements (and the Supplier will support the Buyer in preparing its DPIA and Transparency Notice). The Supplier will comply with all reasonable requests for information;
- 2.6. Defining the business and technical architecture within which the Service requirements are delivered, working in collaboration with the Supplier and taking the Supplier's expertise and advice into reasonable consideration;
- 2.7. Ensuring that Deliverables that are delivered by the Supplier in a timely manner are reviewed and approved by the Buyer in a timely manner;
- 2.8. Managing its own staff and its own third-party suppliers effectively and in accordance with the provisions of this Call-Off Contract;
- 2.9. Being responsible for its third parties including co-ordination, management of their performance, timeliness, and quality of their input and work;
- 2.10. Where reasonably requested by the Supplier, providing to the Supplier timely access to the Buyer's third-party suppliers as may be reasonably required to support the provision of the Services in accordance with this Contract. The Buyer shall procure that where reasonably necessary, the Buyer's third-party suppliers cooperate with and provide necessary assistance, information and access to their relevant systems and personnel, to the Supplier during the term of this Contract. Without prejudice to the generality of



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the foregoing, the Buyer will, and procure that third party suppliers will, (a) provide reasonable assistance to the Supplier in identifying, addressing and resolving any business or technical issues that may impact the Services and/or the Solution, and (b) perform all relevant obligations, responsibilities and dependencies set out in this Contract;

- 2.11. Liaising directly with all other interested stakeholders as necessary (including but not limited to responding to Parliamentary Questions, and responding to audits and reviews by bodies such as the Infrastructure and Projects Authority and National Audit Office);
- 2.12. Providing Supplier with any internal policies, codes, or procedures that Buyer requires Supplier to comply with, prior to the commencement of the Services;
- 2.13. Giving Supplier all the information that is necessary for the performance of the Services, including responding to requests for information promptly and in any event within two Working Days or such other timescale agreed between the Parties from time to time;
- 2.14. Ensuring information provided by the Buyer to the Supplier is true, accurate and comprehensive;
- 2.15. Procure that it or any relevant third party is responsible for any required changes to other systems including the implementation of required changes to e.g. gov.uk, NPEX;
- 2.16. Where it is agreed that Supplier personnel shall work from Buyer premises, providing all necessary office space and equipment, IT systems access, internet connectivity and ancillary facilities;
- 2.17. In respect of clinical safety, specifying requirements and all decision-making relating to clinical safety matters;
- 2.18. Where the Supplier is required to use the products or services of a Buyer's third-party vendor, procuring that such products or services shall be suitable to meet the requirements of the Buyer;
- 2.19. The Buyer shall provide the Supplier with accurate and complete information, data and assumptions used in the preparation of analysis or development or QA/testing;
- 2.20. The Buyer is responsible for procuring that its third-party suppliers and their infrastructure, solutions and services are provisioned for delivery of the Services; and
- 2.21. Providing such assistance and cooperation as is reasonably necessary for the Supplier to provide the Services.



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Attachment 4.1 – Supplier Solution

1. SOW Solution

- 1.1. References to the Buyer Requirements in the Contract shall include references to each SOW Requirement provided by the Buyer in accordance with the SOW Commissioning Process set out in Attachment 2.1.
- 1.2. References to the Supplier Solution in the Contract shall include references to each SOW Solution provided by the Supplier in accordance with the SOW Commissioning Process.

2. Supplier Solution

- 2.1. The Supplier Solution provided as part of the Supplier's bid for this Contract is set out in **Attachment 4.1 – Supplier Solution Annex 1** (Attached as an external document).



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Attachment 4.2 – Commercially Sensitive Information

Commercially Sensitive Information

No.	Date	Item(s)	Duration of Confidentiality
1	30/06/24	Supplier Rate Card	Perpetual
2	30/06/24	Staff Names	Perpetual
3	30/06/24	Tender Submission	Perpetual



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Attachment 4.3 – Notified Key Sub-Contractors

- 1 In accordance with Clause 15.10A (*Appointment of Key Sub-contractors*), the Supplier is entitled to sub-contract its obligations under this Contract to the Key Sub-contractors listed in the table below.

Attachment 4.3 – Notified Key Sub-Contractors Annex 1 (Attached as External Document)

- 2 The Parties agree that they will update this Attachment periodically to record any Key Sub-contractors appointed by the Supplier with the consent of the Buyer after the Effective Date and for each Statement of Works for the purposes of the delivery of the Services.



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Attachment 4.4 – Third Party Contracts

- 1 The contracts listed in the table below constitute Third Party Contracts entered into exclusively for the purposes of delivering the Services.
- 2 The Supplier shall be entitled to update this Attachment in accordance with Clause 15.5 (Appointment of Sub-contractors) and as relevant for each Statement of Works in accordance with the SOW Commissioning Process (as set out in Attachment 2.1).

Third party supplier name and address (if not the same as the registered office)	Registered office and company number	Related product/service description
Not Used		



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Attachment 5 – Software

The Software below is licensed to the Buyer in accordance with Clauses 16 (*Intellectual Property Rights*) and 17 (*Licences Granted by the Supplier*).

The Parties agree that they will update this Attachment periodically to record any Supplier Software or Third-Party Software subsequently licensed by the Supplier or third parties for the purposes of the delivery of the Services.

1 SUPPLIER SOFTWARE

The Supplier Software includes the following items:

Software	Supplier (if an Affiliate of the Supplier)	Purpose	Number of Licences	Restrictions	Number of Copies	Type (COTS or Non-COTS)	Term/ Expiry
N/a	N/a	N/a	N/a	N/a	N/a	N/a	N/a

2 THIRD PARTY SOFTWARE

The Third-Party Software shall include the following items:

Third Party Software	Supplier	Purpose	Number of Licences	Restrictions	Number of Copies	Type (COTS or Non-COTS)	Term/ Expiry
N/a	N/a	N/a	N/a	N/a	N/a	N/a	N/a



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Attachment 6.1 – Implementation Plan

This attachment 6.1 replaces Schedule 6.1 (Implementation Plan) in its entirety.

1. Introduction

1.1. This Attachment 6.1 defines the process for the preparation and implementation of the Implementation Plan for each relevant SOW.

1.2. This attachment 6.1 replaces Schedule 6.1 (Implementation Plan) in its entirety.

2. Amendments to the Call-Off Contract

The following amendments shall apply to the Call-Off Contract for the purposes of this Order Form:

2.1. Definitions

The following definitions are amended for the purposes of this Order Form.

2.1.1. “**Detailed Implementation Plan**” is deleted;

2.1.2. “**Outline Implementation Plan**” is deleted;

2.1.3. “**Implementation Plan**” shall be amended to read as follows:

“Implementation Plan” each Implementation Plan provided in accordance with Attachment 6.1 of the Order Form;

2.2. Clause 6 of the Call Off Contract

2.2.1. References to Outline Implementation Plan and Detailed Implementation Plan in Clause 6 shall be replaced with “Implementation Plan” (as defined and amended in accordance with this Attachment 6.1.

2.2.2. References to the Implementation Plan in the Call-Off Contract refer to each Implementation Plan provided for each relevant Statement of Work in accordance with the provisions paragraph 4 of this Attachment 6.1 below.

2.2.3. For the purposes of Clause 6.1 (Quality Plans) the Authority may require Quality Plans to be provided for each SOW. Any such requirements will be set out in the relevant SOW Requirement.



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3. Implementation Plan

- 3.1. The Implementation Plan requirements for SOW 1, SOW 2, and SOW 3 are set out in Annex 1 to this Attachment 6.1 ("**Initial Implementation Plans**").
- 3.2. Where required by the Buyer as part of the SOW Commissioning Process, the Supplier shall produce Implementation Plans for each SOW as part of a SOW Solution.

4. Approval of the Implementation Plan

- 4.1. The Supplier shall submit a draft of an Implementation Plan to the Buyer for each SOW in accordance with Section 8 of Schedule 2.1 (SOW Commissioning Process) approval 10 Working Days prior to the effective date of the SOW.
- 4.2. The Supplier shall ensure that the draft Implementation Plan:
 - 4.2.1. incorporates all of the Milestones and Milestone Dates set out in the relevant draft SOW
 - 4.2.2. clearly outlines all the steps required to implement the Milestones to be achieved in the SOW term, together with a high level plan for the remainder of the programme, in conformity with the Buyer Requirements;
 - 4.2.3. clearly outlines the required roles and responsibilities of both Parties, including staffing requirements; and
 - 4.2.4. details the proposed team to be working on the SOW and confirmation the team members proposed matches the roles proposed in terms of SFIA grade, experience and capabilities
- 4.3. Prior to the submission of the draft Implementation Plan to the Buyer in accordance with Paragraph 3.1, the Buyer shall have the right:
 - 4.3.1. to review any documentation produced by the Supplier in relation to the development of the Implementation Plan, including:
 - (i) details of the Supplier's intended approach to the Implementation Plan and its development;
 - (ii) copies of any drafts of the Implementation Plan produced by the Supplier; and
 - (iii) any other work in progress in relation to the Implementation Plan; and
 - 4.3.2. to require the Supplier to include any reasonable changes or provisions in the Implementation Plan.
- 4.4. Following receipt of the draft Implementation Plan from the Supplier, the Buyer shall:
 - 4.4.1. review and comment on the draft Implementation Plan as soon as reasonably practicable; and



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4.4.2. notify the Supplier in writing that it approves or rejects the draft Detailed Implementation Plan no later than 10 Working Days after the date on which the draft Implementation Plan is first delivered to the Buyer.

4.5. If the Buyer rejects the draft Detailed Implementation Plan:

4.5.1. the Buyer shall inform the Supplier in writing of its reasons for its rejection; and

4.5.2. the Supplier shall then revise the draft Detailed Implementation Plan (taking reasonable account of the Buyer's comments) and shall re-submit a revised draft Implementation Plan to the Buyer for the Buyer's approval within 5 Working Days of the date of the Buyer's notice of rejection. The provisions of Paragraph 3.4 and this Paragraph 3.5 shall apply again to any resubmitted draft Detailed Implementation Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

4.6. If the Buyer approves the draft Detailed Implementation Plan, it shall replace the Outline Implementation Plan from the date of the Buyer's notice of approval.

Government Reviews

4.7. The Supplier acknowledges that the Services may be subject to Government review at key stages of the project. The Supplier shall cooperate with any bodies undertaking such review and shall allow for such reasonable assistance as may be required for this purpose within the Charges.



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Annex 1: Initial Implementation Plans

Mile-stone	Deliverable Items	Milestone Date	Buyer Responsibilities	Reference to Acceptance Criteria
1	Transition and implementation plan presented for Buyer review for each initial SOW.	10 working days prior to signing of the Call-Off contract (unless agreed otherwise between the parties)	To provide appropriate and reasonable support to enable the Supplier to develop and complete the required transition and implementation plans	The Supplier will present its transition and implementation plan demonstrating how it will safely and successfully assume the responsibilities outlined in this Call-Off contract including the onboarding of resources.
2	Transition and Implementation Plans agreed	10 working days from signing of the Call-Off contract (unless agreed otherwise between the parties)	To review the Suppliers Transition and Implementation Plans (engaging with the Supplier where required) and sign it off if appropriate.	Buyers' acceptance of the Supplier's Transition and Implementation Plans



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Attachment 6.2 – Test Success Criteria

This Attachment 6.2 does not apply to this Order Form. Any Test requirements will be set out in a relevant Statement of Work.



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Attachment 7.1 – Charges

**Schedule 7.1 of the Contract is amended as follows for the purposes of this Order Form.
This Attachment 7.1 is formed of 4 Parts:**

Part A – Pricing Mechanism

1. Amendments to Schedule 7.1 Part A
2. Tables referenced in Schedule 7.1 Part A:
 - Table 1 of this Attachment 7.1 Part A together with those tables at Annexes 1 and 2 of this Attachment 7.1 Part A provide the Supplier Personnel Rate Card applicable for both Time and Materials Charges (Table 1 in Schedule 7.1) and Fixed Prices (Table 5 in Schedule 7.1)
 - Tables 2 (Maximum Time and Materials Charges), Table 3: (Day Cost for Calculation Of Guaranteed Maximum Price with Target Cost Charges), Table 4: (Guaranteed Maximum Price with Target Costs Charges), Table 6: (Firm Prices) and Table 7 (Volume Charges) are not used for this Order Form.

Part B – Charging Mechanism and Adjustments

1. Amendments to Schedule 7.1 Part B
2. Supplier's Further Pricing Information
3. Adjustments to Call Off Contract Rates
4. Overtime, Unsocial Hours and On-Call
5. Buyer's Expenses Policy
6. Part B Annex 1 (Expenses Policy)

Part C – Risk Register

1. Amendments to Schedule 7.1 Part C
2. Risk Register Table Template

Part D – Excessive Supplier Profit Margin

1. Amendments to Schedule 7.1 Part D

Part E (Invoicing and Payment Terms)

2. Amendments to Schedule 7.1 Part E



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Attachment 7.1 Part A – Pricing Mechanism

1. Amendments to Schedule 7.1 Part A (Pricing)

Schedule 7.1 Part A of the Contract is amended as follows for the purposes of this Order Form

1.1. Applicable Pricing Mechanism

The Parties acknowledge and agree that for the purposes of this Order Form:

- 1.1.1. payment for Services under this Order Form shall take the form of Milestone Payments and references to Service Charges shall not apply;
- 1.1.2. the pricing mechanism for a Statement of Work shall be as set out in that SOW and shall be limited to either Time and Materials or Fixed Price. There are no requirements for Guaranteed Maximum Price with Target Cost or Firm Price;
- 1.1.3. Request and payment for Services under this Order Form shall take the form of Milestone Payments and references to Service Charges shall not apply; and
- 1.1.4. Table 1 of Annex 1 and Annex 2 of this Attachment 7.1 Part A (as referenced in paragraph 1.3 of Part A of Schedule 7.1) together set out the pricing mechanism to be used for both Time and Materials and Fixed Price SOW Requirements.
- 1.1.5. Where a day rate has a discount based on deployment duration (i.e. Single Working Days, 90 - 180 Working Days, >= 180 Working Days) and a SOW is agreed on one discount rate and through extension of the SOW moves to another discount rate due to the extended duration, the discount rate applicable to the extended duration will apply for the extension period based on the discount rate applicable.

1.2. Time and Materials Milestone Payments or Service Charges

For the purposes of Schedule 7.1 Part A paragraph 2 (Time and Materials Milestone Payments or Service Charges) of the Contract, references to relevant Charges and any caps on Charges shall be to relevant Charges for a Statement of Work and any caps specified within a Statement of Work.

1.3. Guaranteed Maximum Price with Target Cost Incentive Milestone Payments

Paragraph 3 (Guaranteed Maximum Price with Target Cost Incentive Milestone Payments) of Part A Schedule 7.1 of the Contract shall not apply to this Order Form.

1.4. Fixed Price Milestone Payments or Service Charges

For the purposes of Paragraph 4 of Part A of Schedule 7.1 of the Contract, any relevant Charge for Milestone Payments shall be set out in the relevant SOW and not in Table 5 of Part A of Attachment 7.1 (Charges).



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1.5. Firm Price Milestone Payments

Paragraph 3 (Firm Price Milestone Payments) of Part A of Schedule 7.1 of the Contract shall not apply to this Order Form.

1.6. Volume Based Service Charges

Paragraph 6 (Volume Based Service Charges) of Part A of Schedule 7.1 of the Contract shall not apply to this Order Form.

1.7. Reimbursable Expenses

- 1.7.1. Paragraph 7 (Reimbursable Expenses) of Part A of Schedule 7.1 of the Contract shall not apply to this Order Form; and
- 1.7.2. the Buyer's expenses policy set out at Part B Annex 1 (Expenses Policy) of this Attachment 7.1 shall apply.

1.8. The Buyer's requirements for Supplier Invoices are set out in Attachment 12 (Contract Management) of this Order Form.

1.9. Paragraph 2 (Payment Terms) of Part E of Schedule 7.1 have not been amended and shall continue to apply to this Order Form.

Part A - Pricing Mechanism Tables

TABLE 1: SUPPLIER PERSONNEL RATE CARD FOR CALCULATION OF TIME AND MATERIALS CHARGES

Please refer to the separate Annex 1 and Annex 2 of this Part A – Charging Mechanism, included as a separate document, for Call-Off Contract Prices.



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Annex 1 to Part A of Attachment 7.1

See attached as external document - Order Form Attachment 7.1 Part A Annex 1



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Annex 2 to Part A of Attachment 7.1

Overtime, Unsocial Hours and On-Call Pricing DEFINITIONS IN PART B

The following rates shall not apply, save where explicitly referenced and agreed in a Statement of Work.

The following formulae shall apply to the following Deliverables:

$$\left(\frac{\text{Time and Materials Day Rate for Role}}{16} \right) = X = \text{half hour rate}$$

Topic	Supplier Charge Where Utilising Existing Team Staff	Supplier Charge Where Additional Staff Retained
On-Call uplift	[REDACTED]	[REDACTED]
Weekday/Saturday unsocial premium call out fee	[REDACTED] [REDACTED]	[REDACTED] [REDACTED]
Sunday/Public Holiday unsocial premium call out fee	[REDACTED] [REDACTED]	[REDACTED] [REDACTED]



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Attachment 7.1 Part B – Charging Mechanism and Adjustments

1. Amendments to Schedule 7.1 Part B (Charging Mechanisms)

Schedule 7.1 Part A of the Contract is amended as follows for the purposes of this Order Form

1.1. Milestone Payments

- 1.1.1. Milestones and Milestone Payments shall be set out in each relevant SOW.
- 1.1.2. The Buyer does not require a Milestone Achievement Certificate from the Supplier, instead each invoice relating to a Milestone Payment shall be supported by confirmation from the Buyer that a Milestone has met the acceptance criteria detailed in that Milestone in addition to information required under paragraph 1.2(b) of Part B of Schedule 7.1.
- 1.1.3. No CPP Milestones shall apply to this Order Form and as such, paragraph 1.8 (Release of Milestone Retentions) of Schedule 7.1 Part B shall not apply to this Order Form.

1.2. Service Charges

There are no Service Charges applicable to this Order Form and Paragraph 2 (Service Charges) of Schedule 7.1 Part B of the Contract shall not apply to this Order Form.

1.3. Optional Services

There are no Optional Services applicable to this Order Form and Paragraph 3 (Optional Services) of Schedule 7.1 Part B of the Contract shall not apply to this Order Form.

2. Supplier's Further Pricing Information

2.1. The prices set out in this Attachment 7.1:

- 2.1.1. are those set out at Part A – Charging Mechanism Annex 1 to this Attachment;
- 2.1.2. are maximum rates that the Supplier may charge under this Call-Off Contract;
- 2.1.3. are all inclusive (save for expenses reasonably incurred in accordance with Paragraph 4); and
- 2.1.4. cannot be increased except as agreed in writing in accordance with this Attachment.

2.2. Applicable Pricing Mechanism

- 2.2.1. Under this Call-Off Contract, the SOW Charges shall be provided in the form of a Capped Time and Materials price underpinned by the Call-Off Contract specific rate prices included within Part A – Charging Mechanism Annex 1 of this Attachment.



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- 2.2.2. The pricing mechanisms to be used under this Call-Off Contract shall be confirmed in each Statement of Work and Charges shall be calculated on the basis of the rates and prices specified in Part A – Charging Mechanism Annex 1 which must be no greater than those set out at Framework competition.
- 2.2.3. The pricing mechanism (Capped Time and Materials or Fixed Price applicable for specific Deliverables shall be as stated in the relevant Statement of Work. Such pricing methodology shall be calculated by reference to the rates and prices in Part A – Charging Mechanism Annex 1. The Supplier shall provide pricing using the pricing mechanism(s) required by the Buyer in the relevant Statement of Work(s) but may also propose alternative pricing mechanisms.
- 2.2.4. Where the Buyer requests a Capped Time and Materials mechanism for a Statement of Work, the Supplier shall separately identify:
 - 2.2.4.1. the Time and Materials profile for the Statement of Work, as per the rate table in Part A – Charging Mechanism Annex 1; and
 - 2.2.4.2. the amount of the Cap, alongside clearly identified assumptions, risks, provisions or other breakdowns pertinent to the Cap. The Supplier shall provide an estimate linked to these breakdowns, where requested by the Buyer.
- 2.2.5. Where the Buyer requests a Fixed Price pricing mechanism for a Statement of Work, the Supplier shall, at the Buyer's request separately identify:
 - 2.2.5.1. prices against individually requested Milestones and Key Milestones, and the associated Delay Payments; and
 - 2.2.5.2. the underlying Time and Materials estimate used to calculate the Fixed Price.
- 2.2.6. The Buyer accepts that, having agreed a Fixed Price, once an agreed Key Milestone is successfully Achieved it shall be charged at the Fixed Price, regardless of the actual cost.
- 2.2.7. The Supplier accepts that, having agreed to a Fixed Price, it is responsible for delivery of each Milestone in terms of the scope of the component Deliverables, meeting the Buyer's acceptance criteria and timescales related to any Milestone (if any). The Supplier accepts that this shall be at the agreed price, regardless of the actual cost to the Supplier.
- 2.2.8. The Supplier shall maintain time recording records where providing services on a Fixed Price basis. In relation to any Fixed Price, the Buyer is entitled to request the actual time and material costs utilised. This is to facilitate improving the quality of future estimates and future Fixed Price agreements.
- 2.2.9. Rates will be based on a blend of national (onsite) and home working rates based on a percentage split set by the Buyer. The Buyer will specify the percentage split



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between national and home working in each Statement of Work if different from Order Form Part 2 – Contract Details.

3. Adjustments to Call Off Contract Rates

- 3.1. Rates submitted by the Supplier shall remain fixed for the first year of any Call-Off Contract or as long as maximum rates at Framework Contract level remain unchanged (whichever is the later date).
- 3.2. Thereafter, on an annual basis, provided it has been demonstrated via the Framework Contract pricing adjustment mechanism set out in Framework Schedule 3 that rates need to change to reflect market conditions, then the Supplier shall be entitled to request a corresponding percentage change at Call-Off Contract level. The Buyer shall take into account continuous improvement during the course of the Call-Off Contract but shall not otherwise unreasonably withhold agreement to such a request.
- 3.3. Any such agreed changes to Call-Off Contract rates shall take effect on the anniversary of the Call-Off Contract Start Date.
- 3.4. The Buyer may request additional roles to those listed in Part A – Charging Mechanism Annex 1 as part of a Call-Off Contract, in which case, the Supplier shall provide competitive rates for the role.

4. Overtime, Unsocial Hours and On-Call

- 4.1. Save as set out below the Supplier shall charge per Workday.
- 4.2. Supplier Staff shall work a minimum of 7.5 Work Hours per Workday.
- 4.3. Subject to any written agreement to the contrary in accordance with Paragraph **Error! Reference source not found.**, whilst the standard Work Day is 7.5 Work Hours per day, it is anticipated that Supplier Staff may on occasion be required by the Supplier to work additional hours to perform their work. Such overtime shall not be chargeable to the Buyer.

Overtime

- 4.4. Where a member of Supplier Staff is specifically requested by the Buyer to work more than an additional 2 Work Hours per day on a regular basis (3 or more times over a given week), the Supplier may request overtime payments. If agreed, such overtime payments shall be based on hourly increments (assuming an 8 Work Hour day for the purposes of this calculation).
- 4.5. The Supplier shall only be entitled to charge overtime where the Buyer has approved the overtime request in advance in writing in a Statement of Work.

Unsocial Hours

- 4.6. The Buyer may request that the Supplier provides Deliverables at unsocial times. Any such request must be agreed by the Supplier in writing in a Statement of Work.



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4.7. Unsocial times means:

- 4.7.1. all time on Saturday (midnight to midnight) and any Working Day after 8pm and before 6am; and
- 4.7.2. all time on Sundays and Public Holidays (midnight to midnight).

4.8. The Supplier shall not be entitled to charge for unsocial working hours unless it is approved in writing in advance by the Buyer:

On-Call Support

4.9. On-call support means where Supplier Staff are required to be available to work and may be called upon to work either on-Site or remotely during pre-agreed periods of time. The Buyer may request that the Supplier provides on-call support. Any such request must be agreed by the Supplier in writing in a Statement of Work.

4.10. The Supplier may request a premium for Supplier Staff to be on-call (see table at paragraph **Error! Reference source not found.** below). For the purposes of this Call-Off Contract it will be based on a single percentage of [REDACTED] percent, regardless of frequency.

4.11. Subject to paragraph **Error! Reference source not found.**, the Supplier may also charge for individual callouts on the following basis, as set out in Part A – Charging Mechanism Annex 1:

4.11.1. for callouts during normal working hours (for this purpose deemed to be between 8am and 6pm during a Working Day);

4.11.2. for callouts between 6am and 8am and 6pm and 8pm on a Working Day (social hours) charges shall be based on the basis of a minimum assumed single call-out duration of 30 minutes rounded up to the nearest 30 minutes thereafter (depending on duration of call-out);

4.11.3. for callouts within unsocial hours, the basis of calculating hours shall be as paragraph **Error! Reference source not found.** above, but appropriate unsocial hours premiums shall apply (see Part B – Charging Mechanism and Adjustments Annex 1);

4.11.4. in the event that a call-out spans into, or out of, social or unsocial hours, provided that the overlap is no more than one hour into the different charging regime, the charging regime applicable to when the call-out started shall apply; and

4.11.5. where the span of overlap between social and unsocial hours for an individual call-out is more than one-hour, separate charges shall apply to each period (but following the principles documented above).

4.12. For on-call or call-out charges to be applicable, the individual to whom those Charges relate must be on an agreed on-call rota as approved by the Buyer in advance.



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Overtime, Unsocial Hours and On-Call Pricing

- 4.13. The additional Charges applicable for agreed overtime, unsocial hours working and on call pricing are set out in Part A – Charging Mechanism Annex 2.

5. Buyer's Expenses Policy

- 5.1. The Supplier shall not be entitled to charge any expenses where the pricing mechanism used under a Statement of Work is Fixed Price. The Supplier shall not be entitled to charge expenses, save where these are explicitly agreed to be chargeable in a SOW, where these are reasonably incurred and in accordance with the Buyer's Expenses Policy attached at Part B - Pricing Mechanism and Adjustments Annex 1, and only up to the capped amount as set out in the SOW.
- 5.2. For the avoidance of doubt, expenses shall not be deemed reasonable where they would not constitute legitimate expenses in accordance with HMRC rules and guidance.



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Attachment Part B - Pricing Mechanism and Adjustments - Annex 1 (Expenses Policy)

FOR OUTCOME BASED SUPPLY CONTRACTS

1. The Supplier must adhere to the **overarching principles**, as set out below.
 - **Travel should be for essential business reasons only.** Suppliers shall work to minimise the costs of travel.
 - **Travel should consider environmental impact.** The Buyer has a responsibility to meet obligations to reduce carbon emissions and business travel itself and in its supply chain under the Greening Government Commitment Policy, and therefore does not encourage unnecessary travel. In order to reduce the environmental impact of travel, every attempt should be made to identify options to eliminate the need to travel, for example using new technologies to communicate. Regular travel should always be challenged as part of good practice;
 - The **lowest cost option** for travelling should be the default. Suppliers are encouraged to use public transport wherever possible. Suppliers are also expected to use the most economical means of public transport on every occasion, including travelling outside of peak times where practical. The purchase of advance tickets is expected in all but exceptional cases;
 - **First class** travel is **not permitted and will not be reimbursed**, regardless as to whether the cost of such is lower than alternative options, except when an individual has a disability as set out in the Business Travel and Expenses Procedure;
 - All travel bookings and expense claims for reimbursement must have **clear business justification**.
 - Suppliers shall claim compensation (for late or delayed travel for example), on behalf of the Buyer.
 - The Buyer will only reimburse expenses which are **in excess of the normal commuting and day to day costs** of the individual. Whilst journeys may begin from home, Suppliers will be required to take account of the above when making claims.
2. Reporting and Audit Suppliers are required to maintain a full itemised index of expenses, and detail the named personnel, reference, and work to which it relates, and sufficient evidence to show the principles have been considered and are met in each case and provide copies on request at any time by the Buyer. Failure to provide the same will mean the expenses may not be recoverable. Suppliers shall maintain such records for review by the Buyer (and its auditors, HMRC, DHSC and any other central government entity) for the duration of the Call-Off Contract and for a period of 6 years from expiry or termination of the same.
3. Limitations and Exclusions Any reimbursement of expenses is subject to the following exclusions and limits:
 - 3.1. No expenses shall be chargeable for any Deliverables provided on a Fixed Price basis.



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- 3.2. Expenses shall only be chargeable for Deliverables charged on a Capped Time and Materials basis where the Call-Off Contract explicitly specifies both:
 - 3.2.1. that expenses are chargeable; and
 - 3.2.2. the total maximum capped amount for the expenses under the Call Off-Contract.
- 3.3. If expenses are chargeable, they will only be chargeable up to the stated capped amount. If no capped amount is stated in the Call-Off Contract, then the capped amount shall be interpreted as zero and no expenses shall apply.
- 3.4. Any claim for reimbursement of expenses must be submitted no later than monthly in arrears.
- 3.5. No expenses shall be reimbursed for Suppliers working from their normal place of business (in any location) or their home.
- 3.6. Suppliers shall be required to provide evidence of all expenses incurred on the submission of any invoice for the same. Any claims for expenses must be submitted with evidence (copies of VAT receipts).
4. Unless otherwise explicitly agreed under such Call-Off Contract as a variation of the application of this policy, there is no reimbursement of expenses for travel to any of the Buyer's main offices.
5. Subject to the above, only the following categories of expenses would be reimbursable. Where expenses are chargeable, such expense claims must also meet the following criteria:

Expenditure Type	Key Points
TRAVEL	
Car Parking	The Buyer will reimburse necessary and reasonable parking costs only.
Mileage	<p><u>There are no mileage expenses payable for delivery of services from the Buyer's main offices, and Supplier's main sites, as listed for delivery of the services.</u></p> <p>If the Supplier travels to another place, other than their identified place of work, in order to perform their duties and go there straight from their home or return direct to their home after such a visit, the claim for mileage costs, should be for the lesser of:</p> <ol style="list-style-type: none"> a) the mileage expenses actually travelled, and b) the expenses, which would have been incurred if the journey had started and finished at the normal place of work. <p>If the personal circumstances and location of a particular individual lead to claims becoming excessive, the Buyer reserves the right to review and amend such claims as appropriate.</p> <p>The mileage reimbursement rate is 56p per mile unless agreed otherwise in advance between the Supplier and the Buyer.</p>



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Expenditure Type	Key Points
Taxis Tolls & Congestion Charges	Taxi - used where own/company car use is impractical or hire car is not available. Unavoidable road tolls and congestion charges. For example, Severn Bridge Toll, London Congestion Charge
Travel (Public Transport)	<u>Flights will not be reimbursed at any time unless specifically agreed in writing advance with the Buyer.</u> Trains or buses used in the course of business travel. Rail travel shall be considered when: - Train fare is less expensive than car travel - Door-to-door transit time is improved, or comparable to car travel - Driving presents an inconvenience or business risk (i.e. traffic) All rail travel, including travel by Eurostar, must be economy or standard class (unless agreed otherwise in advance in writing by the Buyer). <u>First class train fare will not be reimbursed.</u> In order to reduce costs, where possible, rail bookings should be made more than seven (7) days in advance. The lowest available rail fare offered should be accepted and advantage taken of any restricted fares offered where possible.
ACCOMMODATION	
Hotels	Hotel rates are limited by the Buyer to £100 including breakfast, per day, outside of London and £150 including breakfast, per day, within the M25. Both limits are inclusive of VAT and any other charges. All costs incurred must make every effort to find the most economical overnight premises, i.e. the default should not be to use the maximum hotel allowance. If an individual cannot find a hotel within these rates then the identified rate will be used as a cap on the actual invoice value and any amount above this will not be charged to the Buyer.
MEALS & SUBSISTENCE	
Meals	Cost of meals will only be reimbursed if overnight solely on the Buyer business, or where pre-6am morning / post 9pm late evening travel is required (see Qualifying Trips below). A daily limit of £20 per day applies. On qualifying dates, the Buyer will reimburse for breakfast, lunch and/or dinner up to the total daily limit. Qualifying Trips Meals may be reimbursed only when Suppliers: - are required to stay away from home overnight whilst solely on the Buyer business, or - are working away from their main office base for a single day, and either leave home before 06:00 or return home after 21:00.



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Expenditure Type	Key Points
OTHER BILLABLE EXPENSES	
Personal Overnight Incidental Expenses “Daily Allowance”	<p><u>No Personal Overnight Incidental Expenses will apply where the individual is providing services for one day only and/or not staying overnight.</u></p> <p>The Buyer will reimburse personal incidental expenses incurred as a result of an <u>overnight</u> stay away from home, where such expenses are incurred directly as a result of business travel for the Buyer service only.</p> <p>Claims are subject to daily limits set by HM Revenue and Customs (currently up to £4.25 per day for overnight stays within the UK).</p> <p>The following items may be reimbursed where reasonable:</p> <ul style="list-style-type: none"> - drinks other than with meals (but not alcohol). - laundry services (only for stays away from home of 5 consecutive nights or more) where work is performed solely for the Buyer. <p>The Buyer will not reimburse for:</p> <ul style="list-style-type: none"> - personal calls - incidental food and beverage items (e.g. snacks, coffees) taken during the day (other than as Meals) - newspapers, magazines - in-room movies - personal travel items (such as luggage or clothing) - toiletries - stationery
Hotel Internet Calls	<p>Itemised on the hotel bill for internet access and strictly Buyer business use only. Such use for Buyer business must be proven.</p> <p>This may only be reimbursed up to a cap of £5/day.</p>
NON BILLABLE ITEMS For the avoidance of doubt, the following items are not chargeable.	
Telecommunications, mobiles	These are classed as standard supplier overheads, therefore are not expenses and not reimbursable.
VISAs, Permission to work permits, etc.	These are classed as standard supplier overheads, therefore are not expenses and not reimbursable.
Security Accreditation	These are classed as standard supplier overheads, therefore are not expenses and not reimbursable.
Office space, facilities	These are classed as standard supplier overheads, therefore are not expenses and not reimbursable.
Costs of relocation of any kind from other jurisdictions	These are classed as standard supplier overheads, therefore are not expenses and not reimbursable.



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Expenditure Type	Key Points
Laptops for Suppliers	These are classed as standard supplier overheads, therefore are not expenses and not reimbursable. Please note Suppliers are responsible for the additional incremental costs of any security software required to access the Buyer's network.



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Attachment 7.1 Part C – Risk Register Template

1. Amendments to Schedule 7.1 Part C (Adjustments to the Charges and Risk Register)

1.1. Delay Payments

- 1.1.1. To reflect the fact that the Services shall be delivered through a series of SOWs, paragraph 1.2 of Schedule 7.1 Part C of the Contract shall not apply to this Order Form and shall be replaced with the wording below:

1.2 Where a Delay Payment is payable in respect of a Milestone, the Delay Payment Rate shall be the amount set out in the milestone table of the relevant Statement of Work.

- 1.1.2. Limb (a) of paragraph 1.3 of Schedule 7.1 Part C of the Contract shall not apply to this Order Form. All Delay Payments shall be issued by a credit note to the Buyer in respect of the relevant amount.

1.2. Payments for Delays Due to Buyer Cause

Paragraph 2 (Payments for Delays Due to Buyer Cause) shall apply to this Order Form without amendment.

1.3. Service Credits

Service Credits shall not apply to this Order Form. Paragraph 3 (Service Credits) of Schedule 7.1 Part C shall not apply to this Order Form.

1.4. Changes to Charges

Paragraph 4 (Changes to Charges) shall apply to this Order Form without amendment.



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1.5. Indexation

Paragraph 5 (Indexation) shall apply to this Order Form without amendment.

1.6. Allowable Assumptions

Any allowable assumptions (if any) shall be specified in each relevant SOW.

1.7. Risk Register

The Parties acknowledge and agree that in addition to the provisions at paragraph 7 (Risk Register), the Risk Register may be reviewed as required for the purposes of Attachment 13 (Contract Management) of this Order Form.

1.8. Risk Register Template

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12
Risk Number	Risk Name	Description of risk	Timing	Likelihood	Impact (£)	Impact (description)	Mitigation (description)	Cost of mitigation	Post-mitigation impact (£)	Forecast Contingency Costs	Owner

Refer to Order Form Attachment 13 – Contract Management for Risk Register requirements



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Attachment 7.1 Part D (Excessive Supplier Profit Margin)

1. Amendments to Schedule 7.1 Part D (Excessive Supplier Profit Margin)

Part D of Schedule 7.1 (Excessive Supplier Profit Margin) shall not apply to this Order Form.

Attachment 7.1 Part E (Invoicing and Payment Terms)

1. Amendments to Schedule 7.1 Part E (Invoicing and Payment Terms)

Paragraph 1 (Supplier Invoices) of Part E of Schedule 7.1 shall not apply to this Order Form.



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Attachment 7.2 – Maximum Payments on Termination

Schedule 7.2 of the Contract is amended as below for the purposes of this Order Form. Due to the nature of the Deliverables and the use of Statements of Work under this Order Form:

1 SOWs

References in Schedule 7.2 to termination of the Contract shall include termination of a Statement of Works. Where the Buyer has a right to terminate the Contract or any part of it, it may terminate one or more specific SOWs only.

2 Termination Payments Only

“**Termination Payments**” shall include Breakage Costs Payments only. Compensation Payments, Redundancy Costs, Contract Breakage Costs, Unrecovered Payment, and Compensation Payments shall not apply to this Order Form and the following paragraphs of Schedule 7.2 shall not apply:

- 2.1.1 paragraphs 3.3 and 3.4 (Redundancy Costs);
- 2.1.2 paragraphs 3.5, 3.6 and 3.7 (Contract Breakage Costs);
- 2.1.3 paragraph 4 (Unrecovered Payment);
- 2.1.4 paragraph 5 (Mitigation of Contract Breakage Costs, Redundancy Costs and Unrecovered Costs); and
- 2.1.5 paragraph 6 (Compensation Payments).



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Attachment 7.3 – Approved Benchmarks

Schedule 7.3 and the benchmarking process shall not apply to this Order Form.



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Attachment 7.4 – Financial Distress

Attachment 7.4 Part A - Financial Indicators

1. Subject to the calculation methodology set out at Part D of this Attachment, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as follows:

Financial Indicator	Calculation ¹	Financial Target Threshold:	Monitoring and Reporting Frequency
1 The higher of (a) the Operating Margin for the most recent 12 month period and (b) the average Operating Margin for the last two 12 month periods	<i>Operating Margin = Operating Profit / Revenue</i>	■%	Tested and reported yearly, in the case of entities not quoted on a recognized stock exchange, or half yearly in the case of those that are, in arrears within 90 days of each accounting reference date / half year end respectively, based upon figures for the 12 months ending on the relevant accounting reference date / half year end as appropriate
2 Net Debt to EBITDA Ratio	<i>Net Debt to EBITDA ratio = Net Debt / EBITDA</i>	■ times	Tested and reported yearly, in the case of entities not quoted on a recognized stock exchange, or half yearly in the case of those that are, in arrears within 90 days of each accounting reference date / half year end respectively based upon EBITDA for the 12 months ending on, and Net Debt at, the relevant accounting reference date / half year end as appropriate.



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3 Net Interest Paid Cover	<i>Net Interest Paid Cover = Earnings Before Interest and Tax / Net Interest Paid</i>	[REDACTED] times	Tested and reported yearly, in the case of entities not quoted on a recognized stock exchange, or half yearly in the case of those that are, in arrears within 90 days of each accounting reference date / half year end respectively, based upon figures for the 12 months ending on the relevant accounting reference date / half year end as appropriate.
4 Current Ratio	<i>Current Ratio = Current Assets / Current Liabilities]</i>	[REDACTED] times	Tested and reported yearly, in the case of those entities not quoted on a recognized stock exchange, or half yearly in the case of those that are, in arrears within 90 days of each accounting reference date / half year end respectively based upon figures at the relevant accounting reference date / half year end as appropriate.
5 Net Asset value	<i>Net Asset Value = Net Assets</i>	[REDACTED]	Tested and reported yearly, in the case of those entities not quoted on a recognized stock exchange, or / half yearly in the case of those that are, in arrears within 90 days of each accounting reference date / half year end respectively based upon figures at the relevant accounting reference date / half year end as appropriate.



6 Group Exposure Ratio	Group Exposure / Gross Assets	[REDACTED]%	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon figures at the relevant accounting reference date.
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Key: ¹ – See Annex 3 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

2. Monitored Suppliers

There is no requirement for Monitored Suppliers under the Order Form. The Buyer reserves the right to require the provision of Financial Indicators for Monitored Suppliers on a SOW-by-SOW basis.



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Attachment 7.4 Part B – Rating Agencies

- Standard and Poors
 - Credit Rating Level 1 = AAA
 - Credit Rating Level 2 = AA+
 - Credit Rating Level 3 = AA
 - Credit Rating Level 4 = AA-
 - Credit Rating Level 5 = A+
 - Credit Rating Level 6 = A
 - Credit Rating Level 7 = A-
 - Credit Rating Level 8 = BBB+
 - Credit Rating Level 9 = BBB
 - Credit Rating Level 10 = BBB-
 - Credit Rating Level 11 = below BBB-
- Moodys
 - Credit Rating Level 1 = Aaa
 - Credit Rating Level 2 = Aa1
 - Credit Rating Level 3 = Aa2
 - Credit Rating Level 4 = Aa3
 - Credit Rating Level 5 = A1
 - Credit Rating Level 6 = A2
 - Credit Rating Level 7 = A3
 - Credit Rating Level 8 = Baa1
 - Credit Rating Level 9 = Baa2
 - Credit Rating Level 10 = Baa3
 - Credit Rating Level 11 = below Baa3
- Dun & Bradstreet
 - Credit Rating Level 1 = Dun & Bradstreet Probability of Failure Score 86-100
 - Credit Rating Level 2 = Dun & Bradstreet Probability of Failure Score 51-85
 - Credit Rating Level 3 = Dun & Bradstreet Probability of Failure Score 11-50
 - Credit Rating Level 4 = Dun & Bradstreet Probability of Failure Score 1-10
 - Credit Rating Level 5 = Dun & Bradstreet Probability of Failure Score 0



Attachment 7.4 Part C – Credit Ratings

Entity	Credit Rating (long term) <i>(insert credit rating issued for the entity at the Effective Date)</i>	Credit Rating Threshold <i>(insert the actual rating (e.g. AA-) or the Credit Rating Level (e.g. Credit Rating Level 3))</i>
	Dun & Bradstreet – [insert Probability of Failure Score]	Dun & Bradstreet - [REDACTED]
[Key Sub-contractor 1]	Dun & Bradstreet – [insert Probability of Failure Score]	Dun & Bradstreet - [REDACTED]
[Key Sub-contractor 2]	[etc.]	[etc.]
[etc...]	[etc.]	[etc.]



Attachment 7.4 Part D – Calculation Methodology for Financial Indicators

1.1 The Supplier shall ensure that it uses the following general and specific methodologies for calculating the Financial Indicators against the Financial Target Thresholds:

General methodology

1. Terminology: The terms referred to in this Attachment 7.4 (Financial Distress) are those used by UK companies in their financial statements. Where the entity is not a UK company, the corresponding items should be used even if the terminology is slightly different (for example a charity would refer to a surplus or deficit rather than a profit or loss).
2. Groups: Where the entity is the holding company of a group and prepares consolidated financial statements, the consolidated figures should be used.
3. Foreign currency conversion: Figures denominated in foreign currencies should be converted at the exchange rate in force at the relevant date for which the Financial Indicator is being calculated.
4. Treatment of non-underlying items: Financial Indicators should be based on the figures in the financial statements before adjusting for non-underlying items.

Specific Methodology

Financial Indicator	Specific Methodology
1 Operating Margin	<p>The elements used to calculate the Operating Margin should be shown on the face of the Income Statement in a standard set of financial statements.</p> <p>Figures for Operating Profit and Revenue should exclude the entity's share of the results of any joint ventures or Associates.</p> <p>Where an entity has an operating loss (i.e. where the operating profit is negative), Operating Profit should be taken to be zero.</p>
2 Net Debt to EBITDA Ratio	<p>"Net Debt" = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents</p> <p>"EBITDA" = Operating profit + Depreciation charge + Amortisation charge</p> <p>The majority of the elements used to calculate the Net Debt to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.</p> <p><u>Net Debt</u>: The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest-bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but not non-designated hedges). Borrowings should also include balances owed to other group members.</p> <p>Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.</p> <p>Cash and cash equivalents should include short-term financial investments shown in current assets.</p> <p>Where Net debt is negative (i.e. an entity has net cash), the relevant Financial Target Threshold should be treated as having been met.</p>



	<p><u>EBITDA</u>: Operating profit should be shown on the face of the Income Statement and, for the purposes of calculating this Financial Indicator, should include the entity's share of the results of any joint ventures or Associates. <i>The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts. Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless Net Debt is also negative, in which case the relevant Financial Target Threshold should be treated as having been met).</i>]</p>
<p>3</p> <p>Net Interest Paid Cover</p>	<p><i>"Earnings Before Interest and Tax"</i> = Operating profit</p> <p><i>"Net Interest Paid"</i> = Interest paid – Interest received</p> <p>Operating profit should be shown on the face of the Income Statement in a standard set of financial statements and, for the purposes of calculating this Financial Indicator, should include the entity's share of the results of any joint ventures or Associates. Interest received and interest paid should be shown on the face of the Cash Flow statement.</p> <p>Where Net interest paid is negative (i.e. the entity has net interest received), the relevant Financial Target Threshold should be treated as having been met.</p>
<p>4</p> <p>Current Ratio</p>	<p>All elements that are used to calculate the Acid Ratio are available on the face of the Balance Sheet in a standard set of financial statements.</p>
<p>5</p> <p>Net Asset value</p>	<p>Net Assets are shown (but sometimes not labelled) on the face of the Balance Sheet of a standard set of financial statements. Net Assets are sometimes called net worth or 'Shareholders' Funds'. They represent the net assets available to the shareholders. Where an entity has a majority interest in another entity in which there are also minority or non-controlling interests (i.e. where it has a subsidiary partially owned by outside investors), Net Assets should be taken inclusive of minority or non-controlling interests (as if the entity owned 100% of such entity).</p>



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<p>6</p> <p>Group Exposure Ratio</p>	<p><i>“Group Exposure” = Balances owed by Group Undertakings + Contingent liabilities assumed in support of Group Undertakings</i></p> <p><i>“Gross Assets” = Fixed Assets + Current Assets</i></p> <p><u>Group Exposure:</u> Balances owed by (i.e. receivable from) Group Undertakings are shown within Fixed assets or Current assets either on the face of the Balance Sheet or in the relevant notes to the financial statements. In many cases there may be no such balances, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.</p> <p>Contingent liabilities assumed in support of Group Undertakings are shown in the Contingent Liabilities note in a standard set of financial statements. They include guarantees and security given in support of the borrowings of other group companies, often as part of group borrowing arrangements. Where the contingent liabilities are capped, the capped figure should be taken as their value. Where no cap or maximum is specified, the relevant Financial Target Threshold should automatically be regarded as not having been met.</p> <p>In many cases an entity may not have assumed any contingent liabilities in support of Group Undertakings, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.</p> <p><u>Gross Assets:</u> Both Fixed assets and Current assets are shown on the face of the Balance Sheet</p>
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Attachment 7.6 – Anticipated Savings

There are no Anticipated Savings applicable to the Deliverables under this Order Form.



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Attachment 8.1 – Representation and Structure of Boards

Schedule 8.1 shall not apply to this Order Form.

The governance arrangements for the purposes of this Order Form are set out in Attachment 13 (Contract Management).



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Attachment 8.2 – Change Control Procedure

“Operational Changes” and Paragraph 9 (Operational Change Procedure) do not apply to this Order Form. All Changes shall be raised through the Change Control Procedure set out in Paragraphs 2 (General Principles of Change Control Procedure) to 7 (Fast-Track Changes) of Schedule 8.2 (Change Control Procedure).



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Attachment 8.4 – Transparency Reports and Records to Upload to Virtual Library

Part A - Transparency Reports

Title	Content	Format	Frequency
Performance metrics	Summary of Service Level for each month during the preceding Quarter, including: Service Level Performance Measure; Service Level Threshold Whether any Service Credits were owed	MS Word or Excel	Quarterly, when requested by the Buyer
Call-Off Contract Charges	Summary Charges under the Call-Off Contract for the preceding quarter	MS Word or Excel	Quarterly, when requested by the Buyer
Key Subcontractors and supply chain governance	Key Sub-Contractors utilised in the contract, including proportion of Call Off Contract Charges spent with sub-contractors	MS Word or Excel	Quarterly, when requested by the Buyer
Technical	Not used		
Performance and underperformance management	Breakdown of resources used in delivery of the Services over previous quarter, including: Roles Grade Days utilised	MS Word or Excel	Quarterly, when requested by the Buyer
Resource plans	Not used		



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Part B - Records to Upload to Virtual Library

Not used



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Attachment 9.1 – List of Notified Sub-Contractors

Refer to Order Form Attachment 4.3 – Notified Key Sub-Contractors Annex 1

Attachment 9.2 – Key Personnel

Key Role	Name of Key Personnel	Responsibilities / Authorities	Phase of the project during which they will be a member of Key Personnel	Minimum period in Key Role
Contract Manager and Authorised Representative	[Redacted]	Contract Manager and Authorised Representative	Duration of Call Off Contract	Duration of Call Off Contract

Further Key Personnel to be detailed in each Statements of Work



Attachment 11 – Processing Personal Data

This Attachment 11 shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Schedule shall be with the Buyer at its absolute discretion.

1. The contact details of the Buyer's Data Protection Officer are:
Name: [REDACTED]
Email: nhsdigital.dpo@nhs.net
2. The contact details of the Supplier's Data Protection Officer are:
Name: [REDACTED]
Email: dpo@kainos.com
3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
4. Any such further instructions shall be incorporated into this Attachment 11.

The table below sets out the default agreed description of the Processing being undertaken in connection with the exercise of the parties' rights and obligations under this Call-Off Contract including what the parties consider to be the example types of Personal Data and categories of Data Subjects; however, this shall be reviewed for each SOW and if does not accurately describe the Processing relevant to that SOW shall be replaced with an accurate data processing table for that SOW. The Supplier shall comply with any further written instructions with respect to Processing given by the Buyer and any such further instructions shall be incorporated into this data processing table at each commissioned SOW under this Call-Off Contract.

Description	Details
Identity of Controller for each Category of Personal Data	<p>NHS England is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with Paragraph 2 to Paragraph 15 and for the purposes of the Data Protection Legislation, NHS England is the Controller and the Supplier is the Processor of the following Personal Data:</p> <p>Any information accessed on NHS England systems as part of the Services, including:</p> <ul style="list-style-type: none"> • Patient / citizen: demographics data: NHS number, name, address, postcode, language preferences and contact information relation to subjects. • Patient / citizen: clinical data: NHS number, details of subject's health, historic information regarding subject's health. • NHS England staff information • Wider NHS staff information



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	Further details of the information assets hosted on the listed platforms are detailed in the NHS Digital Unified Registry (as may be amended from time to time). To note, NHS England may solely be a processor to another government controller, and in which case the Supplier shall remain NHS England's processor (i.e., a sub-processor).
Duration of the processing	For the duration of the Contract only. Save for data specified above where the Parties are specified as 'Independent Controllers', where each Party shall retain post Contract for their own business purposes.
Nature and purposes of the processing	<p>The purpose of the Processing is:</p> <ul style="list-style-type: none"> the delivery of all of NHS England platforms day-to-day operations (running the service including incident management utilising NHS England's Service Management toolkit); ongoing maintenance within agreed service level agreements to maintain 24x7x365 user availability; the development and safe delivery of transformation activity into live service from NHS England's prioritised backlog and from other transformation drivers. <p>The nature of the Processing may include activities such as:</p> <ul style="list-style-type: none"> collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, alignment or combination, restriction, modification of data, <p>The following processing activities shall not occur unless specifically required in writing by NHS England:</p> <ul style="list-style-type: none"> disclosure by transmission, dissemination or otherwise making available; <p>erasure or destruction of entire data set (whether or not by automated means) etc.</p>
Type of Personal Data	<p>NHS England information assets include datasets relating to employees, NHS staff, patients and the public, including the following broad categories:</p> <ul style="list-style-type: none"> Patient / citizen: demographics information, NHS number, name, address, postcode, date of birth, NI number, telephone number, email address, access and language preferences. Patient / citizen: security and logon information.



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	<ul style="list-style-type: none"> • Patient / citizen: clinical information, images, biometric data, clinical data (current and historic), communications. • NHS England staff: pay, contact details, employment information, logon and security information. • Wider NHS Staff: contact details, employment information, logon and security information, security information. • Supplier staff providing systems and services to NHS England and the wider NHS: business contact information, educational achievement, security information. <p>Further details of the information assets hosted on the listed platforms are detailed in the NHS Digital Unified Registry (as may be amended from time to time).</p>
Categories of Data Subject	<p>Dependant on the platform, categories of data subject include:</p> <ul style="list-style-type: none"> • NHS England staff (including volunteers, agents, and temporary workers). • Wider NHS staff (including volunteers, agents, and temporary workers). • Patients / citizens: residents of England, Wales, Scotland and Northern Ireland. Supplier staff providing systems and services to NHS England and the wider NHS. <p>Manufacturing inventory and product details, including some commercially sensitive data.</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>The personal data will remain on NHS England controlled platforms and subject to NHS England security. No data will be removed by the Supplier from the NHS England controlled platforms.</p> <ul style="list-style-type: none"> • Save that the Supplier may retain the business contact details of any directors, officers, employees, agents, consultants and contractors of NHS England named in the Contract (excluding the Supplier Personnel), that are engaged in the performance of the NHS England duties under the Contract) for which the NHS England is the Controller (and their replacements). • Save that NHS England may retain the business contact details of Supplier Personnel for which the Supplier is the Controller



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Attachment 12 - NHSE Required Terms

1. DEFINITIONS

In this Schedule, the following definitions shall apply:

"Contractor"	means any individual delivering the Services (or any part of them);
"CSR Laws"	means Laws relating to corporate social responsibility issues (e.g. anti-bribery and corruption, health and safety, the environmental and sustainable development, equality and diversity), including but not limited to the Modern Slavery Act 2015, the Public Services (Social Value) Act 2012, the Public Contracts Regulations 2015 (as amended) and Article 6 of the Energy Efficiency Directive 2012/27/EU, from time to time in force;
"CSR Policies"	means the Buyer's policies, including, without limitation, anti-bribery and corruption, health and safety, the environmental and sustainable development, equality and diversity, and any similar policy notified to the Supplier by the Buyer from time to time, and "CSR Policy" shall mean any one of them;
"Ethical Wall Agreement"	the form of agreement set out in Annex 1 to this Attachment 12;
"Intermediary"	means any "intermediary" (as defined in section 61M ITEPA) in respect of which any of Conditions A – C within section 61N ITEPA are met
"ITEPA"	Income Tax (Earnings and Pensions) Act 2003
"Medical Device"	means any deliverable, software or service that falls under the definition of a medical device in accordance with guidance published by the Medicines and Healthcare Products Regulatory Agency;
"Off-Payroll Rules"	Working means the provisions of Chapter 10 of Part 2 ITEPA relating to the engagement of workers through intermediaries and the provisions of Social Security Contributions (Intermediaries) Regulations 2000/727 (or, in each case, any other provisions under any law having like effect)
"Status Determination"	means a status determination pursuant to, and for the purposes of, the Off-Payroll Working Rules
"Tax"	means income tax, employee national insurance contributions and employer national insurance contributions (in each case whether or not required to be accounted for under the PAYE rules of the United Kingdom) and any equivalent tax, contribution or similar obligations elsewhere, together, in each case, with all related penalties and interest

2. NHS ENGLAND USE OF SOFTWARE

- 2.1. The Buyer shall be entitled, free of charge, to sub licence the Software to any contractor and/or Sub-contractor of the Buyer or a Replacement Supplier who is providing Services to the Buyer, unless notified by the Supplier in advance that Software licence does not permit sub-licensing.



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- 2.2. The Buyer's role as national information and technology partner to the NHS and social care bodies involves the Buyer buying Services for or on behalf of the NHS and social care entities. The Supplier shall ensure that nothing in the licences for any of the Software shall have the effect of restricting the Buyer from discharging its role as the national information and technology partner for the health and care system, which includes the ability of the Buyer to offer software and Services to the NHS and social care entities. Specifically, any software licensing clause prohibiting 'white labelling', 'provision of outsourcing services' or similar, shall not be interpreted as prohibiting the Buyer's Services.
- 2.3. The Buyer shall be entitled to deploy the Software at any location from which the Buyer and/or any contractor and/or Sub-contractor of the Buyer is undertaking Services pursuant to which the Software is being licenced.
- 2.4. Any Software licenced to the Buyer on a named user basis shall permit the transfer from one user to another user, free of charge provided that the Supplier is notified of the same (including without limitation to a named user who is a contractor and/or Sub-contractor of the Buyer).
- 2.5. The Supplier shall notify and obtain the consent of the Buyer in advance if any Software or Service permits the Supplier or any third-party remote access to the software or systems of the Buyer. Notification and consent will be conducted through one or more of the governance forums listed in Schedule 8.1 (Governance). The Buyer will maintain a register of the business purpose of the access, the conditions (if any) of such access, and the date at which the access will be reviewed.
- 2.6. The Supplier shall ensure that the Buyer shall be entitled to assign or novate all or any of the Software licences (excluding cloud assets) free of charge to any other Central Government Body, by giving the licensor prior written notice, unless notified by the Supplier in advance that Software licence does not permit novation. In relation to cloud assets only, the Supplier will use all reasonable efforts to transfer the cloud assets to appropriate contracting models of any other Central Government Body.

3. INTELLECTUAL PROPERTY RIGHTS

- 3.1. In respect of all Buyer Data, the Buyer shall be the owner of all such Buyer Data and any Buyer Background IPRs and Project Specific IPRs in such Buyer Data and any modifications, updates and amendments in relation to the same. The Supplier may not assign, license or otherwise deal with any Buyer Data or IPRs in such Buyer Data without the Buyer's specific written consent.
- 3.2. All Project Specific IPRs shall vest in the Buyer absolutely, and the Supplier hereby assigns to the Buyer, absolutely with full title guarantee (and free from all third party rights), any and all of its right, title and interest in and to all the Project Specific IPRs and shall procure that any third party owner of the Project Specific IPRs assigns them to the Buyer on the same basis to the fullest extent permitted by law.
- 3.3. The assignment under paragraph 3.1 shall be a present assignment for future rights that will take effect immediately on the coming into existence of the relevant Project Specific IPRs as appropriate.
- 3.4. The Supplier shall waive or procure a waiver of any moral rights in any copyright works assigned to the Buyer under the Contract.
- 3.5. The Supplier grants the Buyer a non-exclusive, transferable, perpetual, irrevocable, royalty-free and global licence to use, sub-license and/or commercially exploit use any Supplier Background IPRs or IPRs owned by a third party used to provide the Services including those that are embedded within or which are an integral part of the Project Specific IPRs and to the extent required to enjoy the full benefit of ownership of the Project Specific IPRs. The Buyer shall have the right to grant to any person a sub-licence of any licence granted pursuant to this paragraph.



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- 3.6. Unless the Supplier specifically identifies and discloses in writing the Supplier Background IPRs which shall be provided, used or incorporated by the Supplier in the provision of the Services, the default position shall be that all items and Deliverables shall be assigned to the Buyer as Project Specific IPR as if there is no Supplier Background IPRs and Supplier Software.
- 3.7. Each Party undertakes that it shall without charge to the other Party promptly execute all documents, make all applications, give all assistance and do or procure the doing of all acts and things as may be necessary or desirable to give full effect to the assignment of the Project Specific IPRs described in paragraph 3.1 in, and to register ownership of the Project Specific IPRs in, the name of the Buyer (to the extent that registration of rights is available) and/or to give full effect to the licences granted under this paragraph 3 or clauses 17 and 18 of the Call Off Terms. The Supplier shall procure that any third party owner of the Project Specific IPRs does so on the same basis.
- 3.8. The Buyer shall grant to the Supplier a transferable, perpetual, irrevocable, non-exclusive, royalty-free and global licence to use, sub-license and/or commercially exploit the Project Specific IPRs. The Supplier shall inform the Buyer of any such use, sub-license or exploitation prior to it occurring.
- 3.9. If the Supplier wishes to use Open Source software then the Supplier shall:
- notify the Buyer in writing giving details of the licence terms and whether there are alternative software providers which the Supplier could seek to use;
 - identify all items of Open Source software used and proposed to be used in an up to date register of open source software; and
 - provide copies of the Open Source register and the licences upon request by the Buyer.

4. MEDICAL DEVICES

- 4.1. The Parties acknowledge that the Deliverables, Software and Services provided in accordance with this Contract may form part of a Medical Device which is owned by the Buyer.
- 4.2. As part of the Deliverables, the Supplier shall provide all reasonable assistance in the preparation of any documentation concerning the Deliverables, Software and services as the Buyer may request from time to time to meet its obligations concerning any Medical Devices.

5. IR35

- 5.1. The Buyer and the Supplier agree and acknowledge that this Contract represents a contract for a fully contracted out service and, as a result, the Off-Payroll Working Rules shall not apply to the Buyer in relation to the provision of the Services (or any part of them) and / or to any arrangements involving the performance of any services by any Contractor.
- 5.2. Notwithstanding paragraph 5.1, the Supplier warrants and undertakes to the Buyer that, where any Contractor is or will be delivering their services through an Intermediary, prior to the commencement of the delivery of any services by that Contractor, the Supplier will give written notice to the Buyer, and shall procure that such Contractor shall not be involved in the delivery of the Services (or any part of them) by the Supplier without the prior written consent of the Buyer.
- 5.3. The Supplier warrants and undertakes to the Buyer that it shall manage the delivery of the Services (and any part of them) and shall do or not do (as the case may be) all such things as are necessary, in each case, to ensure that the Off-Payroll Working Rules shall not apply to the Buyer in relation to the provision of the Services (or any part of them) and / or to any arrangements involving the performance of any services by any Contractor.



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- 5.4. The Supplier shall immediately inform the Buyer if, at any time, it becomes aware of any new or additional fact, matter or circumstance, or any change in any fact, matter or circumstance, in each case, from which it appears that the Off-Payroll Working Rules could apply to the Buyer in relation to the provision of the Services (or any part of them) and / or to any arrangements involving the performance of any services by any Contractor.
- 5.5. Promptly upon request from the Buyer, the Supplier shall provide (or procure provision) to the Buyer of all such evidence, information and assistance as the Buyer reasonably requires:
- in order to confirm that the warranties and undertakings given by the Supplier in paragraphs 5.2 and 5.3 are, and remain, true, accurate and correct in all respects; and
 - in connection with the Off-Payroll Working Rules (including, but not limited to, such information or assistance as The Buyer reasonably requires in order to assess whether or not the Off-Payroll Working Rules apply to the provision of the Services (or any part of them) and/or to any arrangements involving the performance of any services by any Contractor or to comply with any other requirement or obligation it may have a result of or in connection with the application of the Off-Payroll Working Rules).
- 5.6. The Supplier shall, at all times, comply with any and all requirements or obligations it may have as a result of or in connection with the application of the Off-Payroll Working Rules to the provision of the Services (or any part of them) and / or to any arrangements involving the performance of any services by any Contractor, including, but not limited, to any obligation to make any deductions for Tax, and shall procure the compliance of all other parties involved (directly or indirectly) in the supply of the Services (or any part of them).
- 5.7. The Buyer shall be entitled to make any deductions in respect of Tax, from any payments to the Supplier, which it reasonably considers are required to be made as a result of, or connection with, the application of the Off-Payroll Working Rules.
- 5.8. The Supplier shall indemnify The Buyer, on demand and on an after-Tax basis, against:
- any and all proceedings, claims or demands by any third party (including, but without limitation, HM Revenue & Customs and any successor, equivalent or related body);
 - any and all Tax and any other liabilities, losses, deductions, contributions or assessments; and
 - any and all reasonable costs or expenses and any penalties, fines or interest incurred or payable,
- in each case, which arise as a result of, in consequence of, or otherwise in connection with:
- the application of the Off-Payroll Working Rules to the provision of the Services (or any part of them) and / or to any arrangements involving the performance of any services by any Contractor; and/or
 - the Supplier, at any time, being in breach of any of the warranties or undertakings given in paragraphs 5.2, 5.3 and 5.10.
- 5.9. The Buyer may at its option satisfy the indemnity given under paragraph 5.8 (in whole or in part) by way of deduction from payments due to the Supplier.
- 5.10. The Supplier warrants to the Buyer that it is not, nor will it prior to the cessation of this Contract become, a "managed service company", within the meaning of section 61B of the Income Tax (Earnings and Pensions) Act 2003.

6. SECURITY OF SUPPLIER PERSONNEL

- 6.1. Supplier Personnel shall be subject to pre-employment checks that include, as a minimum: verification of identity, employment history, unspent criminal convictions and right to work, as detailed in the HMG Baseline Personnel Security Standard (<https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>), as may be amended or replaced by the Government from time to time.
- 6.2. The Supplier shall agree on a case by case basis which Supplier Personnel roles which require specific government National Security Vetting clearances (such as 'SC') including



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system administrators with privileged access to IT systems which store or process Buyer Data. The Supplier shall provide and maintain a breakdown of the security clearance held for each Supplier Personnel role and shall work with the Buyer to propose any necessary amendments to these in order to provide the Services.

- 6.3. The Supplier shall prevent Supplier Personnel who have not yet received or are unable to obtain the security clearances required by this paragraph from accessing systems which store, process, or are used to manage Buyer Data, or from accessing Buyer Premises, except where agreed with the Buyer in writing.
- 6.4. All Supplier Personnel that have the ability to access Buyer Data or systems holding Buyer Data shall undergo regular training on secure information management principles. Unless otherwise agreed with the Buyer in writing, this training must be undertaken annually, and the Supplier must be able to demonstrate the completion of the training for all in scope staff.
- 6.5. Where Supplier Personnel are granted the ability to access Buyer Data or systems holding Buyer Data, those Supplier Personnel shall be granted only those permissions necessary for them to carry out their duties. When staff no longer need such access but remain employed by the Supplier's organisation, their access rights shall be revoked by the close of business on the following Working Day. When staff no longer need such access and they leave the Supplier's organisation, their access rights shall be revoked by the close of business on the same Working Day.

7. DATA CONTROLLER THIRD PARTY RIGHTS

- 7.1. Further to Clause 23 (Protection of Personal Data), where in Attachment 11 (Processing Personal Data) of the Order Form there is a third-party public sector Controller listed, the named third party public sector Controller will have CRTPA rights in relation to Data Protection Legislation obligations.
- 7.2. Where the third party public sector Controller wishes to exercise its rights pursuant to paragraph 7.1, the Buyer shall notify the Supplier that the rights are to be exercised.
- 7.3. The enforcement rights granted by paragraph 7.1 are subject to the following restrictions and qualifications:
 - a. the Parties may vary, terminate or rescind the Contract without the consent of any third party; and
 - b. the Buyer may, as agent or trustee, enforce any term of the Contract on behalf of another such relevant third party to whom rights have been granted.

8. DATA PROTECTION INDEMNITY

- 8.1. The Supplier shall indemnify the Buyer, and keep the Buyer indemnified, against damages, compensation, costs, claims, demands, expenses, professional costs, and/or charges arising from enforcement action by the Information Commissioner or any regulatory authority and/or assertion of rights by Data Subjects, arising from a breach by the Supplier of the Data Protection Legislation and/or the data processing conditions set out in this Contract.

9. ELECTRONIC INVOICING

- 9.1. The Buyer shall accept and process for payment an electronic invoice submitted for payment by the Supplier where the invoice is undisputed and where it complies with the standard on electronic invoicing.
- 9.2. For the purposes of paragraph 9.1, an electronic invoice complies with the standard on electronic invoicing where it complies with the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870.

10. CORPORATE SOCIAL RESPONSIBILITY CONDUCT AND COMPLIANCE

- 10.1. The Buyer applies corporate and social responsibility values to its business operations and activities which are consistent with the Government's corporate social



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responsibility policies, including, without limitation, those policies relating to anti-bribery and corruption, health and safety, the environment and sustainable development, equality and diversity.

- 10.2. The Supplier represents and warrants that it:
 - a. complies with all CSR Laws;
 - b. requires its Sub-contractors and any person under its control, to comply with all CSR Laws; and
 - c. has adopted a written corporate and social responsibility policy that sets out its values for relevant activity and behaviour (including, without limitation, addressing the impact on employees, clients, stakeholders, communities and the environment by the Supplier's business activities).
- 10.3. The Supplier shall notify the Buyer in the event that its corporate and social responsibility policies conflict with, or do not cover the same subject matter in an equivalent level of detail as is in, the CSR Policies.

11. MODERN SLAVERY

- 11.1. The Supplier represents and warrants that at the Effective Date neither the Supplier, nor any of its officers and employees:
 - a. have been convicted of any offence involving slavery and human trafficking; and
 - b. having made reasonable enquiries, so far as it is aware, have been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 11.2. The Supplier shall implement due diligence procedures for its Sub-contractors and other participants in its supply chains to ensure that there is no slavery or human trafficking in its supply chains.
- 11.3. The Supplier shall prepare and deliver to the Buyer each year, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.

12. SUBCONTRACTS

- 12.1. The Supplier shall ensure that each material Sub-contract shall include:
 - a. a right under the Contracts (Rights of Third Parties) Act 1999 for the Buyer to enforce any provisions under the material Sub-contract which confer a benefit upon the Buyer;
 - b. a provision enabling the Buyer to enforce the material Subcontract as if it were the Supplier; and
 - c. obligations no less onerous on the Sub-contractor than those imposed on the Supplier under this Contract. Compliance with obligations by Sub-contractors will be documented, maintained, and be available for review by Buyer security personnel.

13. ETHICAL WALL AGREEMENTS

- 13.1. Where the Supplier wishes to bid for any Replacement Services, the Supplier shall enter into an Ethical Wall Agreement with the Buyer at such time as the Buyer shall require.

14. EXECUTION AND COUNTERPARTS

- 14.1. This Contract may be executed in any number of counterparts (including by electronic transmission), each of which when executed shall constitute an original but all counterparts together shall constitute one and the same instrument.
- 14.2. Execution of this Contract may be carried out in accordance with the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (SI 2016/696) and the Electronic Communications Act 2000. In the event each Party agrees



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to sign this Contract by electronic signature (whatever form the electronic signature takes) it is confirmed that this method of signature is as conclusive of each Party's intention to be bound by this Contract as if signed by each Party's manuscript signature. In such situation, this Contract shall be formed on the date on which both Parties have electronically signed the Contract as recorded in the Buyer's electronic contract management system.



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Attachment 12 Annex 1 – Ethical Wall Agreement

[BUYER]

and

[SUPPLIER]

ETHICAL WALLS AGREEMENT



DRAFTING INSTRUCTIONS: ETHICAL WALLS AGREEMENT

[DELETE THIS INSTRUCTION TABLE BEFORE CIRCULATING]

Applicability	This standard document has been written from the perspective of the Buyer. Its intended use is as an ethical walls agreement between a Government Department and an incumbent company which intends to submit a tender for a Further Competition Procedure for the Deliverables in question. It will need amending if one of the parties is an individual, partnership or a limited liability partnership (LLP).
Term	Clause 10.1 should be completed with the appropriate period of time being at least as long as the Further Competition Procedure will take to be completed.
Context	This document is a template and may require amendment to suit the circumstances of the transaction you are working on. Please ensure that this document is used in the correct context and amended to reflect that context where necessary. If you are using it as part of a suite of documents make sure that you have amended it to reflect the deal you are working on.
Required action	Highlighted text in this document requires action as follows: Optional provision to be deleted if not required or amended to reflect the circumstances; and Details to be inserted.

This Agreement is dated [] 20[]

Between

- (1) [INSERT NAME OF BUYER] (the "Buyer") [acting on behalf of the Crown] of [insert Buyer's address]; and
- (2) [NAME OF SUPPLIER] a [company]/[limited liability partnership] registered in England and Wales under registered number [insert registered number] whose registered office is at [insert Supplier's registered address] (the "Supplier").
- together the "Parties" and each a "Party".

BACKGROUND

A. The Buyer is obliged to ensure transparency, fairness, non-discrimination and equal treatment in relation to its procurement process pursuant to the Public Contracts Regulations 2015 (as amended) (the PCR). The purpose of this document ("**Agreement**") is to define the protocols to be followed to prevent, identify and remedy any conflict of interest (whether actual, potential or perceived) in the context of the Further Competition Procedure.

B. The Buyer is conducting a Further Procurement Procedure for the supply of services the same as or substantially similar to all or part of the services delivered under the Contract (the "**Purpose**").



C. The Buyer has an obligation to deal with conflicts of interest as set out in Regulation 24 (1) of the PCR. The concept of conflict of interest is wide. In the PCR it is described as covering at least "any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure" (Regulation 24(2)). "Staff members" refers to staff members of the Buyer or of a procurement service provider acting on behalf of the Buyer who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure. "Procurement service provider" refers to a public or private body which offers ancillary purchasing activities on the market.

D. Pursuant to Regulation 41 of the PCR, the Buyer is under an obligation to ensure that competition is not distorted by the participation of any supplier acting as a bidder in a further competition procedure. Accordingly, the Buyer has identified that a potential distortion of competition could arise as a consequence of a bidder wishing to submit a Tender for this Further Competition Procedure, where it has also performed services for the Buyer under existing contractual arrangements or as a subcontractor under those same arrangements.

E. The Parties wish to enter into this Agreement to ensure that a set of management processes, barriers and disciplines are put in place to ensure that conflicts of interest do not arise, and that the Supplier does not obtain an unfair competitive advantage over Other Bidders.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

1.1. The following words and expressions shall have the following meanings in this agreement and its recitals:

"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 ethical walls agreement duly executed by the Parties;

"Bid Team" means any Supplier, Affiliate, connected to the preparation of an FCP Response;

"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;

"Conflicted Personnel" means any Supplier, Affiliate, staff or agents of the Supplier or an Affiliate who, because of the Supplier's relationship with the Buyer under any Contract have or have had access to information which creates or may create a conflict of interest;

"Contract" means the [contract for [] dated [] between the Buyer and the Supplier and/or an Affiliate;



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"Control" means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and "Controls" and "Controlled" shall be interpreted accordingly;

"Effective Date" means the date of this Agreement as set out above;

"Further Competition Procedure" or **"FCP"** means an invitation to submit tenders issued by the Buyer as part of an FCP Process;

"FCP Process" means, with regard to the Purpose, the relevant procedure which the Buyer has elected to use to select a contractor, together with all relevant information, correspondence and/or documents issued by the Buyer as part of that procurement exercise, all information, correspondence and/or documents issued by the bidders in response together with any resulting contract;

"FCP Response" means the tender submitted or to be submitted by the Supplier or an Affiliate [(or, where relevant, by an Other Bidder)] in response to an FCP;

"Other Affiliate" any person who is a subsidiary, subsidiary undertaking or holding company of any Other Bidder;

"Other Bidder" means any other bidder or potential bidder that is not the Supplier or any Affiliate that has or is taking part in the FCP Process;

"Parties" means the Buyer and the Supplier;

"Professional Advisor" means a supplier, subcontractor, advisor or consultant engaged by the Supplier under the auspices of compiling its FCP Response;

"Purpose" has the meaning given to it in recital B to this Agreement;

"Representative" refers to a person's officers, directors, employees, advisers and agents and, where the context admits, providers or potential providers of finance to the Supplier or any Affiliate in connection with the FCP Process and the representatives of such providers or potential providers of finance; and

"Third Party" means any person who is not a Party and includes Other Affiliates and Other Bidders.

- 1.2. Reference to the disclosure of information includes any communication or making available information and includes both direct and indirect disclosure.
- 1.3. Reference to the disclosure of information, or provision of access, by or to the Buyer or the Supplier includes disclosure, or provision of access, by or to the representatives of the Buyer or Representatives of the Supplier (as the case may be).
- 1.4. Reference to persons includes legal and natural persons.
- 1.5. Reference to any enactment is to that enactment as amended, supplemented, re-enacted or replaced from time to time.
- 1.6. Reference to clauses and recitals is to clauses of and recitals to this Agreement.
- 1.7. Reference to any gender includes any other.
- 1.8. Reference to writing includes email.
- 1.9. The terms "associate", "holding company", "subsidiary", "subsidiary undertaking" and "wholly owned subsidiary" have the meanings attributed to them in the Companies Act 2006, except that for the purposes of section 1159(1)(a) of that Act, the words 'holds a



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majority of the voting rights' shall be changed to 'holds 30% or more of the voting rights', and other expressions shall be construed accordingly.

- 1.10. The words "include" and "including" are to be construed without limitation.
- 1.11. The singular includes the plural and vice versa.
- 1.12. The headings contained in this Agreement shall not affect its construction or interpretation.

2. ETHICAL WALLS

2.1. In consideration of the sum of £1 payable by the Buyer to the Supplier, receipt of which is hereby acknowledged, the Supplier:

- 2.1.1. shall take all appropriate steps to ensure that neither the Supplier nor its Affiliates and/or Representatives are in a position where, in the reasonable opinion of the Buyer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or its Affiliates or Representatives and the duties owed to the Buyer under the Contract or pursuant to an fair and transparent FCP Process;
- 2.1.2. acknowledges and agrees that a conflict of interest may arise in situations where the Supplier or an Affiliate intends to take part in the FCP Process and, because of the Supplier's relationship with the Buyer under any Contract, the Supplier, its Affiliates and/or Representatives have or have had access to information which could provide the Supplier and/or its Affiliates with an advantage and render unfair an otherwise genuine and fair competitive FCP Process; and
- 2.1.3. where there is or is likely to be a conflict of interest or the perception of a conflict of interest of any kind in relation to the FCP Process, shall comply with Clause 2.2.

2.2. The Supplier shall:

- 2.2.1. Not assign any of the Conflicted Personnel to the Bid Team at any time;
- 2.2.2. Provide to the Buyer a complete and up to date list of the Conflicted Personnel and the Bid Team and reissue such list upon any change to it;
- 2.2.3. Ensure that by no act or omission by itself, its staff, agents and/or Affiliates results in information of any kind or in any format and however so stored:
 - (a) about the Contract, its performance, operation and all matters connected or ancillary to it becoming available to the Bid Team; and/or
 - (b) which would or could in the opinion of the Buyer confer an unfair advantage on the Supplier in relation to its participation in the FCP Process becoming available to the Bid Team;
- 2.2.4. Ensure that by no act or omission by itself, its staff, agents and/or Affiliates and in particular the Bid Team results in information of any kind or in any format and however so stored about the FCP Process, its operation and all matters connected or ancillary to it becoming available to the Conflicted Personnel;
- 2.2.5. Ensure that confidentiality agreements which flow down the Supplier's obligations in this Agreement are entered into as necessary between the Buyer and the Supplier, its Affiliates, its staff, agents, any Conflicted Personnel, and between any other parties necessary in a form to be prescribed by the Buyer;
- 2.2.6. physically separate the Conflicted Personnel and the Bid Team, either in separate buildings or in areas with restricted access;
- 2.2.7. provide regular training to its staff, agents and its Affiliates to ensure it is complying with this Agreement;
- 2.2.8. monitor Conflicted Personnel movements within restricted areas (both physical and electronic online areas) to ensure it is complying with this Agreement ensure adherence to the ethical wall arrangements;
- 2.2.9. ensure that the Conflicted Personnel and the Bid Team are line managed and report independently of each other; and



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- 2.2.10. comply with any other action as the Buyer, acting reasonably, may direct.
- 2.3. In addition to the obligations set out in Clause 2.1.1 and 2.1.3, the Supplier shall:
 - 2.3.1. notify the Buyer immediately of all perceived, potential and/or actual conflicts of interest that arise;
 - 2.3.2. submit in writing to the Buyer full details of the nature of the conflict including (without limitation) full details of the risk assessments undertaken, the impact or potential impact of the conflict, the measures and arrangements that have been established and/or are due to be established to eliminate the conflict and the Supplier's plans to prevent future conflicts of interests from arising; and
 - 2.3.3. seek the Buyer's approval thereto, which the Buyer shall have the right to grant, grant conditionally or deny (if the Buyer denies its approval the Supplier shall repeat the process set out in clause 2.3 until such time as the Buyer grants approval or the Supplier withdraws from the FCP Process).
- 2.4. Any breach of Clause 2.1, Clause 2.2 or Clause 2.3 shall entitle the Buyer to exclude the Supplier or any Affiliate or Representative from the FCP Process, and the Buyer may, in addition to the right to exclude, take such other steps as it deems necessary where, in the reasonable opinion of the Buyer there has been a breach of Clause 2.1, Clause 2.2 or Clause 2.3.
- 2.5. The Supplier will provide, on demand, any and all information in relation to its adherence with its obligations set out under Clauses 2.1 and 2.2 as reasonably requested by the Buyer.
- 2.6. The Buyer reserves the right to require the Supplier to demonstrate the measures put in place by the Supplier under Clauses 2.1.3 and 2.2.
- 2.7. The Supplier acknowledges that any provision of information or demonstration of measures, in accordance with Clauses 2.5 and 2.6, does not constitute acceptance by the Buyer of the adequacy of such measures and does not discharge the Supplier of its obligations or liability under this Agreement.
- 2.8. The actions of the Buyer pursuant to Clause 2.4 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Buyer.
- 2.9. In no event shall the Buyer be liable for any bid costs incurred by:
 - 2.9.1. the Supplier or any Affiliate or Representative; or
 - 2.9.2. any Other Bidder, Other Affiliate or Other Representative,
 - 2.9.3. as a result of any breach by the Supplier, Affiliate or Representative of this Agreement, including, without limitation, where the Supplier or any Affiliate or Representative, or any Other Bidder, Other Affiliate or Other Representative are excluded from the FCP Process.
- 2.10. The Supplier acknowledges and agrees that:
 - 2.10.1. neither damages nor specific performance are adequate remedies in the event of its breach of the obligations in Clause 2; and
 - 2.10.2. in the event of such breach by the Supplier of any of its obligations in Clause 2 which cannot be effectively remedied the Buyer shall have the right to terminate this Agreement and the Supplier's participation in the FCP Process.

3. SOLE RESPONSIBILITY

- 3.1. It is the sole responsibility of the Supplier to comply with the terms of this Agreement. No approval by the Buyer of any procedures, agreements or arrangements provided by the Supplier or any Affiliate or Representative to the Buyer shall discharge the Supplier's obligations.



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4. WAIVER AND INVALIDITY

- 4.1. No failure or delay by any Party in exercising any right, power or privilege under this Agreement or by law shall constitute a waiver of that or any other right, power or privilege, nor shall it restrict the further exercise of that or any other right, power or privilege. No single or partial exercise of such right, power or privilege shall prevent or restrict the further exercise of that or any other right, power or privilege.
- 4.2. If any provision of this Agreement is prohibited or unenforceable in any jurisdiction in relation to any Party, such prohibition or unenforceability will not invalidate the remaining provisions of this Agreement or affect the validity or enforceability of the provisions of this Agreement in relation to any other Party or any other jurisdiction.

5. ASSIGNMENT AND NOVATION

- 5.1. Subject to Clause 5.2 the Parties 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 without the prior written consent of the Buyer.
- 5.2. The Buyer may assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Agreement and/or any associated licences to:
- 5.2.1. any Central Government Body; or
- 5.2.2. to a body other than a Central Government Body (including any private sector body) which performs any of the functions that previously had been performed by the Authority; and
- 5.2.3. the Supplier shall, at the Buyer's request, enter into a novation agreement in such form as the Buyer reasonably specify in order to enable the Buyer to exercise its rights pursuant to this Clause 5.
- 5.3. A change in the legal status of the Buyer such that it ceases to be a Central Government Body shall not affect the validity of this Agreement and this Agreement shall be binding on any successor body to the Buyer.

6. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 6.1. A person who is not a Party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 (as amended, updated or replaced from time to time) to enforce any term of this Agreement but this does not affect any right remedy of any person which exists or is available otherwise than pursuant to that Act.

7. TRANSPARENCY

- 7.1. The Parties acknowledge and agree that the Buyer is under a legal duty pursuant to the PCR to run transparent and fair procurement processes. Accordingly, the Buyer may disclose the contents of this Agreement to potential bidders in the FCP Process, for the purposes of transparency and in order to evidence that a fair procurement process has been followed.

8. NOTICES

- 8.1. Any notices sent under this Agreement must be in writing.
- 8.2. 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:



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Manner of Delivery	Deemed time of service	Proof of service
Email	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™ 1 st 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.

8.3. Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under this Agreement:



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	Supplier	Buyer
Contact		
Address		
Email		

8.4. This Clause 8 does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.

9. WAIVER AND CUMULATIVE REMEDIES

- 9.1. The rights and remedies under this Agreement may be waived only by notice and in a manner that expressly states that a waiver is intended and what is waived. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Agreement or by law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 9.2. 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.

10. TERM

- 10.1. Each Party's obligations under this Agreement shall continue in full force and effect for period of [] years from the Effective Date.

11.11 GOVERNING LAW AND JURISDICTION

- 11.1. 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 and Wales.
- 11.2. The Parties agree that the courts of England and Wales 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.



Call-Off Ref: C293083 Digital UEC Transformation Delivery

Signed by the Buyer

Name:

Signature:

Position in Buyer:

Signed by the Supplier

Name:

Signature:

Position in Supplier:



Attachment 13 - Contract Management

1. DEFINITIONS

1.1 In this Attachment, the following words shall have the following meanings:

“Agile”	a generic term to cover agile ways of working within the digital environment;
“Backlog”	has the meaning given to it in paragraph 2.3.1 of this Attachment 13;
“Balanced Scorecard”	has the meaning given to it in paragraph 2.3.7 of this Attachment 13;
“Call-Off Contract Management”	has the meaning given to it in paragraph 2.1.2 of this Attachment 13;
“Call-Off Rate Card”	means the table of rates for different roles as captured in Attachment 7.1 – Charges (Annex 1 Part A - Pricing Mechanism);
“Call-Off Contract Manager”	the Call-Off Contract Manager appointed for the Supplier and for the Buyer in accordance with Annex 6 of this Attachment 13;
“Commercial Planning/Review Events”	has the meaning given to it in paragraph 2.3.4 of this Attachment 13;
“Executive Sponsor”	has the meaning given to it in paragraph 6.26 of this Attachment 13;
"Operational Board"	the board established in accordance with paragraph 2.3.64.1 of this Attachment 13;
"Operational Contract Manager"	the operational contract manager appointed for the Supplier and for the Buyer in Annex 6 of this Attachment 13;
“Operational Planning Event”	has the meaning given to it in paragraph 2.3.2 of this Attachment 13;
“Operational Review Events”	has the meaning given to it in paragraph 2.3.3 of this Attachment 13;
“Orange Book”	means the Orange Book: Management of Risks – Principles and Concepts accessible at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191513/The_Orange_Book.pdf
“Programme”	means a programme of work, as identified by a portfolio number or equivalent;



“Scrum Sprint”	means a time boxed period of time in which a useable product increment is created per the Scrum Guide™ (an Agile methodology);
“SOW Management”	has the meaning given to it in paragraph 2.1.1 of this Attachment 13; and
“SOW Variation”	has the meaning given to it in paragraph 2.3.5 of this Attachment 13.

2. OVERVIEW OF SUPPLIER AND CONTRACT MANAGEMENT

- 2.1 There are three levels of relationship and contract management covered by the various parts of this framework:
- 2.1.1 **Statement of Work Management (“SOW Management”)** covering how Statements of Work (SOWs) are managed. SOW Management starts with SOWs being created and ends, typically with handover to the next SOW, as a SOW ends (see paragraph 3.1 of this Attachment 13);
 - 2.1.2 **Call-Off Contract Management (“Call-Off Contract Management”)** covering the specific contract management obligations between Supplier and Buyer relating to a specific Call-Off Contract (see paragraph 3.8 of this Attachment 13);
 - 2.1.3 **Buyer/Supplier Management** covering individual relationships between the Buyer and a single Supplier. These relationships are anticipated to develop as an early part of Call-Off competition as Suppliers bid for potential work. These relationships are also anticipated to persist beyond individual Call-Offs for the duration of the Framework (and beyond, assuming Call-Offs extend beyond the formal term of the Framework) (see paragraph 3.31 of this Attachment 13).
- 2.2 For the avoidance of doubt, by signing any individual Call-Off Contract, suppliers are obliged to meet the terms of this Attachment 13, as required by the Buyer, for the durations indicated at each level of relationship.
- 2.3 There are a number of key mechanisms for managing this Call-Off Contract set out below. This list is not an exclusive list but is designed to focus on the key principles underpinning each level of management. Also, whilst logically separated below, the Buyer may elect to combine such mechanisms:
- 2.3.1 **Product Backlog** (Scrum™) or **Prioritised Requirements List** (AgilePM®) (the **“Backlog”**) which, within the context of this Contract, should be considered to be the cornerstone of ongoing operational management. As such it should be considered to be a live contract artefact (see paragraph 4.1 of this Attachment 13);
 - 2.3.2 **“Operational Planning Events”** or equivalent, managing the granular level refinement from Commercial Planning/Review Event level (typically at requirement/Increment level down to Scrum Sprint / Timebox (AgilePM) sized task level (to be held at the frequency given at paragraph 3.6 of this Attachment 13);



- 2.3.3 **“Operational Review Events”** or equivalent, which provide the basis for among other things, reviewing achievements out of individual Sprints/Timeboxes, learning lessons from the previous activity and understanding the actual effort used. A summary of this will be fed into the Commercial Planning/Review Events (Scrum Sprints or reporting performance and progress of tasks into the Commercial Planning/Review Events is described below at paragraph 3.7 of this Attachment 13);
- 2.3.4 **“Commercial Planning/Review Events”** (usually combined but may be separate events for planning and review):
- These events will refine and prioritise the main Backlog (at Deliverable Increment/user story level and above) for feeding into the more detailed SOW task level backlog managed under the Operational Planning Events described above.
 - From a review perspective, the Commercial Planning/Review Event will assess completeness of tasks and map this into acceptance of Deliverables as well as collate actual effort spent. Acceptance certificates may be used to acknowledge completeness. The review will typically lead to invoicing and payment.
 - Whilst the frequency of Operational Planning Events is likely to reflect the operational practices specific to the SOW, Commercial Planning/Review Events will normally be held on a monthly basis.
 - These events are seen at the main focus points for Call-Off Contract Management activities (see paragraph 3.8 of this Attachment 13).
- 2.3.5 **Variation and Change Management** covers minor changes to Statements of Work (**“SOW Variations”**) and more formal changes to the contract (see paragraph 4.2 below of this Attachment 13);
- 2.3.6 Events such as **Operational Board meetings**, where the programme or project teams may escalate topics for resolution or where material decisions may need to be made. (see paragraph 6.21 below);
- 2.3.7 **The “Balanced Scorecard”**, providing the mechanism to visually summarise the status of either the Call-Off and/or Supplier performance. Whilst a large individual Call-Off may warrant a dedicated Balanced Scorecard, within the context of this framework it is anticipated the Balanced Scorecard will operate at the overall Buyer/Supplier level (and this is the assumption underpinning the illustrations making up the rest of this Attachment 13) (see 4.3 below);
- 2.3.8 in order to manage the time dimension relevant to the Call-Off Contract the Buyer will require some form of delivery planning. This may be in the form of Gantt charts or project plans, or it may be in the form of agile tools such as roadmaps, Epic boards, Elaboration and/or Sprint Boards, Kanban boards, etc.
- 2.4 Throughout the lifetime of Call-Off Contracts between the Buyer and Suppliers there are risks. Risk management practices applied at Call-Off Contract level are described further at paragraph 5 of this Attachment 13.



- 2.5 Suppliers should be aware that the Buyer will also undertake ongoing Supplier risk management activities (such as ongoing financial credit rating checks) as part of its Call-Off Contract management processes.

3. SUPPLIER AND CONTRACT MANAGEMENT LEVELS

Statement of Work Management

- 3.1 Other than the first SOWs under a Call-Off Contract, which will be defined by the Buyer, SOWs will generally be developed involving joint exploratory discussions between the Buyer and the Supplier. Generally speaking, inputs to the SOW are likely to include:
- 3.1.1 some form of road map (the context);
 - 3.1.2 initial views on initial resource profile and technology stack and so on, used to inform the sizing of the SOW;
 - 3.1.3 which Accountability Model (Sole Responsibility, Self-Directed Teams or Rainbow), each as defined in Annex 3 of Attachment 2.1 (Specification); and which pricing mechanism (Fixed Price or Capped Time and Material,); and
 - 3.1.4 an initial Backlog (detailing requirements at an appropriate level of detail), provisional resource profile and technologies.
- 3.2 The operation of the Backlog is described under paragraph 4 below, however, at operational level it is intended to be the basis for agreeing, accepting and capturing tasks as well as related effort. There shall be a continuous alignment between the main Backlog held at Call-Off Contract level and any SOW Backlog (the Call-Off Contract level Backlog focuses on Deliverable Increments whilst the SOW Backlog level focuses on the more detailed tasks). At SOW level the Backlog should largely be operational and should be being refined to a level that can be allocated to the next sprint, timebox or equivalent (aiming to task size).
- 3.3 In addition to the Backlog, there will be information required by the Buyer for the purposes of recording resources (e.g. for controlling access to infrastructure), measuring performance (e.g. burn charts, etc), evidencing delivery (e.g. acceptance certificates) and so on. Annex 1 of this Attachment 13 provides a provisional, non-exclusive, list of information types which may be used by the Buyer to initially specify typical requirements.
- 3.4 Whilst individual SOWs may operate under the Fixed Price pricing mechanisms, all Call-Off Contracts shall be underpinned by an agreed set of Supplier Call-Off Rate Cards. Under all circumstances, regardless of pricing model, Suppliers shall maintain an accurate record of actual resource utilisation and to make this available to the Buyer on request.
- 3.5 When capturing effort, the Supplier is required to link such effort to the SOW and to the respective entry on the applicable Call-Off Rate Card as well as include period start and end date and utilised effort (in hours, days or fractions thereof as determined by the Buyer).



- 3.6 Operational Planning Events will be held at a frequency determined by the Buyer. The purpose will be to agree the next iteration of work (e.g. Scrum Sprint) and to refine the Backlog. The principle of ongoing refinement is a key Agile concept.
- 3.7 Operational Review Events will be held at a frequency determined by the Buyer. Typically, these will be at regular intervals (e.g. every month or every Scrum Sprint). Two contractual related purposes of Operational Review Events are to:
- 3.7.1 identify when tasks are completed and provide evidence to the Commercial Planning/Review Events that work is “done”; and
 - 3.7.2 capture actual effort taken (versus the forecast) as a means of improving future estimates and providing the raw data for invoicing purposes.

Call-Off Contract Management

- 3.8 Within the context of this Call-Off Contract, taking into account the other levels of contract management, the primary purpose of Call-Off Contract Management includes:
- 3.8.1 establishing and managing the information flows relevant to the Call-Off Contract;
 - 3.8.2 managing the overarching Backlog and ensuring it is continuously refined to reflect the evolving work;
 - 3.8.3 establishing new SOWs, providing oversight of SOWs in progress and ensuring handover between SOWs as appropriate;
 - 3.8.4 acting as the bridge between SOW management (operational) and commercial matters such as raising and managing invoices and payment, and tracking and managing commitment and spend against the overall Call-Off Contract value estimate;
 - 3.8.5 providing oversight of the resources (Supplier Staff, Subcontractors, etc.) required to deliver the Deliverables under the Call-Off Contract;
 - 3.8.6 creating and maintaining Implementation Plans (as set out in Order Form Attachment 6.1 (Implementation Plan));
 - 3.8.7 co-ordinating with stakeholders and the Operational Board if applicable;
 - 3.8.8 managing overall Call-Off Contract level risks, issues, escalations and commercial matters;
 - 3.8.9 managing formal Variations;
 - 3.8.10 acting as the linkage point into Buyer/Supplier Management;
 - 3.8.11 maintaining and updating the Contract specific Call-Off Rate Card(s);
 - 3.8.12 contributing to the maintenance of programme/project artifacts such as business cases, procurement packages, roadmaps, etc;



- 3.8.13 ensuring smooth transition and hand-over to the recipient of Deliverables (always the Buyer, but it may also be to another supplier if there is another major phase of work to be undertaken by the other supplier under a separate Call-Off Contract or SOW); and
- 3.8.14 monitoring Supplier performance against KPIs.
- 3.9 Typically, the Buyer shall expect oversight of SOWs to form part of the role of a core team who will persist for the duration of the Call-Off Contract. The Buyer shall consider executing a dedicated SOW (typically a rainbow team, on a Capped Time and Materials basis) for defining and managing Call-Off Contract Management activities. This would be in addition to any specific delivery SOWs. This role is not anticipated to be full time, but rather periodic (e.g. no more than a few days per month). If a single SOW is operating at any given time, the role may to be combined with others.
- 3.10 Whereas SOWs will often be sequential, there is no restriction on the number of SOWs that are able to be effective at any point in time. This means a Call-Off Contract may involve more than one Service Provision (with individual SOWs possibly commissioned to deliver distinct services).
- 3.11 The above activities are logically defined under the heading of Call-Off Contract Management for the purposes of this Call-Off Contract however the Buyer may choose to capture the above requirements in a manner of their own choosing.

Establishing and Managing Information Flows

- 3.12 Annex 2 of this Attachment 13 provides an initial list of information which may be requested by the Buyer in connection with Call-Off Contract Management. The Buyer may add to this list at any point in time by notifying the Supplier in writing.
- 3.13 The information set out in Annex 2 of this Attachment 13 shall be expected to be kept up to date by the Supplier at the refresh frequency set out in that Annex. The Supplier is required to maintain tight version control and, where noted, obtain Buyer approval to updates as the work progresses.

Managing the Backlog

- 3.14 The Backlog is a key artifact for Call-Off Contract Management. The Backlog shall track Deliverable Increments as they are refined during the Call-Off Contract Period, will identify which SOWs cover each Deliverable Increment, will size them (and cost them under either the Fixed Price), will provide the basis for “accepting” them and will track various other information as set out in Annex 4.
- 3.15 Whilst the Buyer may choose to have a single Backlog covering each SOW and the Call-Off Contract, at Call-Off Contract level the Backlog is intended to capture the Deliverable Increments whilst delegating the detailed task-level management down to the SOW Backlog.
- 3.16 Payment under the Fixed Price pricing mechanism will be based on the price agreed in advance. However, the Supplier will be expected to provide a resource estimate which, when combined with Call-Off Rate Card prices, will provide the transparent basis for the fixed price.
- 3.17 The Buyer may elect to use acceptance certificates for all Deliverable Increments agreed as “done” or only for key Deliverable Increments. Under the Fixed Price or



pricing mechanisms, there shall be a clear linkage between an invoiced amount and the relevant Deliverable Increment.

- 3.18 In all cases there shall be a clear linkage between the Backlog and invoices submitted.
- 3.19 Invoice frequency may not align with Operational Review Events (e.g. invoicing may be monthly but review/planning events every two weeks). Under such circumstances, for clarity of receipting and audit purposes, unless agreed otherwise by the Buyer, work yet to be accepted at the Commercial Planning/Review Event shall be held back to the next appropriate invoice period.

Oversight of Statements of Work

- 3.20 Subsequent to the first SOW, new SOWs will be created and agreed under the concept of Call-Off Contract Management. It is anticipated that the team involved in Call-Off Contract Management shall develop the SOW requirements, work with the Supplier to agree the content of the SOW, and decide on the resourcing and pricing models prior to signing off the SOW.
- 3.21 It is the responsibility of the respective Call-Off Contract Managers to ensure SOWs are within the scope of the overarching Call-Off Contract and that budget is available under the Call-Off Contract.
- 3.22 It is envisaged that minor variations to in-place SOWs will be coordinated under the concept of Call-Off Contract Management

Providing oversight of resourcing

- 3.23 Whilst detailed planning of resource allocation to SOW tasks is handled at SOW Management level, there is an ongoing requirement to understand the total resourcing view and where resourcing is deployed at the Call-Off Contract level.
- 3.24 Under the Rainbow Team Accountability Model, the Buyer may have mandatory induction processes to be followed. The Supplier shall ensure that all such requirements are met where required prior to beginning work under any Call-Off Contract or SOW.
- 3.25 The Supplier is also responsible for ensuring that its staff (directly or indirectly employed) perform any data handover / cleansing obligations where applicable at the end of a Call-Off Contract. Call-Off Contract Management is accountable for ensuring this is done.

The bridge between SOW Delivery and payment / Call-Off Contract budget management

- 3.26 The Supplier shall, at all times, maintain an audit path linking delivery information together with invoice information.
- 3.27 In an Agile environment, the contract value agreed at Call-Off Contract level is typically a maximum possible value rather than a committed sum. Subject to the terms of this Call-Off Contract, committed charges shall be set out in each SOW.



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- 3.28 At all times, the Supplier shall track budgets, forecasts and actuals at purchase order level, SOW level and Call-Off Contract level and shall provide a level of granularity (e.g. monthly) as required by the Buyer.
- 3.29 The Supplier shall update such financial summaries to reflect any changes agreed under the formal Variation process.
- 3.30 The Supplier shall notify the Buyer of any forecast overspend at least 60 days in advance of such an overspend occurring.

Buyer/Supplier Management

- 3.31 Buyer/Supplier Management covers the overall relationship between Buyer and Supplier. If there is only one Call-Off Contract in place between the Buyer and Supplier the below activities may be combined under Call-Off Contract Management. However, Buyer/Supplier Management contains obligations which extend beyond specific Call-Off Contracts as set out below.
- 3.32 Buyer/Supplier Management is considered to formally start on the commencement of the Call-Off Contract. However, it is anticipated that Suppliers start to engage in Buyer/Supplier Management on an informal basis as they first become involved in a Further Competition Procedure.
- 3.33 From the Call-Off Contract Start Date the Supplier shall nominate a Buyer Account Manager and the Buyer shall nominate a Supplier Manager
- 3.34 It is expected, as part of non-Call-Off Contract-specific Supplier engagement, that the Supplier makes efforts to “understand” the Buyer. In order to improve competition and ensure a level playing the Buyer shall support attempts by the Supplier to “understand” the Buyer, without prejudicing any Further Competition Procedure.
- 3.35 It is recommended that, where a Supplier has not previously had a relationship with the Buyer, or specific relevant parts of the Buyer’s business, that “get to know events” are facilitated by the Buyer.
- 3.36 Buyer/Supplier Management is considered to end on the End Date of the last effective Call-Off Contract between the Buyer and Supplier.
- 3.37 Whilst it is recognised that Buyer/Supplier Management may be incorporated within Call-Off Contract Management, there is certain information which may be aggregated up or is pertinent to the relationship with the Supplier. Examples of such information are listed under Annex 3.
- 3.38 On an ongoing basis, the Buyer and Supplier shall collaborate to ensure appropriate prioritisation of resources, focus and continuous improvement across all Call-Off Contracts between the Buyer and the Supplier.
- 3.39 Buyer SM Events, for handling the above matters, shall be held at a frequency determined by the Buyer.

Collaborative Buyer/Supplier Events

- 3.40 Periodically, the Buyer may elect to meet with all Suppliers with whom it has Call-Off Contracts or who are actively participating in business with the Buyer.



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- 3.41 Typically such events will be held quarterly, but the frequency shall be determined by the Buyer. Suppliers should make every reasonable effort to participate in, and contribute to, such events.
- 3.42 The purpose of such events will typically be to:
- 3.42.1 provide the Buyer with the opportunity to share, on an equitable basis, future pipelines of work;
 - 3.42.2 provide the Buyer with the opportunity to share future technology trends from the Buyer's perspective;
 - 3.42.3 provide Suppliers with the opportunity to suggest overall improvements to the way the Framework Contract is working with the Buyer;
 - 3.42.4 share emerging technologies coming out of Supplier activities;
 - 3.42.5 identify where there may be market shortages in skills and discuss mechanisms (training, knowledge sharing, buddying/mentoring, etc.) to address such shortages;
 - 3.42.6 agree proposals for possible changes to be considered by CCS;
 - 3.42.7 any other activity which may be proposed by the Buyer.

4. KEY MECHANISMS

- 4.1 Product **Backlog** (Scrum®) or Prioritised Requirements List (AgilePM®) or equivalent:
- 4.1.1 Typical information to be held in the Backlog may be found in Annex 4 of this Attachment 13;
 - 4.1.2 The Backlog should be considered to be the operational equivalent of a change control log capturing refinements, changes, additions and deletions. The Backlog demonstrates the value delivered (even if only at Deliverable Increment) and provides an indicator on how much change the project/programme has had to absorb;
 - 4.1.3 The Backlog evidences value delivered; and
 - 4.1.4 Since the Backlog captures ongoing refinement, Variations should only be required to changes to funding, scope and high level Milestones/time-scales.
- 4.2 **Variation and Change Management**
- 4.2.1 The term "SOW Variation" is used to describe changes to budget, time-scales, and scope at the SOW level. Other than the Buyer ensuring finances are still available and that the scope of the SOW remains inside the Call-Off Contract, such SOW Variations are intended to be managed within the Call-Off Contract. As such extended Buyer governance is not anticipated.



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- 4.2.2 The term "Variation", in this context, is used to describe changes to overall contract value, overall contract milestones and/or term and where overall scope requires to change and such Variations shall follow the procedure set out in Schedule 8.2 (Change Control Procedure).
- 4.2.3 The Supplier is required to maintain copies of all Variation and SOW Variation documentation.

4.3 **Balanced Scorecard**

- 4.3.1 Where the Buyer determines, the Supplier shall work with the Buyer to develop the detail of a Balanced Scorecard.
- 4.3.2 The Buyer shall give notice to the Supplier as to when the Balanced Scorecard shall become effective.
- 4.3.3 The principles outlined in Procurement Policy Note 09/16: Procurement for Growth Balanced Scorecard (or any later replacement) shall apply.
- 4.3.4 The Parties shall refer to the Balanced Scorecard Paper, Annex A: Diagram and Annex B: Strategic Themes and Critical Success Factors associated with Procurement Policy Note 09/16 (or latest equivalents) when formulating a Balanced Scorecard.
- 4.3.5 The Buyer may elect to apply a Balanced Scorecard either per Call-Off Contract or at Supplier level.
- 4.3.6 The frequency of update to the Balanced Scorecard shall be determined by the Buyer (but will generally align with Commercial Planning/Review Events at Call-Off level and/or Buyer SM Events at Supplier level).
- 4.3.7 An example of a Balanced Scorecard may be found in Annex 5 of this Attachment 13.

5. **RISK MANAGEMENT**

- 5.1 Reference is made to the HM Treasury Green Book supplementary guidance on risk (<https://www.gov.uk/government/publications/green-book-supplementary-guidance-risk>).
- 5.2 In particular, the principles and concepts contained in the Orange Book shall underpin the risk management practices implemented under this Attachment 13.
- 5.3 Both Parties shall pro-actively manage risks attributed to them under the terms of this Call-Off Contract.
- 5.4 The Buyer will aim to ensure that the placement of risk is appropriate (i.e. risk is placed where it can be influenced).
- 5.5 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
 - 5.5.1 the identification and management of risks;
 - 5.5.2 the identification and management of issues; and



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- 5.5.3 monitoring and controlling project plans.
- 5.6 The Supplier shall allow the Buyer to inspect at any time within the Supplier's working hours the accounts and records which the Supplier is required to keep.
- 5.7 The Supplier will maintain a risk register of the risks relating to the Call-Off Contract which the Buyer and the Supplier have identified.
- 5.8 The Buyer may elect, at any point in time, to conduct ongoing Supplier risk management as follows:
 - 5.8.1 the Buyer may choose to use credit rating checks (such as those offered by Experian and Dun & Bradstreet) to monitor the financial health of the Supplier;
 - 5.8.2 should the Buyer determine that a Supplier could be at financial risk, the Buyer may request financial details (including current unpublished accounts) in order to better understand any risk which could have an impact on the Call-Off Contract;
 - 5.8.3 on request by the Buyer, the Supplier shall provide and work to a financial risk mitigation plan as a means of protecting the interests of the Buyer; and
 - 5.8.4 the Supplier shall take reasonable steps to ensure the financial health of any Subcontractors it engages with. In the event of a potential risk with any Subcontractor the Supplier shall notify the Buyer of such risks and the mitigation actions it is taking to protect the interests of the Buyer.

6. KEY ROLES

- 6.1 Key Roles and Key Staff are identified and named in each SOW.
- 6.2 The Supplier and the Buyer shall each nominate an Operational Contract Manager for the purposes of this Call-Off Contract through whom the provision of the Deliverables shall be managed day-to-day.
- 6.3 The Supplier and the Buyer shall each nominate a Call-Off Contract Manager for the purposes of this Call-Off Contract through whom commercial matters may be escalated as and when needed and at a regular frequency as determined by the Parties.
- 6.4 The Parties shall ensure that appropriate resource is made available on a regular basis such that the contract management aims, objectives and specific provisions of this Call-Off Contract can be fully realised.

Operational Contract Managers

- 6.5 Operational contract management shall cover matters including:
 - 6.5.1 developing technical scope for individual SOWs;
 - 6.5.2 ongoing joint management of Backlog item lists;
 - 6.5.3 resource monitoring; and
 - 6.5.4 progress against Deliverables and reporting and receipting of the same.



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- 6.6 The Supplier's Operational Contract Manager shall be:
- 6.6.1 the primary point of contact to receive operational communications from the Buyer and will also be the person primarily responsible for providing operational information to the Buyer;
 - 6.6.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Operational Contract Manager's responsibilities and obligations;
 - 6.6.3 able to cancel any delegation and recommence the position himself; and
 - 6.6.4 replaced only after the Buyer has received notification of the proposed change.
- 6.7 The Buyer's Operational Contract Manager is the Buyer side of the Operational Contract Management relationship, providing operational communications to the Supplier, acknowledging receipt of Deliverables, and having equivalent obligations with respect to delegation and notification of any changes.
- 6.8 The Buyer may provide revised instructions to the Supplier's Operational Contract Manager in regards to the operation of the Call-Off Contract and it will be the Supplier's Operational Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 6.9 Receipt of communication from the Supplier's Operational Contract Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Call-Off Contract.

Call-Off Contract Managers

- 6.10 Commercial Contract Management shall cover matters including:
- 6.10.1 development of commercial scope for individual SOWs;
 - 6.10.2 ensuring compliance with Call-Off Contract terms;
 - 6.10.3 oversight of commercial performance of the Call-Off Contract; and
 - 6.10.4 resolution of commercial issues, including any need for contractual dispute resolution or escalation.
- 6.11 The Supplier's Call-Off Contract Manager shall be:
- 6.11.1 the primary point of contact to receive commercial communications from the Buyer and will also be the person primarily responsible for providing commercial information to the Buyer;
 - 6.11.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Call-Off Contract Manager's responsibilities and obligations;
 - 6.11.3 able to cancel any delegation and recommence the position himself; and



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- 6.11.4 replaced only after the Buyer has received notification of the proposed change.
- 6.12 The Buyer's Call-Off Contract Manager is the Buyer side of the Commercial Contract Management relationship, providing commercial communications to the Supplier and having equivalent obligations with respect to delegation and notification of any changes.
- 6.13 The Buyer may provide revised instructions to the Supplier's Call-Off Contract Manager in regards to the commercial aspects of the Call-Off Contract and it will be the Supplier's Call-Off Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 6.14 Receipt of communication from the Supplier's Call-Off Contract Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Call-Off Contract.

Supplier Manager and Account/Buyer Manager

- 6.15 The Buyer side Supplier Manager, if named by the Buyer, is the individual with oversight of the Supplier as a whole and shall be the prime contact for the Supplier's Account/Buyer Manager.
- 6.16 Buyer matters which are not able to be dealt with at the Call-Off Contract level shall be escalated to the Supplier Manager.
- 6.17 The role shall delegate to the Buyer's Call-Off Contract Manager if not named.
- 6.18 The Supplier side Account/Buyer Manager, if named by the Supplier, is the individual with the relationship with the Buyer as a whole and shall be the prime contact for the Buyer's Supplier Manager.
- 6.19 Supplier matters which are not able to be dealt with at the Call-Off Contract level shall be escalated to the Supplier's Account/Buyer Manager.
- 6.20 The role shall delegate to the Supplier's Call-Off Contract Manager if not named.

Contract Boards

- 6.21 One or more Contract Boards may, at the Buyer's sole option be established for the purposes of this Call-Off Contract. At minimum the Supplier and the Buyer shall be represented on the board.
- 6.22 Where required, the board members, frequency and location of board meetings and planned start date by which the board shall be established shall be set out in Annex 6.
- 6.23 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 6.24 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any



board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.

- 6.25 The purpose of the board meetings will generally be to review the performance of the Call-Off Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

Executive Sponsors

- 6.26 Each party may elect to nominate an Executive Sponsor for the purposes of ensuring corporate alignment with the overall Buyer/Supplier relationship as well as acting as a point of escalation to assist in removing potential corporate blockers.

7. KEY INFORMATION

- 7.1 The Buyer requires the Supplier to provide the management information as identified in the Annexes to this Attachment 13. These requirements are without limitation to the Buyer's right to require the submission of information, reports, records and data as set out elsewhere in the Call-Off Contract.
- 7.2 The Supplier shall, within 30 days of the earliest of:
- 7.2.1 the date which is 30 days before the end of the Call-Off Contract Period;
 - 7.2.2 receipt of a Termination Notice;
 - 7.2.3 notification by the Buyer of an actual or intended Service Transfer; or
 - 7.2.4 a written request by the Buyer,
- provide the Buyer with a complete set of up to date information in respect of all types of information set out in the Annexes.

8. INVOICING AND PAYMENT

- 8.1 The frequency of invoicing shall be on a Monthly basis, unless agreed by the Buyer, in writing, as otherwise.
- 8.2 Invoices for the preceding Month shall be submitted within 10 Working Days of the end of the Month unless agreed, in writing, by the Buyer as otherwise.
- 8.3 Separate invoices shall be provided for each SOW, clearly identifying the Call-Off Contract and SOW which the invoice relates to.
- 8.4 The information to be provided by the Supplier with each Invoice shall be that identified in Annex 7.
- 8.5 In order to facilitate prompt payment of invoices, the Supplier shall coordinate with the Buyer to ensure acceptance of Deliverables completed.
- 8.6 The Buyer shall notify the Supplier of any incorrect Invoice submissions within 5 Working Days of receipt. Incorrect invoices shall include (without limitation) invoices



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for work which has not been accepted by the Buyer and invoices based on incorrect rates. The Supplier shall resubmit invoices once corrected.

- 8.7 Unless otherwise agreed, the Buyer shall pay all accepted invoices within 30 days of submission.

9. KPIs

- 9.1 The Supplier's performance shall be measured by the KPIs set out in Order Form Attachment 2.2 Part B - Key Performance Indicators and Subsidiary Performance Indicators.
- 9.2 The Supplier shall comply with the KPIs and establish processes to monitor its performance against them and the Supplier's achievement of KPIs shall be reviewed during Commercial Planning/Review Events.
- 9.3 The Buyer reserves the right to adjust, introduce new, or remove KPIs throughout the Call-Off Contract Period, however any significant changes to KPIs shall be agreed between the Buyer and the Supplier in accordance with the Variation Procedure.
- 9.4 The Buyer reserves the right to use and publish the performance of the Supplier against the KPIs without restriction.
- 9.5 In the event that the Buyer and the Supplier are unable to agree the performance score for any KPI during a Commercial Planning/Review Event, the disputed score shall be recorded and the matter shall be referred to the Buyer Authorised Representative and the Supplier Authorised Representative in order to determine the best course of action to resolve the matter (which may involve organising an ad-hoc meeting to discuss the performance issue specifically).
- 9.6 In cases where the Buyer Authorised Representative and the Supplier Authorised Representative fail to reach a solution within a reasonable period of time, the matter shall be referred to the Dispute Resolution Procedure.
- 9.7 Failures to meet KPIs shall be addressed in accordance with Schedule 2.2 (Performance Levels).



Attachment 13 Annex 1: SOW Management Related Information

Topic	Frequency or Details
Operational Planning Event Frequency	Fortnightly
Operational Review Event Frequency	Fortnightly

The following table provides a list of information required by the Buyer as part of the SOW Management process.

Notes:

1. There are some artifacts which held at Call-Off Management level which could equally apply at this level. Please read that list too (Annex 2).
2. Supplier and Subcontractor related topics are covered under Buyer/Supplier Management
3. This list is non-exclusive, and the Buyer may elect to include other information.

Type of Information		Re- quired?	Refresh Fre- quency
A1.01	Backlog (Task level)	Yes	Operational Planning Event
A1.02	Forecast Resource Profile	Yes	Operational Planning Event
A1.03	Actual Resource Utilisation	Yes	Operational Review Event
A1.04	Task Completion Status	Yes	Operational Review Event
Typical Agile Artifacts (Statement of Work Information)			
A1.10	Sprint Burndown Report	Y	Supplied via Jira Or alternative tool as agreed with Buyer
A1.11	Velocity Chart	Y	Supplied via Jira Or alternative tool as agreed with Buyer
A1.12	Epic and Release Burndown Chart	Y	Supplied via Jira Or alternative tool as agreed with Buyer
A1.13	Agile Control Chart	N	N/a
A1.14	Cumulative Flow Diagram	Y	Supplied via Jira Or alternative tool as agreed with Buyer
A1.15	Value Delivered Chart	N	N/a



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A1.16	Work Item Age Chart	Y	Supplied via Jira Or alternative tool as agreed with Buyer



Attachment 13 Annex 2: Call-Off Contract Management Information

Topic	Frequency or Details
Commercial Planning/Review Event Frequency	Monthly

The following table provides a list of information required by the Buyer as part of the Call-Off Contract Management process (note that this is a logical model and the Buyer may elect to operate “events” under different labels).

Notes:

1. This list is non-exclusive, and the Buyer may elect to include other information.
2. This list is also illustrative and non-exhaustive. It is anticipated the Buyer will review and edit these tables as part of preparing a Call-Off Contract (and reserves the right to amend during the Call-Off Contract Period).

Ref.	Type of Information	Re-quired?	Refresh Fre- quency
Contract Management Artifacts			
A2.0 1	Backlog (Deliverable Increment Level) (including agreements to Acceptance, Pricing, Status, etc – see Backlog for details)	Yes	Commercial Planning / Re-view Event
A2.0 2	List of Supplier Staff including: SOW, Unique ID, Name, Job Role, link to Call-Off Rate Card, rate, Start Date, End Date, Planned Days, Forecast Days, Actual Days, Security Level, Contractor Status, IR35 determination, etc as specified by the Buyer)	Yes	Commercial Planning / Re-view Event
A2.0 3	Cost/Spend Cash Flow Data including: SOW, Budget, Forecast, Actual, links to POs, Variations, etc as specified by the Buyer	Yes	Commercial Planning / Re-view Event
A2.0 4	Risks, Issues (and Opportunities) Log including impact assessment, mitigation details, etc.	Yes	Commercial Planning / Re-view Event
A2.0 5	Any remediation plans agreed, and any progress against an agreed remediation plan.	Yes	Commercial Planning / Re-view Event
A2.0 6	Statement of any commercial issues by the Supplier during that period (late payment). Report of resolution of any previously noted items.	Yes	Commercial Planning / Re-view Event
A2.0 7	Copies of notices received and/or issues by the Buyer, and referrals to any Dispute Resolution Procedure	Yes	On demand by the Buyer
A2.0 8	Variations detailing material changes to scope, cost, major milestones and/or overall timescales	Yes	On demand by the Buyer
A2.0 9	Stakeholder Map	Y	On demand by the Buyer
A2.1 0	Communications Plan	Y	On demand by the Buyer
A2.1 1	Copies of all Contract related documents including referenced documents, relevant Sub-Contracts and any ancillary documents (including amendments)	Yes	On demand by the Buyer



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Ref.	Type of Information	Re- quired?	Refresh Fre- quency
A2.1 2	Current contact and address for notices under the Call-Off Contract.	Yes	Immediate and updates follow- ing any changes

Ref.	Type of Information	Re- quired?	Refresh Fre- quency
Typical AgilePM® Products (ref: Agile Project Management Handbook by the DSDM® Consortium): https://www.agilebusiness.org/page/ProjectFramework_08_Product			
A2.2 0	Terms of Reference	N	N/a
A2.2 1	Business Case	N	N/a
A2.2 2	Solution Architecture Definition	Y	On demand by the Buyer
A2.2 3	Development Approach Definition	Y	On demand by the Buyer
A2.2 4	Delivery Plan (also under Implementation Plans)	Y	On demand by the Buyer
A2.2 5	Timebox Plans (also under Implementation Plans)	Y	On demand by the Buyer
A2.2 6	Timebox Review Records	Y	On demand by the Buyer
A2.2 7	Management Approach Definition	Y	On demand by the Buyer
A2.2 8	Feasibility Assessment	Y	On demand by the Buyer
A2.2 9	Foundations Summary	Y	On demand by the Buyer
A2.3 0	Project Review Report	Y	On demand by the Buyer
Other Agile Products (courtesy Blended Agile Delivery www.thebadtoolkit.com)			
A2.4 0	V MOST Mission Boards	Y	On demand by the Buyer
A2.4 1	ROI Projections	Y	On demand by the Buyer
A2.4 2	EPIC Board (also under Implementation Plans)	Y	On demand by the Buyer
A2.4 3	User Stories	Y	On demand by the Buyer
A2.4 4	Release Propositions	Y	On demand by the Buyer
A2.4 5	Proof of Concepts (POCs) / Spikes	Y	On demand by the Buyer



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Ref.	Type of Information	Re-quired?	Refresh Fre- quency
A2.4 6	Designs / UX (User Functionality)	Y	On demand by the Buyer
A2.4 7	Business Architecture Changes	Y	On demand by the Buyer]
A2.4 8	Data Changes	Y	On demand by the Buyer
A2.4 9	Candidate Architectures	Y	On demand by the Buyer
A2.5 0	PTEST Requirements	N	N/a
A2.5 1	Elaboration Boards (also under Implementation Plans)	N	N/a
A2.5 2	Spring Boards (also under Implementation Plans)	N	N/a
A2.5 3	Delivery Metrics	Y	On demand by the Buyer
A2.5 4	Health Checks	Y	On demand by the Buyer

Ref.	Type of Information	Re-quired?	Refresh Fre- quency
Contributions to Other Programme / Project Management Artifacts (not listed above)			
A2.6 0	Technical Requirements (Functional / Non-Functional)	Y	On demand by the Buyer
A2.6 1	Technical Constraints (e.g. compatibility with existing systems)	Y	On demand by the Buyer]
A2.6 2	Pre-procurement support activities	N	N/a
A2.6 3	Make or Buy Analysis	Y	On demand by the Buyer
A2.6 4	Technical Stack Specification	Y	On demand by the Buyer
A2.6 5	Technical Road Map	Y	On demand by the Buyer
A2.6 6	Target Operating Model	Y	On demand by the Buyer
A2.6 7	Skills Requirements Profile	Y	On demand by the Buyer

Ref.	Type of Information	Re-quired?	Refresh Fre- quency
Security and Personal Data Reporting Information			
A2.7 0	DSP Toolkit Submissions	Yes	Annually in arrears



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Ref.	Type of Information	Re-quired?	Refresh Fre- quency
A2.7 1	Copies of required security clearance certificates for all staff (where staff process Patient Identifiable Data or are on Buyer Premises or access Buyer Systems)	Yes	On demand by the Buyer
A2.7 2	Unique individual identifier number and full name of staff handling Patient Identifiable Data (where staff process Patient Identifiable Data or are on Buyer Premises or access Buyer Systems)	Yes	On demand by the Buyer
A2.7 3	Updated DPIA	Y	On demand by the Buyer
A2.7 4	Completed Information Security Management (ISM) Document Set	N	N/a
A2.7 5	Evidence of data destruction certification	Yes	On demand by the Buyer
A2.7 6	Notices of any breach of data provision or security provisions	Yes	On occurrence

Ref.	Type of Information	Re-quired?	Refresh Fre- quency
Handover / Exit Related Information			
A2.8 0	Records required by Law as they relate to the provision of the services (including in relation to health and safety matters and health and safety files), such records to be prepared in accordance with any applicable laws or regulations.	Yes	On demand by the Buyer
A2.8 1	All training, implementation, operation and maintenance manuals related to the provision of the Deliverables.	Y	On demand by the Buyer
A2.8 2	All certificates, licences, registrations or warranties related to the provision of Deliverables	Y	On demand by the Buyer
A2.8 3	Exit Plan (and any requested updates)	Y	(see Call-Off Schedule 8.5: Exit Management)

Ref.	Type of Information	Re-quired?	Refresh Fre- quency
TUPE Information			
A2.9 0	Details of service functions that have provided services to the Buyer, and the denoting characteristics that delineate the functions (including but not limited to function code references and names used on the Supplier's finance system, and period of time for which such code has existed).	N	On demand by the Buyer
A2.9 1	Details of the number of customers supported by the Supplier's named service functions.	N	On demand by the Buyer



Ref.	Type of Information	Re-quired?	Refresh Fre-quency
A2.9 2	The Staffing Information (as defined in Call-Off Schedule 9.1 (Staff Transfer) Buyer in relation to an anticipated potential Service Transfer or as required to be provided under the Schedule	N	On demand by the Buyer

Attachment 13 Annex 3 : Buyer/Supplier Management Information

Topic	Frequency or Details
Buyer SM Event Frequency	Quarterly

The following table provides a list of information required by the Buyer as part of the Buyer/Supplier Management process (note that this is a logical model and the Buyer may elect to operate “events” under different labels).

Notes:

1. This list is non-exclusive, and the Buyer may elect to include other information.
2. This list is also illustrative and non-exhaustive. It is anticipated the Buyer will review and edit these tables as part of preparing a Call-Off Contract (and reserves the right to amend during the Call-Off Contract Period).
3. Information which could be seen to be advantageous to all Suppliers or which would be of benefit to all parties are dealt with under Buyer Specific Framework Management.

Ref.	Type of Information	Re-quired?	Refresh Fre-quency
Supplier and Sub-Contract Related Information			
A3.0 1	Report from the Supplier of any change to its financial standing / any change to its group structure.	Yes	On demand by the Buyer
A3.0 2	Request for use of any additional Subcontractors not forming part of the original Framework either: <ul style="list-style-type: none"> • As part of a proposed response to a new Further Competition Procedure; or During execution of an existing Call-Off Contract	Yes	Prior to competition. Prior to mobilisation (as appropriate)
A3.0 3	Written confirmation by the Supplier, confirmed in writing by the Subcontractor(s), that they have in place a contract which mirrors the provisions of the Call-Off Contract with the Supplier	Yes	On demand by the Buyer
A3.0 4	Written assurance by any Subcontractor that the provisions under A3.03 are also cascaded down their supply chain	Yes	On demand by the Buyer
A3.0 5	Copies of published financial accounts	Yes	On demand by the Buyer
A3.0 6	In the event of the Buyer becoming aware of any financial difficulties being faced by the Supplier (as reasonably judged by the Buyer), copies of current accounts (whether published or not)	Yes	On demand by the Buyer



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Ref.	Type of Information	Re- quired?	Refresh Fre- quency



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Ref.	Type of Information	Re-quired?	Refresh Fre- quency
Aggregated Views			
A3.1 0	Summary of all Call-Off Contracts, Variations and SOWs from a performance perspective (possibly in the form of a traffic light report). All as required by the Buyer	Yes	Buyer SM Event
A3.1 1	Summary of cash flow (budget, forecast, actual) for all Call-Off Contracts and SOWs	Yes	Buyer SM Event
A3.1 2	Summary of resources deployed and any people is- sues requiring resolution	Yes	Buyer SM Event
A3.1 3	Summary of escalated risks, issues and other esca- lation topics (e.g. around obligations)	Yes	Buyer SM Event
A3.1 4	Quality Review Heat Map (or equivalent) capturing an assessment of quality against things like User needs, roadmaps, technology, delivery, transpar- ency, decision making, go-live readiness, etc as de- fined by the Buyer	Yes	Buyer SM Event
Supplier (and Buyer) Performance and Continuous Improvement			
A3.2 0	Overall “Temperature Checks” or “Office Vibe” sta- tus or equivalent – providing 360° feedback on things like relationships, recognition, growth and de- velopment, wellness, happiness, etc (May also be at individual Call-Off Contract level)	Y	Buyer SM Event
A3.2 1	Balanced Scorecard (as defined in detail in para- graph 4.3)	Y	Buyer SM Event
A3.2 2	Mutual personnel development opportunities	Y	As mutually agreed
A3.2 3	Continuous improvement / opportunities	Y	As mutually agreed
Overall Supplier Governance			
A3.3 0	Summary of agreed remediation actions and their status	Yes	Buyer SM Event
A3.3 1	Mutual Review and endorsement of Call-Off Con- tract Variations	Yes	On demand by the Buyer
A3.3 2	Recommendations to be taken to framework level (under the management of the Authority)	Yes	As mutually agreed



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Annex 4: Product Backlog/Prioritised Requirements List

[To be confirmed if required, prior to contract execution.]



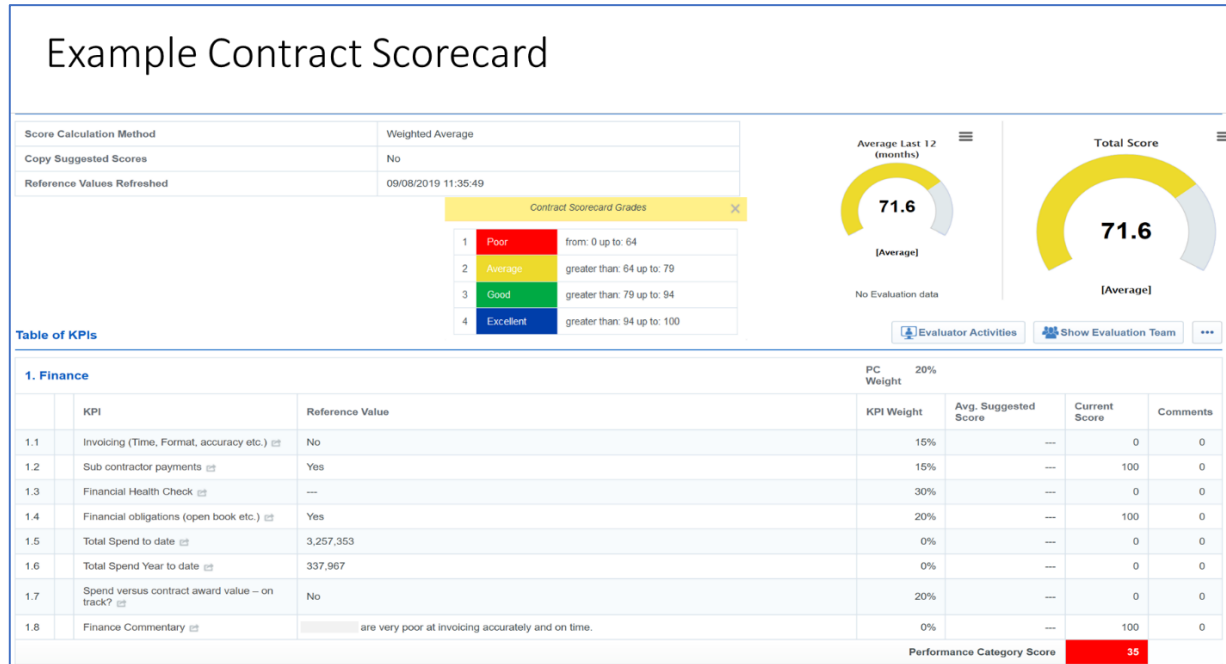
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Annex 5: Balanced Scorecard (Example)

1. In addition to the Supplier's performance management obligations set out in the Framework Contract, the Buyer and the Supplier may agree to the following Balanced Scorecard & KPIs for this Call-Off Contract (see Balanced Scorecard examples below). However, the Balanced Scorecards may change and be amended over the life of the Contract.

Example 1



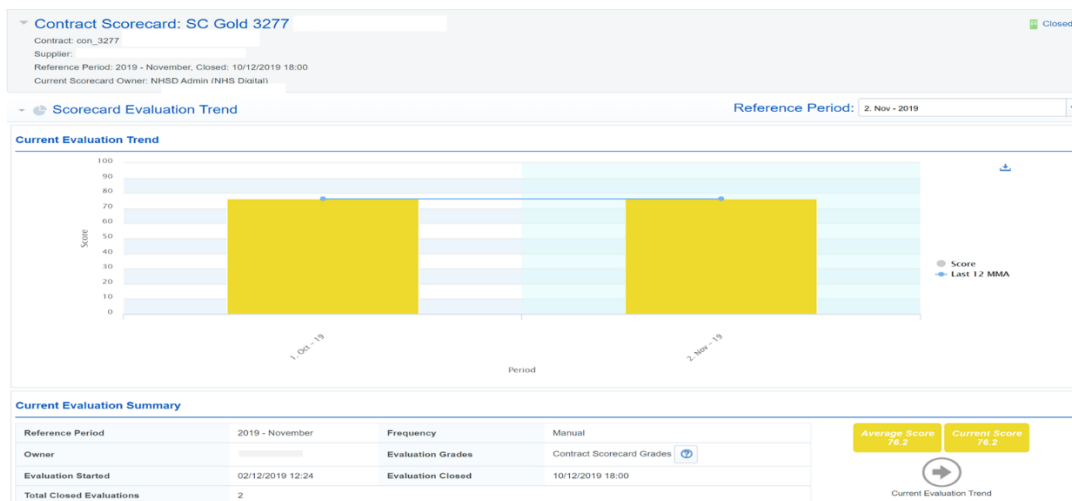


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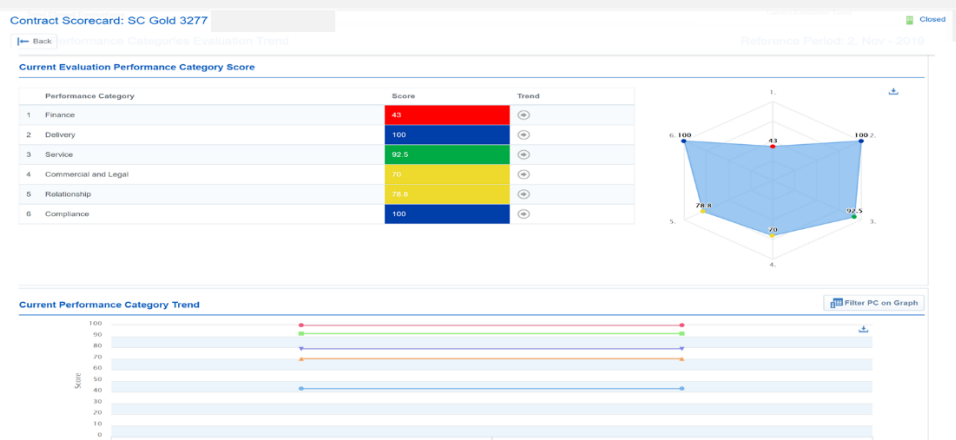
Example 2

Example Contract Trend Report



Example 3

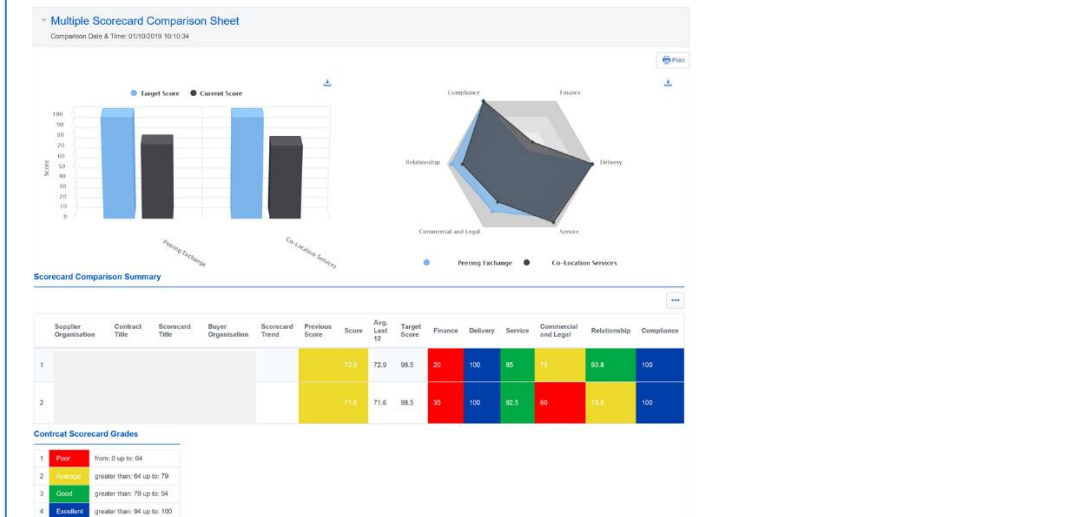
Example Contract Trend Report





Example 4

Example Contract Scorecard - Contract Comparison



2. The purpose of the Balanced Scorecard is to promote contract management activity, through measurement of a Supplier's performance against key performance indicators, which the Buyer and Supplier should agree at the beginning of a Call-Off Contract. The targets and measures listed in the example scorecard (above) are for guidance and should be changed to meet the agreed needs of the Buyer and Supplier.
3. The recommended process for using the Balanced Scorecard is as follows:
 - The Buyer and Supplier agree a templated Balanced Scorecard together with a performance management plan, which clearly outlines the responsibilities and actions that will be taken if agreed performance levels are not achieved.
 - On a pre-agreed schedule (e.g. monthly), both the Buyer and the Supplier provide a rating on the Supplier's performance
 - Following the initial rating, both Parties meet to review the scores and agree an overall final score for each key performance indicator
 - Following agreement of final scores, the process is repeated as per the agreed schedule.



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Annex 6: Contract Boards

Not Required



Annex 7: Information to be provided on Invoice

The following information is required to be provided along with each invoice:

Ref.	Type of Information	Which Services does this requirement apply to?	Required regularity of Submission
1.1	Details of the reference for the Call-Off Contract.	All	with each invoice
1.2	Details of the reference of the Statement of Work. To include reference to Milestones.	All	with each invoice
1.3	Details of the reference of the Variation.	All	with each invoice
1.4	Unique invoice number.	All	with each invoice
1.5	Buyer Purchase Order number (allocated on a per Programme basis by the Buyer).	All	with each invoice
1.6	Date of invoice.	All	with each invoice
1.7	Portfolio reference and programme name.	All	with each invoice
1.8	The period(s) to which the relevant Charge(s) relate.	All	with each invoice
1.9	Details of payments due in respect of achievement of a milestone.	All	with each invoice
1.10	Details of any service credits or similar incentives that shall apply to the charges detailed on the invoice.	All	with each invoice
1.11	The total charges gross and net of any applicable deductions and, separately, the amount of any disbursements properly chargeable to the Buyer under the terms of this Call-Off Contract, and separately.	All	with each invoice
1.12	Any VAT or other sales tax payable in respect of the same.	All	with each invoice
1.13	A contact name and telephone number of a responsible person in the Supplier's finance department in the event of administrative queries.	All	with each invoice
1.14	The banking details for payment to the Supplier via electronic transfer of funds (i.e. name and address of bank, sort code, account name and number).	All	with each invoice
1.15	Detailed time sheets for any time and materials-based pricing, including unique individual identifier number (and same number to be used in all correspondence, reports, provision of information etc. in relation to Supplier's staff), and full name. To include description of type of work undertaken, role and Team description.	All	with each invoice



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Ref.	Type of Information	Which Services does this requirement apply to?	Required regularity of Submission
1.16	Copies of invoices including VAT information for any expenses-based disbursements and deductions.	All	with each invoice
1.17	Asset number/ Asset type, (hardware/software, perpetual licence or subscription) description and period covered of any purchased / licensed / leased items.	All	with each invoice
1.18	Where appropriate, details of user stories worked on by each individual.	Software Development services	with each invoice

The information below offers an example of how various types of charges might be best detailed on an invoice:



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Buyer Details				Supplier Details			
Buyer Details				Supplier Details			
Buyer Details				Supplier Details			
Buyer Details				Supplier Details			
				Invoice #		xxxxx	
				Invoice Date		xx/xx/xx	
				Purchase Order		xxxxxxxx	
Portfolio Ref (P0xxx/xx)		Programme Name					
SOW xxx		Variation (CCNxx) SOW Title					
Milestone xx							
Deliverable		Reference #		Description of Work completed		Period xxxx	
Deliverable		Reference #		Description of Work completed		Amount	
Deliverable		Reference #		Description of Work completed		Amount	
Deliverable		Reference #		Description of Work completed		Amount	
Team Description							
Name		Role		unique individual identifier #		Type of Work (e.g Live Service, Development, Discovery)	
Name		Role		unique individual identifier #		Type of Work (e.g Live Service, Development, Discovery)	
Name		Role		unique individual identifier #		Type of Work (e.g Live Service, Development, Discovery)	
Name		Role		unique individual identifier #		Type of Work (e.g Live Service, Development, Discovery)	
Name		Role		unique individual identifier #		Type of Work (e.g Live Service, Development, Discovery)	
Name		Role		unique individual identifier #		Type of Work (e.g Live Service, Development, Discovery)	
Hardware							
Product		Product Code		Serial #		Type (e.g. Server, Laptop, Tablet, Mobile Phone)	
Product		Product Code		Serial #		Type (e.g. Server, Laptop, Tablet, Mobile Phone)	
Product		Product Code		Serial #		Type (e.g. Server, Laptop, Tablet, Mobile Phone)	
Software License							
Product		Description		Perpetual/Subscription		Licence Period	
Product		Description		Perpetual/Subscription		Licence Period	
Product		Description		Perpetual/Subscription		Licence Period	
Expenses							
Name		Date Incurred		Type (Travel, Accomodation etc)		Description including Provider	
Name		Date Incurred		Type (Travel, Accomodation etc)		Description including Provider	
Credits							
Description		Period Applied xxxx					
Description		Period Retates Too					
Description		Amount					
				Net Total		£XXX	
				VAT / Sales Tax		£XXX	
				Gross Total		£XXX	
Banking Details							
Account Name:							
Bank:							
Sort Code:							
Account No:							
IBAN Code:							
VAT Number:							
				Supplier Finance Department			
				Contact Name:			
				Contact Number:			

OFFICIAL – COMMERCIAL

Call-Off Ref: C293083 Digital UEC Transformation Delivery

Order Form Attachment 2.1 (Services Description)

This Schedule sets out the characteristics of the Deliverables that the Supplier will be required to make to the Buyers under this Call-Off Contract

Please read in conjunction with the order form.

Definitions

Expression Acronym	or	Definition
BA		Business Analysis
BaRS		Booking and Referral Service
CDDO		Central Digital and Data Office
CSO		Clinical Safety Officer
DOS		Directory of Services
DDAT		Digital, Data, and Technology Profession
DLS		Digital Learning Solutions
EBS		Electronic Booking Service
ECDS		Emergency Care Dataset
EDS		ED Streaming & Redirection tool
ED		Emergency Department
EPS		Electronic Prescription Service
FHiR		Fast Healthcare Interoperability Resources
HEE		Health Education England
ICB		Integrated Care Boards
ICS		Integrated Care Systems
IDT		Intelligent Data Tool
ITK		Interoperability Toolkit
IUCDS		Integrated Urgent Care Data Service
KPI		Key Performance Indicator
NHSD		NHS Digital
NHSE		NHS England
PaCCS		Pathways Clinical Consultation Support (Clinical module within Pathways system)
PAT		Pathways Authoring Tool
PDS		Personal Demographic Services

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PEH	Patient Encounter History
PLMS	Pathways Learning Management System
RCS	Repeat Caller Service
SCR	Summary Care Record
TA	Technical Architecture
VPAT	Visual Pathways Authoring Tool
UEC	Urgent and Emergency Care
SofS	Secretary of State

Call-Off Specification**1. Context****Background and Interpretation****Work with NHS England**

In January 2023 NHSE and NHSD formally merged with HEE being incorporated in April 2023. The new NHS England will play a vital role in supporting the NHS, but it will be more focused on enabling and supporting change through an organisation that can speak with a single national voice, remove duplication and which models effective joint working. All with the aim that we become a more agile organisation that has the flexibility to respond quickly to changing demand, priorities and opportunities. This means being rigorous about the activity our new organisation undertakes.

From those structural changes NHS England responsibilities now include designing, delivering, and managing essential technology infrastructure, data and digital services, products, and standards that health and care professionals use every day to deliver better health and care outcomes.

From a technology perspective there remains the opportunity to continually improve existing and develop new digital services designed to meet the needs of our health and care professionals, patients and public. Services that offer simple and speedy access to the information and data that matters, whenever and wherever it is needed. Cost effective, sustainable solutions that improve investment value, accelerating the digital transformation of the NHS.

Further information can be obtained through the NHS England [website](#).

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Transformation Directorate within NHS England

The Transformation Directorate plays a vital role enabling and supporting change throughout the NHS. The Transformation Directorate's mission is to enable the delivery of the best care and outcomes for the NHS and people that it serves, by improving population health and patient pathways, rapidly adopting effective technologies, building on insights from data and cutting-edge research, and by transforming the way that care is delivered.

This mission will be achieved by working with a single voice, removing duplicative activities and have in place effective joint working with other Directorates, Portfolio Areas and the wider NHS health system. All with the aim that we become a more agile organisation that has flexibility to respond quickly to changing demand, priorities and opportunities.

Within the Transformation Directorate sit different Portfolio Areas a one of those being **Digital Urgent and Emergency Care (DUEC)** relating to this Call-Off Contract.

The work of DUEC

Urgent and Emergency care services play a pivotal role in providing the care that people need. However, pressures on services have risen year on year.

Recent pressures have come about from increasing complexity of care with patients having more comorbidities, in part relating to COVID, having a lasting impact on NHS Services.

The immediate challenges for UEC services come on top of longer-term trends. The need for health and care is continuing to increase because of population growth, ageing in the population and greater numbers of people living with long-term conditions.

To support the recovery of urgent and emergency care services the NHS UEC Recovery Plan was put together earlier this year. This sets out a number of ambitions to improve waiting times and patient experience. More details on the recovery plan can be obtain from the NHS England [website](#).

DUEC continues to play a vital role in supporting essential urgent and emergency care services, including front door services including 999 and NHS 111 call handling and our digital channel NHS 111 Online as well as our Directory of Services and Data products. Our work will support delivery of the NHS UEC Recovery Plan by helping people access the right care first time. Consequently, Digital UEC systems are constantly evolving to meet the needs of the public including:

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- Ensuring our digital products continue to be fully integrated into the UEC patient journey.
- Improving communication on waiting times.
- A better understanding on how to access the right care to avoid multiple handovers between services.
- Provide greater continuity of care so that they do not have to repeat their story as they go through the system.

To achieve some of these ambitions the Digital Urgent and Emergency team is also working closely with other digital Portfolio Areas across the NHS England's Transformation Directorate.

Foremost among these is the Booking and Referral Service (BaRS) and other national Interoperability initiatives, helping ensure that people are not just directed to where they should go, but the venue knows when they are coming, has their records, and sees them quickly. This helps the NHS manage workflows in a more sustainable way that meets user-needs. Notably, BaRS is an important area of development for UEC however this is not directly within the remit of this Call Off-Contract.

Our DUEC Portfolio of Products and Services

DUEC products and services are used across all areas of UEC and integrate with other key digital channels and care settings in Primary and Secondary Care.

Each Integrated Care Board (ICB) across England's contracted NHS Provider(s) have their own core systems for managing patients and their care. However, the end-to-end process is underpinned by a set of NHS England Transformation Portfolio Area products linking the patient journey across the system between digital channels and providers.

Whether it's a 999-call handler using NHS Pathways to safely and quickly assess what kind of care is needed, someone accessing 111 Online directly through their smartphone, or a clinician using the Directory of Services to find the right place for a patient to go, data and technology is powering many elements of urgent and emergency care in the NHS.

Our products are currently grouped into delivery teams as follows:

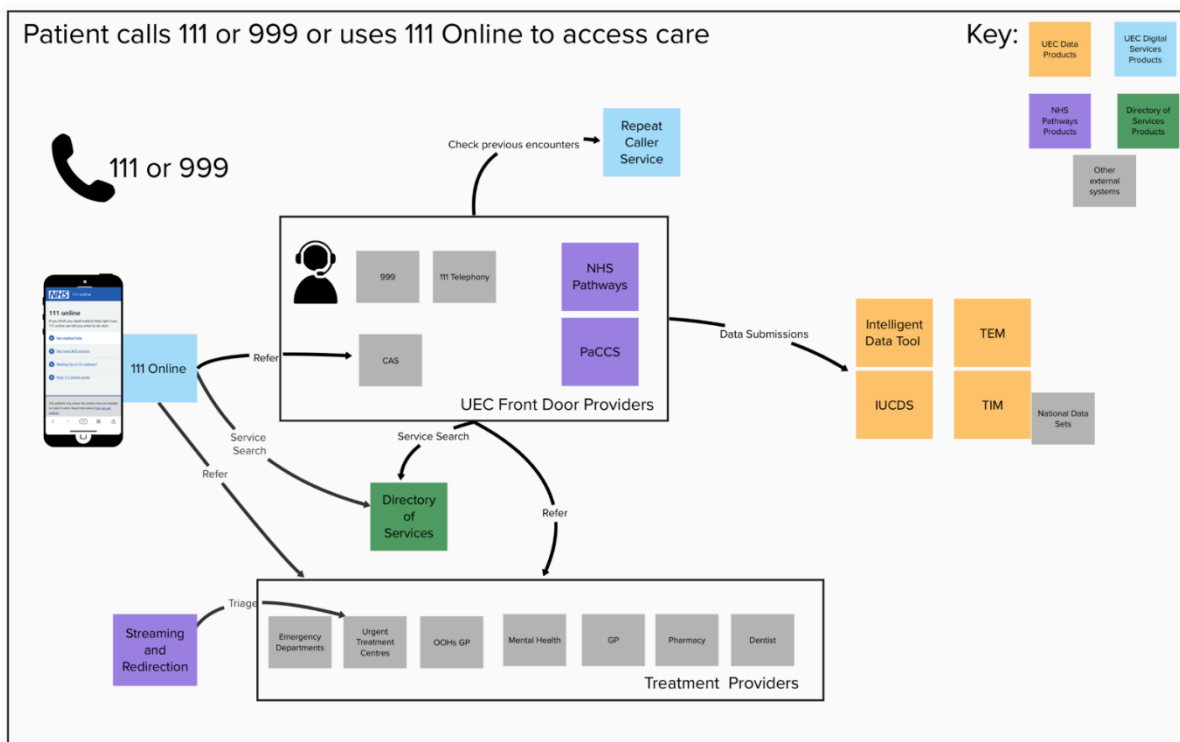
- **UEC Digital Services** – delivering 111 Online and the Repeat Caller Service;
- **NHS Pathways** – delivering a wide suite of products to support safe and effective triage;

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- **Directory of Services** – a suite of products to help users find the right service to further assess and treat a patient;
- **UEC Data** – analysing outcomes to further improve patient triage and journeys; and
- **UEC Interoperability** – providing implementation standards and advice on interoperability across all systems used in UEC.

The following diagram shows the *key* areas where our products are used in UEC settings across a patient journey:



Each of these areas is described in more detail below. The scope of this work is to support our delivery of these live products and any future new product development required to enhance UEC service delivery. Note that only the main products are shown in this diagram, and each product area maintains a number of products and services.

Overview of the requirement

This procurement is to support the transformational activities of the Digital Urgent and Emergency team. The initial transformation activities focus on NHS Pathways, the Directory of Services and UEC Data delivery areas. The Call Off-Contract will, when required, also span transformation activities for other areas and products within UEC as well as some of the needs of continuous iterative delivery across all delivery teams.

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Key Areas of Transformation**(a) NHS Pathways Transformation**

NHS Pathways Clinical Decision Support System is a suite of around 20 products used in Urgent and Emergency care settings. It is used over the telephone to support non-clinical call handlers in directing callers to the most appropriate level of care for the care needs of the patient at the time of the call. It does not seek to diagnose patients but assesses symptoms to direct them to the most appropriate care setting for further assessment where required. NHS Pathways content also 'powers' NHS 111 Online.

It is used by all NHS 111 telephone service providers in England, and approximately half of 999 Ambulance service providers. It currently supports the remote assessment of nearly 22 million triages per year. It is also used by clinicians to support their assessments.

Technical and development support for the NHS Pathways BAU service is provided via a blend of permanent staff and Supplier resources.

The tooling that underpins NHS Pathways has been on a purely maintain-only basis for many years. Various areas for future improvement have been identified which were confirmed via Discovery and Foundation phases looking at the tooling and the associated IT systems and future Data Models.

The reports and other outputs provide a baseline for the work required to re-platform, re-architect and re-tool NHS Pathways. The expectation is for a redevelopment of the primary components on NHS Pathways, potentially including:

- Simplifying the authoring of NHS Pathways – new authoring tooling
- Simplifying Reporting (new data models)
- Standardising NHS Pathways outputs – using SNOMED and other coding
- Simplifying content distribution – releases (covering technical changes and therefore new business process)
- Making it easier to update content
- Simplifying Outcome mapping to services

(b) Directory of Services (DoS) Transformation

The Directory of Services (DoS) is a core part of delivering NHS Urgent & Emergency Care services 24x7x365 days a year. It is responsible for identifying the most appropriate, lowest acuity, service for a patient to be referred to following a clinical triage and considers things like the time of day, capacity of services and specific commissioner requirements.

In recent years the DoS's ability to deliver responsively against changing user needs and wider use cases has been increasingly constrained by its complex architecture and legacy technical stack. Its ability to maintain full 24/7 support for all elements of the service has been similarly constrained due to availability of resources with the skills and knowledge to maintain the legacy technical stack.

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With a number of 'must-do' changes required, such as addressing DoS' out-of-date core PHP coding language, and a requirement to comply with the planned NHS Pathways move to SNOMED (a two-way dependency with the NHS Pathways team), action is required now to avoid DoS becoming unfit for purpose.

A 'Transformation' of the DoS is required to address the totality of known issues, mitigate risks to the live service and to ensure DoS can evolve to continue to meet the needs of an evolving UEC, a broader healthcare landscape and the objectives of the NHS Long Term Plan, UEC Recovery Plan and the [Laura Wade-Gery Review](#).

Indeed, a transformation of the DoS technology platform is referenced explicitly in the recently published [UEC Recovery Plan](#):

"The Directory of Services enables referrals into the most appropriate urgent care service from 111 and 999, supporting better management of patients. A platform rebuild will make it easier for staff in the NHS to direct people to the appropriate services and supports faster innovation of new services." (Section 5: Making it easier to access the right care, pg. 41).

The scope of this Call-Off Contract and related statements of work includes a complete re-write and re-architecture of the DoS application, including the user interface (UI), infrastructure, search algorithm and the supporting data. The enhanced DoS will be a modern and robust application better able to meet current and emerging use cases and more advanced and innovative business needs. Furthermore, it will allow for improved integration with a wider range of additional healthcare systems and services improving the journey and experience of our users and patients.

(c) UEC Data Transformation

The UEC Data team will determine the resources and requirements needed to deliver the outcomes for each of the products aligned to UEC Data. The Supplier will provide support to deliver the outcomes defined for each of the products.

UEC Data team brings together information from different services to tell the story of how the Urgent and Emergency Care system works. Several data products have been developed to support UEC live services, including:

- Linked Assets - linking up data from national data sources to understand the patient journey.
- The Triage Internal Metrics (TIM) tool to give Pathways clinicians 24-hour access to metrics about patient outcomes following an NHS Pathways triage to support their decision-making.
- Alongside TIM there is a Queries Service which uses outcome-based data to help clinicians to assess and evaluate changes to the system, to make sure they are as safe and efficient as possible.
- The Triage External Metrics (TEM) interactive dashboards provide insights into patient journeys across UEC, to help commissioners and providers plan and run services.

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Going forward there are plans to work on two novel transformation projects - Advanced Analytics and Publications - that will enable the UEC community to 'listen' to the data and use advanced analytic techniques to achieve system and service improvements in the most efficient way. It will also help to publicise the insights and best practice for wider audiences, to stimulate and inform public discussion.

UEC Data will undertake transformation work with particular emphasis on re-platforming, re-architecture and re-tooling to address capacity and capability issues. The challenges include:

- incorporating new data sources
- integration with other programmes, platforms and infrastructure
- capacity to analyse 'big' data sources
- flexibility around software selection and prototype implementation to improve user delivery options

2. Scope

The Buyer is looking for a Supplier to support with significant Transformation and other activities in Urgent & Emergency Care.

The scope of this Call Off-Contract encompasses all 4 lots on the framework and the Buyer requires a Supplier who can deliver all aspects of the scope of the framework. However, the following elements are of particular importance as there is a requirement to leverage the winning Supplier's 'thought leadership' to work with the Buyer to understand Urgent & Emergency Care's large scale change problems and work to develop solutions that can be operationalised.

This 'thought leadership' encompasses the following elements which all should focus on **people/users, process/es and technology**; be able to progress options appraisals; be able to develop working prototypes/PoC's based on the options considered and take successful prototypes into a delivery cycle into live using an Agile delivery methodology often with traditional Waterfall governance elements.

The key elements of Lot 4 that are most relevant to this Call-Off Contract are listed below (this is not an exhaustive list):

- Demonstrate the capability to deliver major service transformation programmes.
- Capability analysis - identification of current business capability (as is) and that which will be needed for the future state (to be).
- Technology gap assessments - the assessment and recommendation of the right technology to plug the capability gap between the as-is and the to-be.

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- Operational service design - working with customers and end users in order to design a service delivery model that meets the current and future business needs and demand.
- Service Levels, Performance Design - developing service levels and KPI's for services in scope, their measurement and reporting and how service provider(s) may work to achieve and maintain them.
- Service Availability – designing, monitoring, assurance and continuity of service processes and systems to meet current and future business needs.
- The identification of the transition/transformation success factors and their measurement.
- Implementing and managing the transition/transformation process and coordination of resources, potentially across a multi supplier environment.
- Risk analysis and risk management.
- This Call-Off Contract is to support the delivery of the Buyers outcomes related to the effective and efficient operation of Urgent and Emergency Care which includes (but is not limited to) transformation delivery, development, engineering, architecture, analysis and run maintain and live functions, all of which is centred around Thought Leadership.

Service Provisions

This Call Off-Contract focusses on supporting transformational delivery and also, where required, elements of continuous iteration of the Digital UEC existing products. In order to do this the following digital services are within scope:

- Build and Transition Services

Either separately combining CDDO Beta phase and/or Retirement phases (including transition to Live).

- End-to-End Development Services

The ability to combine the full set of CDDO agile phases of Discovery through to Live.

- Data Management (and similar) Services

Primarily targeted at building, enhancing, and maintaining data assets, migrating data from one system to another and analysis and reporting from such data assets.

- DevOps Services

Support for ongoing live services.

- Digital Definition Services

Either separately or combined CDDO Discovery (as extended under Extended Discovery) and /or Alpha phases.

Examples of services within the scope of this Call-Off Contract includes:

- Discovery work, proof of concepts and other technical validation and operational viability work as a precursor to larger change work being undertaken. As well as enhancing the live environment with improving the

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current product builds, this may also require the build of a completely new product from a discovery right through to live.

- Development and delivery of new features into live service. The Supplier will be responsible for delivering ongoing changes, new features and functionality as prioritised on the product backlog.
- Day-to-day operations including on-going maintenance.

Further details on Service Provisions can be found in Annex 3 – Digital Service Requirements.

Transition and Exit

This call-off contract will include any activity associated with a handover of the contract from the incumbent Suppliers to the new Supplier (if Supplier is different) and any exit requirements.

Contingency Transformation requirements:

The focus of this contract will be transformational delivery and thought leadership, however there will also be a requirement for the Supplier to work on continuous iteration requirements when requested to do so. The Supplier for this contract may be required to support delivery of transformation within a blended multi-disciplinary team which may involve working with third-party Supplier(s) as well as NHS England staff.

NHS Pathways Transformation

The other main area for the Supplier to support with transition will be the re-platforming of NHS Pathways. This Call-Off Contract is to support the delivery of the Buyers outcomes related to the re-platforming, re-architecture and re-tooling of NHS Pathways (known as Pathways re-platforming).

The objective of the Call-Off Contract is to build upon the scoping and discovery work done in 2022/23 to address the issues identified below. The details of this work carried out to date will be supplied to the successful Supplier at the appropriate stage.

These issues include-

- The pace at which new Pathways content can be safely authored (from a clinical perspective) and distributed via the current tools does not support agile ways of working.
- The data models and the associated IT systems/tools require modernisation to address the following-
 - They are inflexible, and complex to change.
 - They need 'future proofing' to enable NHS Pathways to take advantage of new and emerging technologies.
- Development is required to bring the tooling up to the expectations of the organisations latest Software Engineering standards.

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The services required will include-

- Proof of concepts and other technical validation and operational viability work (such as Alpha and Beta testing) building on previously completed Discoveries, as a precursor to the change work being undertaken.
- Development and delivery of the change work. The Supplier will be responsible for delivering IT system redevelopment, potentially including new data models, new authoring tooling and a new content-distribution approach.

NHS Pathways have an overarching vision of what Pathways re-platforming needs to deliver in terms of a modernised system that addresses the identified issues and is 'fit for purpose' for the future, along with an associated high-level budget and expected timeframe.

However, the phases of work required to deliver that vision are flexible with the detailed scope and requirements for each phase only becoming clear on completion of the previous phase. This is typical of Agile working.

To that end, there will be several associated Statements of Work (SOWs) under the overall Call-Off Contract and within the scope of the budget allocated that the Supplier will be required to deliver against to achieve each of the phases needed to meet the overarching vision.

For Pathways re-platforming, it is envisaged that the data model & the associated IT systems/tools that are built will future-proof NHS Pathways for at least 5 years, subject to ongoing continuous improvements under the BAU service.

NHS Pathways re-platforming work will cover the full set of CDDO agile build phases including some further Discovery, but mainly Alpha, Beta and migration to the Live service. The SOWs for each phase within the product lifecycle will identify the outputs that the Supplier is required to produce at the end of that phase to ensure a smooth transition from phase to phase with minimal delay.

Directory of Services (DoS) Transformation

The DoS transformation will be one of the main areas for the Supplier to provide support under this Call-Off Contract. The main Digital UEC aspiration is for the DoS and related products and services to support a seamless patient experience. To achieve the "Future Vision" for DoS transformation includes both business improvements and technical improvements. At the highest level these will provide:

- Greater flexibility of the DoS with increased throughput of and responsiveness to change.
- Enable future improved interoperability, supporting easier integration with more systems and care settings e.g., primary care, ambulance and community and social care.

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- Improved support for innovation through use of modern technologies and standards e.g., cloud, FHIR and SNOMED.
- Improved search and profiling of services, reducing the data management burden for those who manage service information and ultimately supporting better service identification for onward patient care.
- Improved performance, scalability, and flexibility of the platform to accommodate higher volume of usage with no performance degradation and a reliable service available 365 x 24 x 7.
- An improved user and patient experience across a wider range of care settings and services.
- Eventual simplified maintenance of the data held in DoS with an emphasis on self-service and automation via API.

This will be achieved through addressing the below key high-level items:

Infrastructure

- Cloud-native technology, taking advantage of fully automated processes.
- Decoupling of infrastructure to enable modularity.
- Modernisation of DoS to enable higher resilience and reliability.
- Optimised serverless infrastructure to reduce operational cost.

Data Model and Search

- Updated data model to support future requirements, e.g., FHIR, SNOMED CT
- Removal of manual work to overcome functional issues.
- Develop automated data processing capabilities.
- Improve search operation due to simpler data model and searching ability.

DoS UX/UI

- User interface built using modern frameworks.
- Simplified design whilst maximising accessibility.
- Integrated into the user journey.
- Aligning to NHS best practices and standards.

The services required will include-

- Proof of concepts and other technical validation and operational viability work (such as Alpha and Beta testing) building on previously completed Discoveries and Proof of concepts, as a precursor to the change work being undertaken.
- Development and delivery of the change work. The Supplier will be responsible for delivering IT system redevelopment, including new data models, and a new DoS Search, UX and UI.

The Directory of Services team have completed a large amount of discovery and foundational work, including a number of proof of concepts, the Supplier will be required to take these learning and build upon them to achieve overall objectives of the work.

The phases of work required are flexible with the detailed scope and requirements for each phase only becoming clear on completion of the previous phase. This is typical of Agile working.

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To that end, there will be several associated Statements of Work (SOWs) under the overall Call-Off and within the scope of the budget allocated that the Supplier will be required to deliver against to achieve each of the phases needed to meet the overarching vision.

To complete all the necessary changes to re-write and re-architect the Directory of Services, as well as to transition that service to Live with a parallel decommissioning of the 'old DoS', it is expected to take at least 30 months from award, subject to ongoing continuous improvements under the BAU service.

The DoS transformation work will cover the full set of CDDO agile build phases including some further Discovery, Alpha, Beta and migration to the Live service. SOWs may cover one of multiple phases of the lifecycle and will identify the outputs that the Supplier is required to produce.

UEC Data Transformation

The main area for the Supplier to support with transition will be the re-platforming of the UEC Data products, including Linked Asset, TIM (Triage Internal Metrics and TEM (Triage External Metrics). This Call-Off Contract is to support the delivery of the Buyers outcomes related to the re-platforming, re-architecture and re-tooling.

The objective of the Call-Off is to address the following challenges:

- Capacity and capability issues - currently there are limitations in terms of the availability of DBA /Infrastructure support resources.
- Restrictions of the type of work that can be done with the existing on-prem infrastructure.
- Limited capacity for working with big data and bringing in more data sources.
- The need to achieve integration with NHS Pathways, the ability to integrate in with 111online, and the ability to service our users/customers.

For TEM product we need a platform where we can do more, be more interactive, have capability to query back to underlying data and to provide the level of filtering and flexibility not currently achievable with Power BI and our current infrastructure.

TIM user interface needs to evolve into its next major iteration achieving a closer integration with NHS Pathways and the next generation of the authoring tools. It must have an ability to link directly into TIM Repository.

For the Linked Asset re-platforming, we should be able to interface with multiple repositories, e.g., Foundry or other tools available within the strategic Federated Data Platform (FDP).

For Advanced Analytics, we need to have a mechanism that allows us to deploy interactive prototypes which we have built based on our findings out to service providers and other users.

For Publications the platform should allow us to deliver different types of information to multiple audiences.

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The delivery requirements include:

- Discovery, option appraisal, proof of concepts and other technical validation and operational viability work (such as Alpha and Beta testing) building on initial assumptions, as a precursor to the change work being undertaken.
- Designing, building and testing the new processes.
- Transition from legacy infrastructure.
- Development and delivery of the transformation work. The Supplier will be responsible for specific redevelopment deliverables, potentially including discovery work/option appraisal, testing etc.

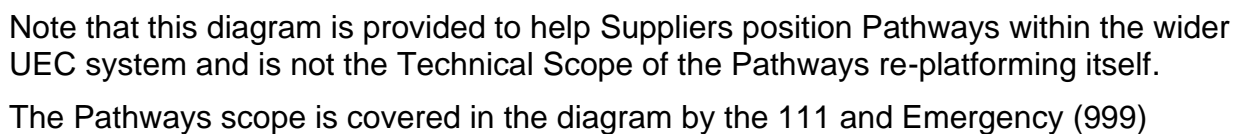
The data team continue to look at ways to optimise our use of data. We are adding datasets as they become available with the vision to create an end-to-end view of the entire patient journey.

2.1 Technical Scope**NHS Pathways**

Technology Capability details are contained in:

- NHS Pathways have built several bespoke applications to support the programme and its stakeholders.
- All websites, web services and windows applications are C#.Net and MS-SQL.
- The DevOps team will focus on these from a database and application perspective.
- The re-platforming team will be looking much more broadly, covering several areas in Annex 2, such as architecture and data modelling as well as the other areas.

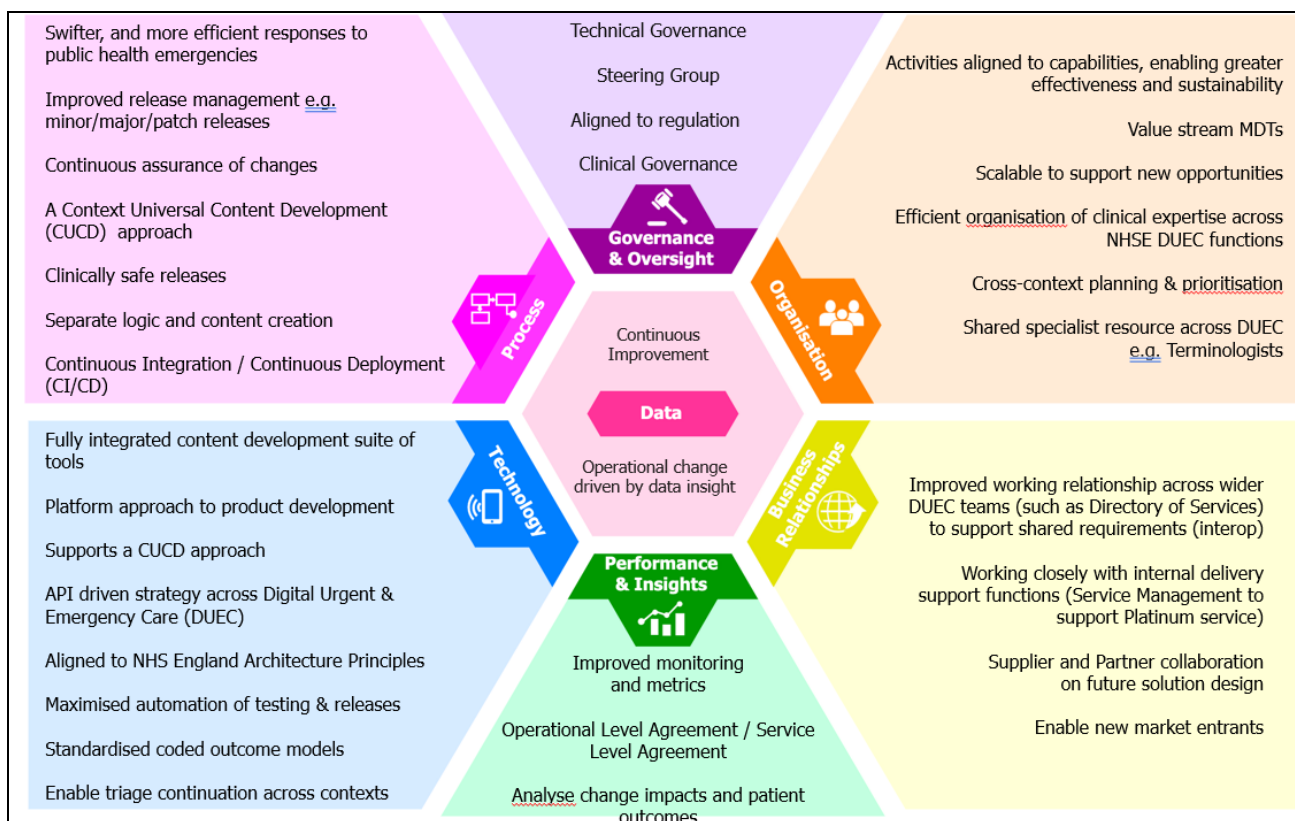
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See below an outline of the Target Operating Model:

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**Directory of Services (DoS)**

Earlier this year a DoS Transformation Full Business Case has been put together which will underpin the high-level technical requirements. There are three main options within the business case with the preferred option to do full re-platforming of the DoS. This option addresses the known risk and issues with the current live service, whilst realising the benefits associated with the full transformation.

This option provides a simpler framework within which to upgrade DoS's coding structure and migrate to SNOMED (MUST DO changes) making it a more efficient use of time and money than the other options presented.

High Level Scope of the Transformation

In Scope:

Infrastructure

- Cloud-native technology, taking advantage fully automated processes.
- Decoupling of infrastructure to enable modularity.
- Modernisation of DoS to enable higher resilience and reliability.
- Optimised serverless infrastructure to reduce operational cost.

Data Model and Search

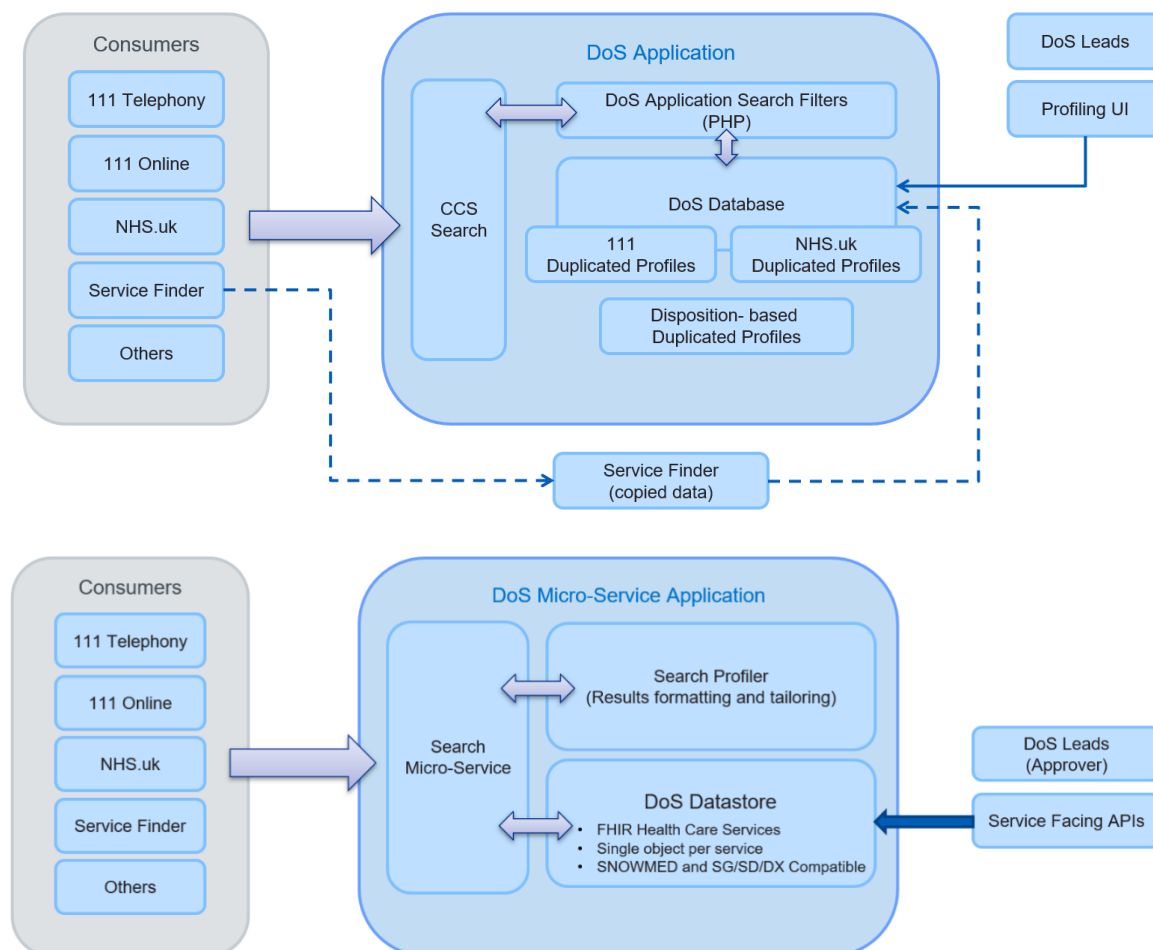
- Updated data model to support future requirements, e.g., FHIR, SNOMED CT.
- Removal of manual work to overcome functional issues.
- Develop automated data processing capabilities.
- Improve search operation due to simpler data model and searching ability.

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DoS UX/UI

- User interface built using modern frameworks.
- Simplified design whilst maximising accessibility.
- Integrated into the user journey.
- Aligning to NHS best practices and standards.

Old to new DoS Simplification:

The above scope is presented at a high level, identifying the key technical areas of focus for the Transformation. These areas of scope are discussed in more detail and aligned to the below key objectives. These do not represent the totality of objectives nor the whole scope of the delivery, but provide some of the key areas of technical consideration for the Supplier:

- 1) Remove critical pain points for DoS Users.
- 2) Use the opportunity to complete supplementary but necessary projects

Deliver new quality of life features required by the users of DoS.

1. Removal of Known Critical Pain Points

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There are many known pain points that both users of the DoS and those maintaining the technical infrastructure experience on a daily basis. Many of these cannot be properly addressed within the current infrastructure and data model. A key priority of the transformation is to address as many of these pain points as possible, including but not limited to the high priority ones identified below:

a. Slow Rate of Delivery resolution

i) New Application architecture

A new application will look to resolve some of the fundamental technical challenges of the DoS therefore introducing functional changes to better support UEC needs of our patients and those of other users.

NB: The below design principles have been shared and agreed with NHS England CTO via the NHSE England Enterprise Architecture Board.

DoS's innate issue lies within its monolithic MVC (Model-View-Controller) process. From this structural design, DoS's technical teams are considerably obstructed. Our end-users experience this as a knock-on effect since their new requirements and requests for features or improvements are regularly met with the unfortunate truth: that we are unable to deliver them in the timescales required, or even at all. Currently, if DoS wants to implement a change, it is forced to re-release the whole product. This brings with it a whole host of intensive technical processes, such as a significant amount of regression testing and management of a complicated infrastructure and code repository. A recent example of this is the development to amend the distance returned as part of a search from 'crow flies' to 'road distance', a seemingly simple change that took over 12 months to develop, test and release.

To realise an improvement from this fundamental bottleneck, a new application design has been composed, focusing on the concept of a serverless and microservice-driven application.

Microservices:

In short, microservices would split up the application into independent systems with their own conceptual but specific roles. These micro-services would be connected by a series of step-functions and Lambdas and will communicate with one another using REST API-style protocols. These microservices integrate particularly well with cloud-based solutions such as DoS and our vision for future DoS.

This approach would benefit from a de-coupling of the monolithic issues outlined above and allow for DoS's technical teams to deliver rapidly since they could only update the affected area, such as a UI specific update, for example.

This design would be separated from the current Texas solution. DoS having its own set of AWS accounts and environments decouples us from a highly contended set of environments, specifically Non-Prod., granting the DoS teams more autonomy and less resource contention.

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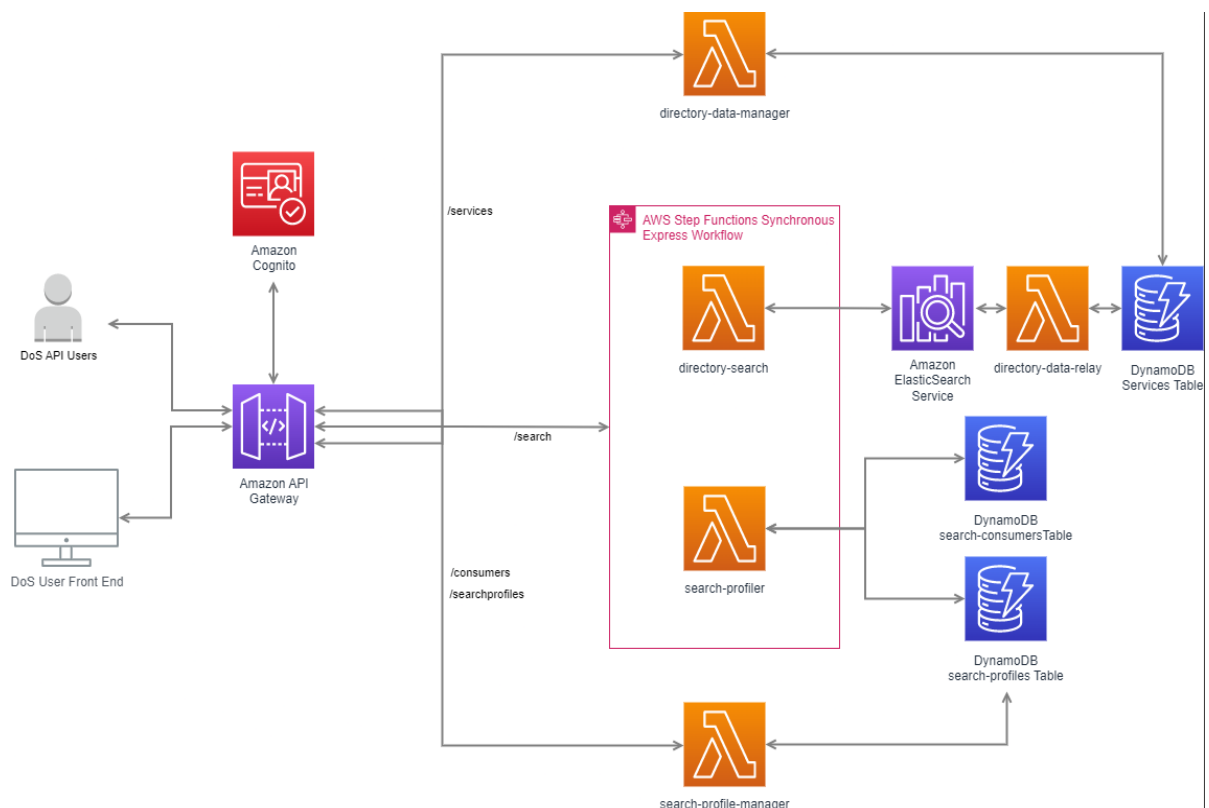
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Serverless architecture:

As referenced above, these microservices require an architecture to link them together to create the DoS. Currently we rely on individual components like Jenkins pipelines, Kubernetes etc. to stitch DoS together. Currently, DoS's reliance on AWS components running on a server, such as Kubernetes is less cost effective than a serverless solution due to the necessity of perpetually running web servers in comparison to Lambdas that run when needed. Additionally, in recent years, due to its current architecture, a disproportionate amount of development time has been spent working on DoS's current infrastructure. Time spent on improvements to elements such as Nodegroups and the Instance Terminator have dominated the productivity of the core DoS teams to effectively "keep the lights on"; moving to Serverless would reduce the amount of time spent "keeping the lights on" allowing the DoS team to focus on more value-add functionality for our users.

The DoS team have completed a proof of concept based on an initial discovery period and was able to prove that this concept was achievable and fit for purpose following multiple show and tells and workshops with key technical stakeholders.

Below is the proposed application architecture as per the completed Proof of Concept.

b. Out of date service profiling procedures resolutioni) New Data architecture

The DoS data structure was designed to fulfil a particular purpose, but its proprietary nature has made it difficult to expand usage to additional search requirements beyond those of Capacity Management and 111.

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A new data architecture has been proposed to resolve two aspects that require modification: The way the data is structured and the way the data is searched.

Data structure improvements:

DoS does not currently maintain information in a structure or hierarchy that is best suited to its current needs. Therefore, DoS's ability to optimally profile services and have them identified and returned by its search is hampered. This generates several issues, but most commonly creates a significant problem for the regional and local DoS Teams who input and maintain the data on DoS. Duplication of service data in DoS allows accurate search returns for different user types and service capabilities; however, because these profiles are neither linked nor hierarchical, management of the 110,000+ profiles is difficult, extremely time consuming and opening the data up to non-111 use cases can cause unnecessary complication.

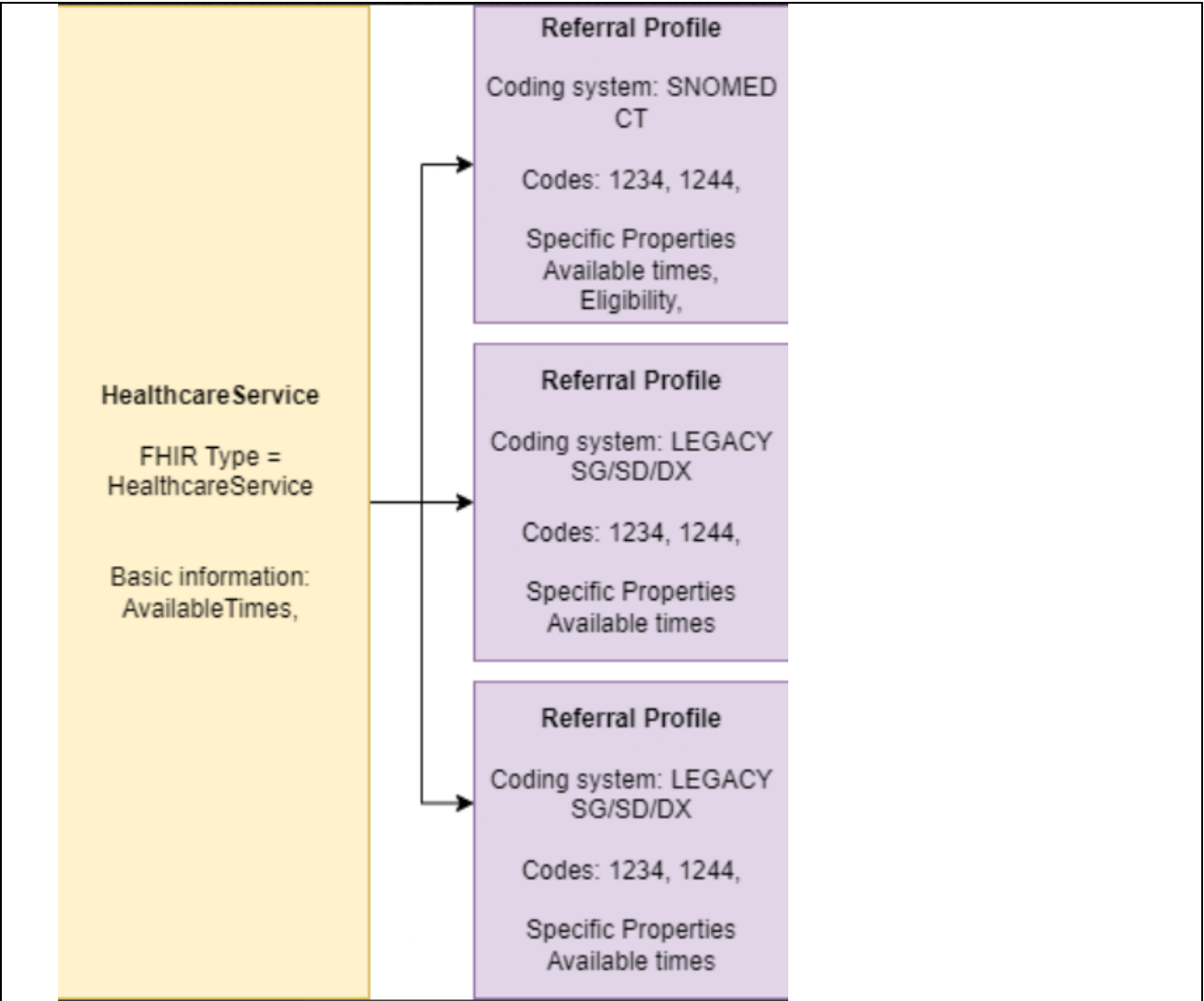
The newly proposed schema would resolve this by implementing a tailored version of the industry standard "FHIR" schema which would include an organisation and service hierarchy. The new schema would be tailored to include "referral profiles" which effectively function as "sub-services" or "activities" of a service. For example, in the current DoS, an ED for adults and an ED for children would represent as different services, despite being located and managed in the same geographical area. As per our current understanding, the hospital in this scenario would return as the service and the two varying types of EDs would return as "referral profiles". Therefore, instead of multiple profiles being created to illustrate offshoot services from a given "over-arching" service, a healthcare service will instead have "referral roles" that outline sub-services from a master service. Once mapped, this will improve our ability to further refine and improve the DoS Search, further improving our ability to ensure the patient is directed to the most appropriate service for their needs. It will also significantly improve the management of profiles on DoS and save DoS leads from having to repeat the basic information of the master service for all specific offshoots, allowing them to utilise their time more effectively e.g., performing data analysis and reviews of services in support of more intelligent and informed commissioning.

It would also bring with it the added benefit of a more automatically scalable data solution, courtesy of the reduced duplication of services, the serverless database architecture etc. The current DoS does not have the ability to automatically scale according to an increase in traffic, requiring manual creation of Kubernetes pods to manage with the increased load. This does not equip us well in the instance of a sudden intensification of traffic to DoS, running the risk that the team would have to scramble in the event of another nationwide response to a health threat.

Below shows the proposed data structure for service profiles.

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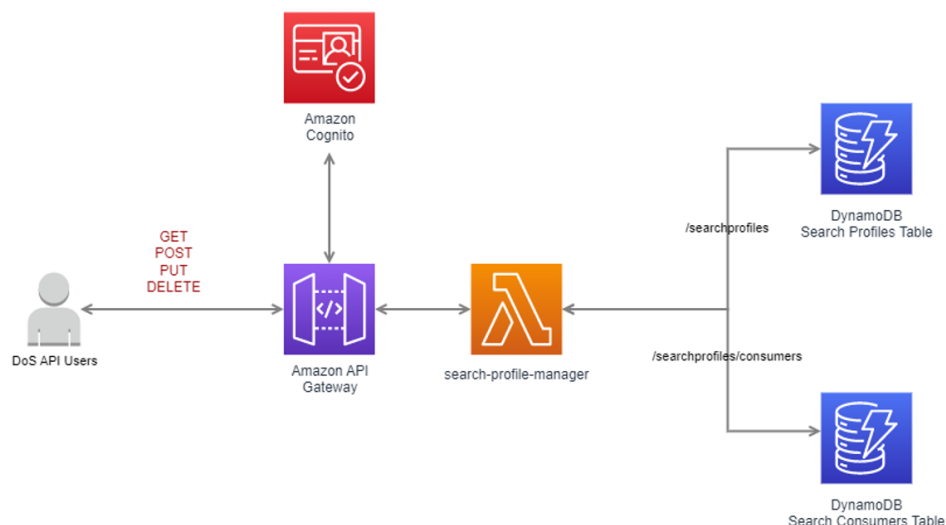
Data Search Improvements

Due to an improved data structure, we will also be able to implement a number of enhancements to the way in which the DoS is searched. The new DoS design has proposed a shift to AWS OpenSearch. By replacing our current SQL queries to the database, we believe we can facilitate components such as a FuzzySearch, speedier returns to DoS and more accurate geographic referrals via the enablement of a geospatial polygons concept; a technical improvement which enables more granular isolation of services' locations tailored to the end user/patient needs.

Additionally, through the new concept of "Search Profiles" we will help to reduce duplication for the DoS Leads. Whereas the referral profiles, see Data Architecture section above, look to eliminate duplication generated from clinical reasons (different dispositions, eligibilities etc), Search Profiles will eliminate duplication created from specific use cases. For instance, Service Finder, a product that uses the DoS API, currently have approximately 5,000 additional profiles in DoS, specifically tailored to their style of requests for emergency responders. If we implement this process which recognises the party querying DoS, in this case Service Finder, which responds with a snippet of data specific to their use case, we can expect to reduce the number of profiles that need to be managed by DoS leads by approximately 5,000.

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The /searchprofiles and /searchprofiles/consumers Endpoint Workflow

Similarly with the application re-write aspect of the transformation, the data architecture has completed a proof of concept to prove that the theories its logic is based on function in the reality of DoS' environment. Together, they will act as a combined proof of concept, with the data PoC proving a back end on which the application re-write could reside.

2. Use the opportunity to complete supplementary but necessary projects.

In parallel to the identified need to complete the fundamental elements of the DoS Transformation, additional projects have begun to emerge which, due to their important and/or imminent nature, need addressing within a similar timescale. Combining these into one largescale project via the opportunity the DoS Transformation provides would be an intelligent and proficient decision for our users and for the business.

a.) Project required to comply with NHS Pathways clinical coding change to SNOMED from SG/SD/DX

i.) Comply with NHS Pathways SNOMED and data model change requirements.

DoS' clinical coding currently operates on the SG/SD/DX (Symptom Group, Symptom Discriminator, Disposition) framework owned by the NHS Pathways teams. The NHS Pathways team have announced plans to change their coding system to SNOMED (along with other data model changes). This alters the way in which clinical outcomes to a patients' symptoms / complaints are most effectively resolved and the information received by DoS which is used to perform a Pathways Driven Search (i.e., from 111 and 999). To maintain compatibility with Pathways and to continue to support 111, 999 and others who use a Pathways driven search, we need to update DoS to support and be driven by the Pathways generated SNOMED coding.

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Furthermore, in order to not be tied into a fixed and difficult-to-orchestrate dual release alongside Pathways, new DoS' data architecture will need to be backwards compatible with the old SG/SD/DX coding system until Pathways is ready to release its new coding system. Note there is a critical dependency that DoS is updated to support SNOMED before Pathways implement SNOMED in live. To quote the Pathways Business case "Pathways cannot work without DoS, and it is our view that if DoS does not re-platform and become "compliant" with the new model then NHSD should consider whether the Pathways changes for the Triage Outcome Model are paused". Furthermore, the pathways re-write team have identified a host of benefits for their project, both directly for DoS as well as other areas of the NHS, benefits that would be unachievable without a re-write of the DoS. These consist of, but are not limited to:

- GP admin practice savings
- Reductions in referrals to ED
- More accurate DoS profiling
- Streamlining of referral prioritisation
- Ease of data sharing with downstream services

b.) Project required to uplift current PHP code in use

i.) Rewrite out-of-date PHP coding structure in a more modern and flexible coding language

The DoS Application User Interface and API layer are currently written in version 7.4 of the PHP programming language, however, as of November 2022 this legacy version is no longer supported by the PHP group. This means that any newly identified security vulnerabilities will not be patched. PHP itself is seen by the industry as an outdated programming language and so any rewrite of DoS should be done in a modern programming language that has greater useability, flexibility and resilience to cyber-attacks.

c.) Project required to align API strategy with the API Management programme.

i) Provides the ability to align with the required API strategy of the organisation. The APIM (Application Interface Management Team) is an organisation-wide programme attempting to standardise APIs across the programmes of NHS England with the aim to improve integration for customers and ultimately enable greater innovation. As a new DoS is delivered with new APIs it provides the perfect opportunity to work with the APIM team to understand how we can best utilise their solutions for DoS. Although not explicitly included in the newly proposed DoS designs, we expected that where appropriate the requirements we will gather from the APIM team can be included in our iterative development build.

3. Deliver new quality of life features required by the users of DoS.

a) New and improved UI

The existing DoS UI, utilised by users not linking in via a proxy service such as Adastra and Cleric for the respective 111 services, does not meet Accessibility

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Standards and modern design principles. Furthermore, given the planned major changes in architecture and data model that the UI ultimately interfaces with a new UI is required and will be delivered as part of the DoS Transformation.

This new UI will be designed to provide a much better user experience, to meet Accessibility Standards and will consider potential for wider user access to the DoS, ultimately providing a much slicker way for the consumers and maintainers of DoS to access it and manage its data.

b) DoS Security Improvements

i) The new application (section 1ai) will bring with it an integration with a cloud-native authentication system. A Cloud-native authentication system would enable us to federate access to the DoS to a far greater extent than we are doing today. Currently all users must authenticate via a password, irrespective if they are API or UI users, making it difficult to rotate passwords. With the new solution, we can federate access via users' NHSMail account and reduce the number of passwords they must maintain and add password rotation. Additionally, we are able to add features such as Multi-Factor Authentication (MFA) for added layers of security which is currently omitted from our existing DoS solution.

The previously mentioned PHP coding version update also provides security improvements, as we update to a more modern language, addressing the risk of remaining on an unsupported version.

UEC Data

TIM (Triage Internal Metrics):

Triage Internal Metrics consists of TIM Repository and TIM self-service tool. The latter has the following structural components: STR (Structure), DAT(Data), MET (Metrics) and VIS (Visualisation).

TIM is currently virtually hosted on the on-premises data centre and the options are being considered for re-platforming.

TEM (Triage External Metrics):

TEM is a suite of dashboards populated by LDA (linked 111 NHS Pathways and secondary care data (ECDS (Emergency Care Data Set and HES (Hospital Episode Statistics))).

TEM product is based on Microsoft Power BI, and this represents the primary technology on which the TEM product is based. TEM leverages NHSE's Power BI Premium SaaS subscription which is hosted within Microsoft's UK South data centre. Whilst Power BI premium represents the subscribed product there are a number of lower-level services, or features, that TEM uses:

Workspaces - Workspaces are logical containers for other Power BI components such as dashboards, reports and datasets.

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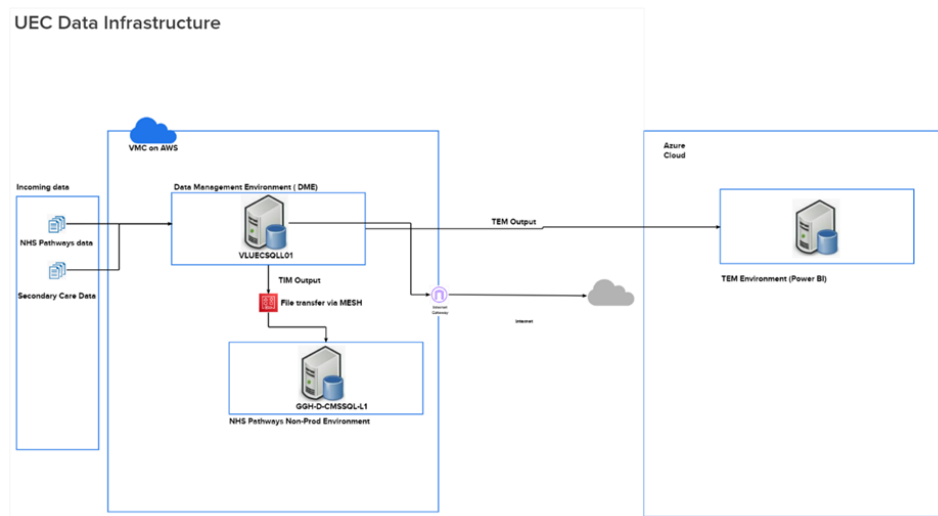
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Dashboards - is a single canvas that is created that contains a number of tiles or widgets, each tile is pinned from a report or visualisation.

Reports - A report is one or more pages of visualisations such as line charts, maps, and tree maps. All visualisations in a report come from a single dataset.

TEM uses deployment pipelines to promote new versions of the dashboards from the test to live workspace.

Advanced Analytics work is currently taking place on the virtual server on the on-premises data centre.



Current UEC Data Infrastructure

This describes the current technical scope. The first SoW for this Call-Off Contract will include discovery and option appraisal work for re-platforming and re-tooling of the UEC Data Products. The Supplier is expected to provide Thought Leadership as well as technical support in delivering this transformation.

2.1 Technical Scope Exclusions

None, changes to any third-party Supplier systems as a result of the work completed under this Call-Off. Although support for Supplier's to make these changes is within scope.

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2.2 Interoperability Considerations**Interoperability Considerations**

As shown in the background section, interoperability in UEC is all designed around the patient journey.

NHSE England provide technical specifications and API definitions for how to access and use our products and services; and each Product team supports onboarding of new Suppliers and Systems as they integrate and use out UEC products. The Supplier will be expected to maintain these materials and support the onboarding processes.

All our interoperability APIs need to be assured through our architecture governance processes, and the Supplier will be expected to follow these.

For information checkout the website link here: [Architectural Governance - NHS Digital Technical Review Group and Governance manual](#).

There will also be joint work and collaboration with other teams outside of UEC where required.

NHS Pathways Transformation

There will be some focus on how interoperability between the 111 and 999 systems and the Urgent and Emergency Care Directory of Services interact.

It is expected, but not certain, that a new API based content-distribution approach will be an outcome of re-platforming. Building and implementing such a new API would require interoperability work.

The DUEC Interoperability team would provide the oversight for any interoperability work required.

Directory of Services Transformation

The NHS Long Term Plan, specifically Chapter One, sets out how the NHS will move to a new service model in which patients get more options, better support, and properly joined-up care at the **right time in the optimal care setting**, this is fundamentally what the DoS does and what the transformation of the DoS seeks to improve. The Laura Wade-Gery review talks of digital transformation and supporting integrated care systems to deliver better citizen health; the transformation will support by providing a modern DoS with greater opportunities for interoperability and innovation at both a National and ICS level and ultimately improvements to patient journeys and outcomes.

The current data model for DoS does not support more modern standards such as FHIR or SNOMED CT, which are key to the future of the DoS, in terms of interoperability, supporting expansion into additional care settings and services and for maintaining capability with the NHS Pathways system e.g., primary care, ambulance and community and social care.

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Key aspects for interoperability requirements: -

- Fast Healthcare Interoperability Resources (FHIR) is the global industry standard for passing healthcare data between systems. FHIR are part of an international family of standards developed by healthcare level-7 UK (HL7).
- SNOMED CT (referred to as SNOMED) is a structured clinical vocabulary for use in an electronic health record. It is the most comprehensive and precise clinical health terminology product in the world, forming an integral part of the electronic care record. It represents care information in a clear, consistent, and comprehensive manner.
- The Booking and Referral Standard (BaRS) is an interoperability standard for healthcare IT systems that enables booking and referral information to be sent between NHS service providers quickly, safely and in a format that is useful to clinicians. It will eventually be available in all care settings.

UEC Data

Changes to the Data Model in as part of the NHS Pathways replatforming will have a significant impact on our data sources (NHS Pathways, 111 OL, DoS). This will potentially require the transformation/redesign of the existing UEC Data Live products.

TIM (Triage Internal Metric) Interoperability:

The Data source for TIM tool is linked asset. Currently SAS connects to asset, the data is processed by SAS and the outputs (HTML files) are copied to the NHS Pathways network folder locations, where they can be accessed by the users (clinical authors). Within the tool they can see the graphical representation of the files, but the component data never leaves the asset.

TIM repository used by the analysts contains the data that goes through automated refinement, i.e., cleaned up, missing elements added and labelled, e.g., missing questions ID.

TIM is currently hosted on the on-prem server, and the options are being considered for re-platforming.

2.2 Technical Constraints**Pathways Transformation**

There are no constraints for the re-platforming work as all technical solutions are for consideration.

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Directory of Services Transformation

There are no known constraints for the re-platforming work at this current time as all technical solutions are for consideration, however the Supplier should consider that considerable time and cost has gone into previous discovery and proof of concept work.

UEC Data Transformation

There is a dependency on the outcomes of the other DUEC Programme transformation choices.

DevOps

There are some technical constraints in relation to arrangements with continuous iteration delivery and existing live service products which will be made clear on provision of a SOW for any work needed.

2.3 Geographical Scope

The work is limited to the entirety of England, however in some circumstances may be extended to the other three nations within the United Kingdom.

NHS England utilises a hybrid approach combining office-based and remote working. There are three main office locations Leeds, Exeter and London. In the main the work will be working remotely, but occasional national travel will be required for ad-hoc user/stakeholder meetings.

The most adopted approach to working is hybrid working and what is critical in using that method is that all colleagues working on the development and delivery of outcomes listed in this schedule work together in ways which maximise effectiveness, efficiency, innovation, and delivery velocity. How they collaborate, communicate, coordinate, and come together e.g., on joint development tasks, to share knowledge and experience and via ceremonies such as stand ups and retrospectives is therefore very important. The Supplier should have extensive experience of successfully working in this way.

2.4 End Users

There are a variety of target users across Digital UEC who use our products which range from healthcare professionals (e.g., Paramedics, 111 Clinical Leads, General Practitioners etc), health advisors, call navigators, patients, operational, technical and policy colleagues and internal users (team members, including clinicians).

User centred design colleagues (user researchers, service designers, interaction content designers) are embedded within our continuous iteration delivery teams.

The Digital Urgent and Emergency Care directorate is responsible for safe, effective, and efficient development and operation of critical UEC products and

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services listed in the SOW. This Call-Off Contract relates to all products and services delivering strategic outcomes for Urgent and Emergency Care. This will support all activities which typically align to the main transformation areas:

NHS Pathways Team suite of Products

- An overview of all the products can be explored in the NHS Pathways product catalogue in Annex 8.
- NHS Pathways Clinical Decision Support System (CDSS) product – used by non-medically trained Health Advisors, coaches and trainers and clinically trained staff who use the NHS Pathways CDSS algorithms to support patients who call NHS 111 and 999. This group also use some of the other products in the NHS Pathways suite including Solo / Pathways web, the Digital Learning Solution tool (DLS), the Intelligent Data Tool (IDT) and others. These uses can be classified as computer literate but not predominantly highly technical users.
- Streaming & Redirection - used primarily by the wider public on arrival at Emergency Departments and use the product with minimal assistance or guidance to triage themselves, either into the ED or other area of the hospital or Urgent Treatment Centre, are re-directed to other points of care e.g. Pharmacy or Primary Care or are advised they can self-care for their symptoms.

DoS Team Products

- DoS Product
- NHS Profile Manager / DoS Data Integration Product
- NHS Service Finder Product
- The majority of users of the DoS and its related products (NHS Profile Manager and NHS Service Finder) are health care professionals wanting to identify the most appropriate service for their patient(s). These uses can be classified as computer literate but not predominantly highly technical users.
- However, as the DoS offers a number of APIs allowing third parties to access the information held on DoS, there are a limited number of highly technical users.

Other continuous iteration requirements for the above products and below may be included:

UEC Digital Services Team Products

- NHS 111 Online Product

The general public in England access NHS 111 online via www.111.nhs.uk

- Repeat Caller Service Product (RCS)

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NHS 111 telephony call handlers and clinicians use the RCS product in their operational processes.

UEC Data Team Products

- Triage Internal Metrics (TIM) Product
- Queries Service
- Triage External Metric (TEM) Products
 - TEM DoS Dashboard
 - TEM 111 Provider Dashboard Product
 - TEM Streaming & Redirection Dashboard Product
 - TEM Commissioner Dashboard Product
- Advanced Analytics
- Publications
- Triage Internal Metrics (TIM) Product and the Queries Service are internally facing products, so users are generally clinicians supporting the iterative development of the NHS Pathways Clinical Decision Support System
- Triage External Metric (TEM) Product dashboards users are typically as follows:
 - TEM DoS Dashboard – Users are Directory of Service leads positioned both nationally and locally, and the policy directorate)
 - TEM 111 Provider Dashboard Product – Users are operational and technical leads within an NHS 111 service provider, as well as Regional and National leads within NHS England.
 - TEM Streaming & Redirection Dashboard Product is used by Acute trusts who implemented Streaming & Redirection tool as well as regional leads and ICS staff
 - TEM Commissioner Dashboard Product – Users are operational and technical leads within an Integrated Care Board (ICB), as well as Regional and National leads within NHS England.
- Advanced Analytics – Predominantly used by NHS England as well as the wider NHS system, specific users still to be firmly identified as this product is still under development.
- Publications – will be used by the wider NHS system, academia and potentially public consumption, although specific users are still to be firmly identified as this product is in the initial phase of development.

The Digital UEC continuous iteration delivery teams are responsible for the running and maintenance of existing products and services as well as delivery of the transformational aspects.

The Supplier organisation's specialised staff will be involved in supporting the delivery of these products and services within the "transformational delivery" teams and some elements of continuous iterative delivery.

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Transformation work differs from continuous iteration delivery, the work needed will be larger pieces of strategic development work which may be disruptive to normal operations. Transformation work may introduce something new or implement significant change in the way an existing product is presented and works. This contrasts to continuous iterative delivery which focuses on maintenance and ongoing improvement and optimisation of live service products.

Continuous iteration delivery:

- This is the day-to-day updates that form part of normal business operations from all products aligned to Digital UEC. This will mean as a priority, running those live services, developing them against a prioritised backlog and resolving incidents aligned to agreed service levels.

The sub-teams within the digital UEC transformation team will direct the Supplier's specialised staff through the outcome-based statement of works (SOW).

The team work to the four key aspects of a product mindset:

Delivering the right thing: To have a clear evidence-based understanding of the outcomes that products should achieve (and avoid) for users, and to continuously monitor product success, review priorities and evaluate new opportunities in terms of those real-world outcomes to ensure we're delivering the right thing, in the right order.

Empowered Teams: Managing products through multi-disciplinary teams who are empowered to continuously make the changes that deliver the most value for users (rather than through discrete, self-contained change products or solution-led initiatives).

Continuously improving: Emphasises continuous, collective learning about users within teams - using a mix of qualitative and quantitative methods to understand users, their needs and the context in which they use our products, rapid iterative change where possible, regularly testing assumption and using that insight to inform priorities for future product development.

Understanding user needs: Using user-centred design practices to ensure our products and services are useful, usable, accessible and equitable to the users to ultimately deliver the desired outcomes.

2.4.1 Target Sectors

Please refer to Annex 1 Call Off Schedule 20 - Target Sectors.

Additional Sectors added:

Digital Urgent and Emergency Care (DUEC).

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A Supplier with experience of working within the healthcare sector, particularly within Urgent and Emergency domain, e.g., Ambulance Trust, is preferred but not essential.

2.4.2 Target Users

Target User	Extent of participation/consulting within scope (e.g., as part of delivery or testing)
Please refer to the End User's section for Target user details.	

2.5 Stakeholders**Directory of Services Specific Stakeholder Impact Analysis**

Stakeholder	Level of Impact	Level of Influence	Specific links to DoS	Impact	Potential Contribution	Engagement Plan
Governance						
Core DoS Team	High	High	Responsible for running and maintaining the DoS service	Ability to understand, run and maintain the new system - technical and functional. Requirement to be involved in the new build whilst maintaining and updating the current system	Full involvement in project	Inclusion in development team
National DoS Team	High	High	Responsible for operational running of the DoS service		Full collaboration on functional requirements	Regular consultation and collaboration - at least weekly
Service Management	Medium	High	Responsible for management of the live DoS service		Collaboration on non-functional requirements	
NHS England UEC Commissioners	Low	High	Responsible for commissioning the DoS service		Full consultation as the responsible stakeholder	

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NHS 111 Online	Medium	Low	Use of CCS API for searching for services	New format API Different search rules, so potential requirement for NHS 111 Online to change/remove their post-search rules	Keep informed on changes to API and search rules	
Streaming and Redirection	Medium	Low	Use of CCS API for searching for services	New format API Different search rules	Keep informed on changes to API and search rules	
Pathways	Medium	Medium	Owner of clinical codes used in DoS for NHS 111 search Supply scenarios for testing new Pathways releases Manage templates to assist with profiling	Shared impact due to DoS dependency on Pathways coding and ongoing re-platforming work New methods for receiving and managing clinical codes New testing functionality Changes to management of / assistance with clinical profiling	Collaboration on coding and data structures for coding Collaboration on profiling test tools	
Consumers						
DoS Leads	High	High	Responsible for managing the service data and ensuring that search returns are accurate and optimised	New UI New data format New search New profiling requirements New testing tools DoS Leads will be required to check and set up data for all services within their area	Regular consultation and collaboration at all stages	
111 Providers	Low	Low	Receive ordered search results and use service data for signposting,		Keep informed on changes to search rules	

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			booking, or onward referral			
111 / 999 System Suppliers	Medium	Low	Use of CCS API for searching for services	New format API Potential requirement to display results differently and/or add post-search filters New clinical coding	Keep informed on changes to API and search rules	
999 Providers	Low	Low	Receive ordered search results and use service data for signposting, booking, or onward referral		Keep informed on changes to search rules	
Pharmacy Suppliers: <ul style="list-style-type: none"> Pharm Outcomes Sonar Informatics Positive Solutions Ltd Cegedim Healthcare Solutions 	Low	Low	Use Rest API to search for appropriate services	New format API Potential for new coding Updated search rules	Inform on format of API when known	
3rd Party Service Search Application Suppliers: <ul style="list-style-type: none"> Intuiti (MiDoS) Anima Health NECS Sense.ly NHS Quicker 			Use Rest API to search for appropriate services	New format API Potential for new coding Updated search rules	Inform on format of API when known	
Patients	Low	Low	Receive service details when using 111, 111OL, Service Finder (via clinician), or other 3rd party tools	Will still receive service details	None	None

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Pathways Intelligent Data Tool (IDT)	Low	Low	Receive daily exports of service information	Potential for different format, although the availability of the included data is unlikely to change	Inform on format of export when known	
UEC Data Team	Medium	Medium	Unclear - possibly receive a data feed from Splunk			
NHS UK	Low	Low	NHS UK receive regular (2-hourly) automated exports of data in csv format for specific service types, including RAG capacity status (see DoS Data Egress Register). The format of this data is likely to change Demographic data for specific service types is received from NHS UK as and when updates are made - this is covered by the DoS Integration Team stakeholder impact		Review service data schema for NHS UK	
Booking and Referrals Service	Low	Medium	Use endpoint data from DoS that is returned in a search	There is work ongoing for this data to be replaced and held within BaRS	DoS team to work with the BaRS team to understand if/how booking information can be incorporated into the search(es)	
Electronic Prescription Service	Low	Low	Use the EPS API (managed within DoS suite) to search DoS for open pharmacies	There is work ongoing to move this over to the new NHS UK API	Share awareness of progress with transition to new API	

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			that are EPS enabled			
API Management Team	Low	Medium	No current link, but any new DoS APIs need to use the NHS Digital API Management platform	We need to consider APIM capabilities and requirements when building new APIs	Early consultation on this team's requirements	
Dos Integration Team	High	Medium	Receives demographic service data from NHS UK Profile Manager (currently only pharmacy but other types to be added) and directly updates DoS database with changed data, following a validation process	Format of data into DoS will change New database and update process Updated validation	Early consultation on data schema	
Service Finder	High	Medium	Use of various APIs for searching for services Use of replica database for enhanced searching Reliance on coding on services for accurate returns and management of code-set (z codes)	New APIs Different search capabilities Potential for different code-set and management arrangements	Collaboration on API/search requirements and service coding	
We're also dependent on						
ODS						
ONS						
OS						
Texas						
Travel time						
NHS Pathways						
DoS Leads						

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Splunk						
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NHS Pathways Stakeholder Impact Analysis

Stakeholder	Level of Impact	Level of Influence	Specific links to NHS Pathways	Impact	Potential Contribution	Engagement Plan
Governance						
NHS Pathways Core Team	High	High	Responsible for running and maintaining the NHS Pathways suite of products	Ability to understand, run and maintain the suite of products - technical and functional. Requirement to be involved in the new build whilst maintaining and updating the current system	Full involvement in project	Inclusion in development team
Service Management	Medium	High	Responsible for the service management of the live NHS Pathways suite of products		Collaboration on non-functional requirements	
NHS England UEC Policy Team	Low	High	Responsible for commissioning the NHS Pathways suite of products		Full consultation as the responsible stakeholder	
NHS 111 Online	Medium	Medium	Use of NHS Pathways content	New tools and a proposed new delivery methodology will have an impact on NHS 111 Online.	Keep informed on changes to NHS Pathways releases	
Streaming and Redirection	Medium	Medium	Use of NHS Pathways content.	New tools and a proposed new delivery methodology will have an impact on NHS 111 Online.	Keep informed on changes to NHS Pathways releases.	
UEC Directory of Services	Medium	Medium	NHS Pathways is the owner of clinical codes used by the DoS for 111 / 999 triage. DoS require templates from NHS Pathways	Shared impact due to DoS dependency on NHS Pathways coding and ongoing re-platforming work New methods for receiving and	Collaboration on coding and data structures for coding. Collaboration on profiling test tools.	

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			to assist with profile outcomes.	managing clinical codes New testing functionality. Changes to management of / assistance with clinical profiling.		
UEC Data Team	High	High	The UEC data team utilise the NHS Pathway data to link with other datasets to understand the patient journey across the health system.	Shared impact due to data flow and deep dive analysis. Utilising the data to improve upon the NHS Pathways algorithm. Benchmarking how different suppliers use the NHS Pathways products in a local context.	Collaboration on coding and data structures for coding.	
National Clinical Assurance Group	High	High	Responsible for the clinical governance of NHS Pathways content and ensuring that the optimal approach is clinically aligned with NICE and other appropriate clinical guidance.	Managing clinical governance.	Regular consultation and collaboration at all stages.	
Consumers						
111 Providers	High	High	Embed NHS Pathways content.		Keep informed on changes to content and delivery mechanisms.	
111 / 999 System Suppliers	Medium	Low	Host NHS Pathways content.		Keep informed on changes to content and delivery mechanisms.	
999 Providers	High	High	Embed NHS Pathways content.		Keep informed on changes to content and delivery mechanisms.	
Patients	Low	Low	Patients are triaged using	Patients receive advice leveraged	Advice provided	

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			NHS Pathways content in host systems provided by 111/999 providers.	by NHS Pathways content.	through DUEC patient focused group.	
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UEC Data Specific Stakeholder Impact Analysis

Stakeholder	Level of Impact	Level of Influence	Specific links to UEC Data	Impact	Potential Contribution	Engagement Plan
Governance						
Core UEC Data Team	High	High	Responsible for providing evidence based on linked data to support and improve UEC services.	Ability to understand, run and maintain the existing products and services – including technical and functional requirements. Requirement to be involved in the new build whilst maintaining and updating the current system.	Full involvement in project.	Inclusion in development team.
DUEC Live Services Board	High	High	Responsible for the governance of live UEC Data Products content and ensuring that the optimal approach is taken aligned to DUEC strategy.	Managing governance of Live Service impacts.	Regular consultation and collaboration at all stages.	Quarterly reporting, service reports and f2f review
Technical Review Group	High	High	Responsible for the technical review of UEC data products at each stage of agile delivery e.g., discovery, alpha etc.	Providing technical guidance and approvals	Ongoing collaboration	Ad-hoc- as needed
Information Governance (Data protection Office)	High	High	Compliance with GDPR and providing a legal basis for collection, linkage, analysis and dissemination	Provides rigorous assessment of data processing and sharing throughout the life of the products relevant documentation.	Ongoing consultation and approvals	Ad-hoc as needed.

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			of the data and findings.			
NHS England UEC Policy (Internal Commissioners) e.g., IUC policy team	High	High	Responsible for commissioning and funding UEC Data services.	Making decisions on funding of existing and future products and services. Supporting prioritisation aligned to UEC strategic needs.	Responsible for determining the outcome required aligned to strategic needs. And providing governance at different stages of development.	Approval and regular reporting aligned to overarching governance in place.
Other services including Primary Care etc.				When data is available and incorporated into the UEC data products there will be vested interest by other key stakeholders.		
NHS Pathways Clinical Authors	High	High	Responsible for the Clinical governance of the UEC Data products that support NHS Pathways suite of products.	Providing advice and approvals as required	Full consultation as the responsible stakeholder.	Ad-hoc, as required.
Consumers						
NHS 111 Online	High	Medium	Providing products and services to support continuous improvement of 111 Online.	Helping further improve products	Regular consultation and collaboration at all stages.	As required
NHS Pathways Team	High	High	Providing products and services to support continuous improvement of CDSS.	Helping further improve products	Regular consultation and collaboration at all stages.	As required
Streaming and Redirection Team	High	Medium	Providing products and services to support	Helping further	Regular consultation and	As required

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			continuous improvement of Streaming and Redirection tool	improve products	collaboration at all stages.	
DoS	High	Medium	To support decision making within the remit of DoS.	Help improve the DoS products	Regular consultation and collaboration at all stages.	As required
111 Providers	Medium	High	Provide evidence to support operational decision making and service planning.	Supporting the optimising of services	Regular consultation and collaboration at all stages.	Ongoing
Intergrated Care Boards (ICBs)	Medium	High	Provide evidence to support operational decision making, service planning and contracting the appropriate services.	Supporting the optimising of services	Regular consultation and collaboration at all stages.	Ongoing
999 Providers	Medium	High	Provide evidence to support operational decision making and service planning.	Supporting the optimising of services	Regular consultation and collaboration at all stages.	Ongoing

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Other generic stakeholder list covering all areas

Stakeholder	Title/Role	Extent of participation/consultation for scope (e.g., government organisations or health bodies)	Frequency and Mechanism of involvement
Department of Health and Social Care	Primarily Policy roles	Depending on the blend of the multi-disciplinary team needed to support the delivery, and more specifically policy development.	Depends on the desired outcome and key result
Patients / Public	Users of our services, depends on the requirements provided/delivered	Depending on the user-research and insight needed for the specific areas of development	Depends on the desired outcome and key result
NHS England	Digital & Product / Service roles / Policy roles	Depending on the blend of the multi-disciplinary team needed to support the delivery.	Depends on the desired outcome and key result
111 Providers, 999 Providers, Clinical Assessment Service Providers	Depends on the delivery, typically Operational and Clinical Directors through to Health Advisors, Clinical Advisors and data experts	Depending on the blend of the multi-disciplinary team needed to support the delivery.	Depends on the desired outcome and key result
NHS England – Policy teams covering specific service areas and respective arm's length bodies	Depends on the delivery, typically Operational and Clinical Directors through to Product Managers	Depending on the blend of the multi-disciplinary team needed to support the delivery.	Depends on the desired outcome and key result
Integrated Care Boards	Depends on the delivery requirements, typically commissioners	Depending on the blend of the multi-disciplinary team needed to support the delivery.	Depends on the desired outcome and key result
Individual Service areas e.g. General Practice, Dentistry, Acute Hospital	Depends on the delivery requirements	Depending on the blend of the multi-disciplinary team needed to support the delivery.	Depends on the desired outcome and key result

3. Business Outcomes**Overview of Requirements**

Each of the product/programme areas have an overarching vision of what needs to be delivered in terms of a modernised system that addresses the identified issues

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and is 'fit for purpose' for the future, along with an associated high-level budget and expected timeframe.

However, the phases of work required to deliver that vision are flexible with the detailed scope and requirements for each phase only becoming clear on completion of the previous phase. This is typical of Agile working.

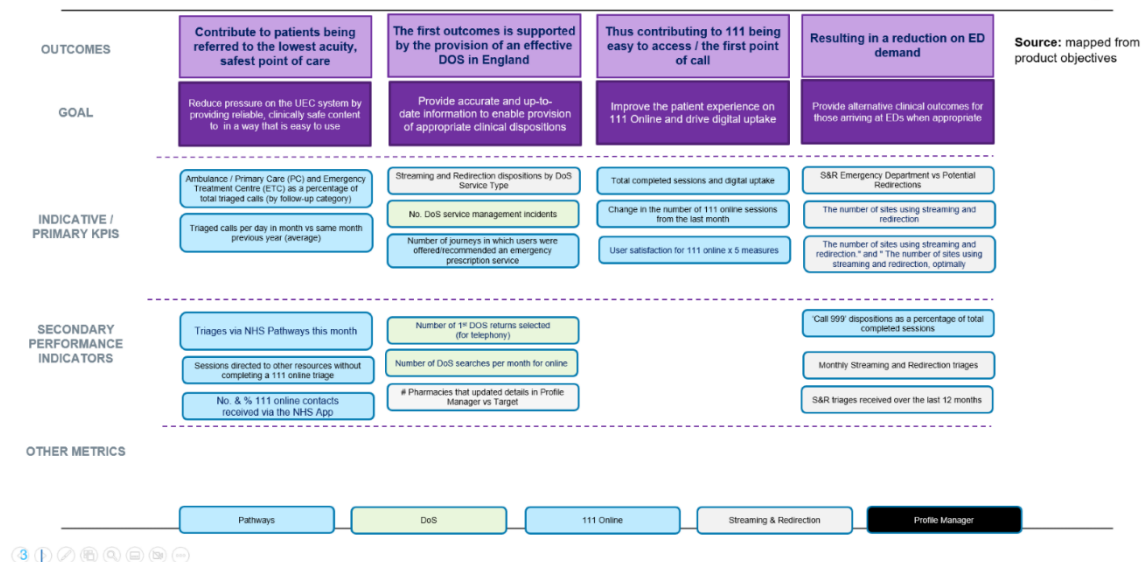
There will be several associated Statements of Work (SOWs) for each of the product areas under the overall Call-Off and within the scope of the budget allocated, that the supplier will be required to deliver against to achieve each of the phases needed to meet the overarching vision. The SOW will contain an indicative overview of the capabilities and types of roles needed to deliver the needs of DUEC.

Product/Service Team Business Needs

For each Digital UEC teams a plan is created to express the strategic drivers using outcomes, goals and KPIs. This overview is then updated regularly and used to galvanise the delivery. The information provided below is an example of the 1st iteration of KPIs used by the DUEC team. These updates will continue to evolve, even throughout the course of this contract term and any updates will be shared and developed with the incumbent Supplier as and when required.

Overview of UEC KPIs February 2023

These are the agreed KPI's for UEC Product & Services - Final



NHS Pathways Suite of Products Overview

Purpose: NHS Pathways is a clinical decision support system which helps ensure that when someone contacts NHS 111 (online or on the phone) or half of 999

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Ambulance Services, they are assessed and signposted to the right level of care consistently and safely, first time. It also used beyond NHS 111; and also supports GP out of hours services, online triage, half of all 999 Ambulance Trusts and Emergency Departments. In 2022 Pathways supported more than 20 million triages.

What outcomes does this contribute to? ‘Contribute to patients being referred to the lowest acuity, safest point of care’ and ‘Resulting in a reduction on ED demand. “111 being easy to access / the first point of call’ and ‘Resulting in a reduction on ED demand.”

What is the strategic driver? Pathways is essential to the safe and reliable function of NHS 111, 111 Online and half of 999 Ambulance Services. They thus support a number of the commitments in Section 5 of the UEC Recovery Plan (‘Making it easier to access the right care’).

Directory of Services (DoS)**Overview**

Purpose: To direct a patient to the most appropriate, lowest acuity first, service for their needs.

What is the strategic driver? Section 5 of the UEC Recovery Plan (‘Making it easier to access the right care’) contains a number of commitments around DoS including “The Directory of Services enables referrals into the most appropriate urgent care service from 111 and 999, supporting better management of patients.

Directory of Services Integration Overview

The purpose of the UEC Directory of Services DoS Integration (DI) product is ensure that Directory of Services (DoS) has the most up to date and accurate information about a service as possible, ensuring patients are directed to the most appropriate service for their needs; improving patient outcomes and reducing both admin burden and clinical risk.

We do this by allowing Providers of Services to update their information on DoS via the Profile Manager product (owned by NHS.uk). The DI team maintain a data stream from the Profile Manager tool, directly into DoS, which as well as ensuring up-to-date information on DoS ensures commonality of data with NHS.uk. Currently only pharmacies are able to update their own information on DoS, including managing opening times and provision of palliative care drugs; but we plan to increase the type of information that pharmacies can update, as well as roll

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out to a wider cohort of users including Dental, Optometry and GP. (Changes to these other cohorts are currently managed by local DoS leads)

NHS Service Finder Overview

NHS Service Finder is a fast and easy to use look-up tool delivering accurate real-time service information for Health Care Professionals. It is web-based, mobile-friendly and clinically reviewed and assured, making information drawn from the UEC Directory of Services and NHS.uk databases easily available to all HCPs. Any HCP can sign up and access the service for free.

The purpose of the product is to tackle the known problems that arise when service information is not easily available, in particular reliance on out-of-date information, time lost searching for service information, low awareness of new services, and a tendency to default to Emergency Care when unaware of other services. NHS Service Finder makes it easy for HCPs to see what health and social care services are available for their patient, enabling them to signpost patients to the most appropriate care. This helps to reduce strain on UEC services, saves valuable HCP time, and delivers a better patient experience.

UEC Data Overview

Purpose: UEC Data brings the information from live services together to tell the story of how the Urgent and Emergency Care system works. We have developed a number of data products to help us to support UEC live services. This includes Linked Assets - linking up national data sources so we can better understand the patient journey.

Our Triage Internal Metrics (TIM) tool gives Pathways clinicians 24-hour access to metrics about patient outcomes to support them to make decisions. We also have a queries service which uses outcome-based data to help clinicians to assess and evaluate changes to the system, to make sure they are as safe and efficient as possible.

Our Triage External Metrics (TEM) interactive dashboards provide insights into patient journeys across UEC, to help commissioners and providers plan and run services. These products play a critical role in optimising the 111, 999 and Streaming & Redirection systems. We are always looking to optimise our use of data. We are adding datasets as they become available with the vision to create an end-to-end view of the entire patient journey.

For the DevOps requirements:

- Iterate on a sprint basis through existing user stories on the data products that UEC Data team built and continues supporting (including Triage Internal Metrics and Queries Service).

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- Release changes to the various Triage External Metrics products (including, 111 Provider, Streaming & Redirection, Commissioner/ICB and DoS dashboards)
- Diagnose and raise issues and to deploy new versions of Power BI and Splunk applications.

For the transformation/development work the Buyer has requirement for Supplier to support the following work:

- UEC Data products re-platforming
- UEC Data Products software transition
- Advanced Analytics data models development

What outcomes does this contribute to? 'Contribute to patients being referred to the lowest acuity, safest point of care' and 'A reduction in ED demand'.

The examples of KPIs that we can use in terms of us helping to support the health of UEC System

- ETC attendance rate for 111 ETC calls (last 12 months)

For 111 calls that ended with a patient being sent to ETC disposition, and where the NHS number was recorded. This metric shows the percentage of triages where an ETC attendance was recorded within 48 hours of the 111 call i.e., the patient was compliant with the advice given by 111.

- ETC attendance rate for 111 Primary Care calls (last 12 months)

For 111 calls that ended with a patient being sent to ETC disposition, and where the NHS number was recorded. This metric shows the percentage of triages where an ETC attendance was recorded within 48 hours of the 111 call i.e., the patient was not compliant with the advice given by 111 or they might have seen a GP and then referred them too, etc.

What is the strategic driver? The UEC Recovery Plan makes a number of commitments around data, which underpins the effective assessment of demand and capacity across all UEC Workstreams

Ways of working

For the purpose of this Call-Off Contract (but not necessarily for all of the Statements of Work which are associated with it) the Supplier team is to work collaboratively with the Buyer team to deliver the Buyer's business objectives as outlined above. Other approaches will be discussed with the Supplier and outlined in relevant Statement of Works. The Supplier is encouraged to identify and suggest different ways of working which may increase delivery efficiency and cost effectiveness.

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Over the duration of this Call-Off Contract the Supplier will be expected to assist in/take responsibility for the managed 'hand over' of work e.g., from the output of discovery work or technical spike to other parties for continued development.

Equally the Supplier may be expected to proactively and efficiently be involved in/take responsibility for work to further develop and implement changes developed by others outside of the UEC team for incorporation.

In both the 'exporting' and 'importing' of work it is a requirement that the Supplier will work collaboratively and proactively with those involved/interested parties to ensure that hand offs are minimised, effective, and auditable to maintain delivery momentum, scope and delivery accuracy through appropriate documentation, development of/adherence to critical success factors (or other mechanisms) and joint working.

Integral to the Buyer's approach is the value of colleagues from different areas (including but not limited to the Buyer, Supplier, other Suppliers) working together to deliver joint objectives. In supporting the delivery of the Buyer's outcomes, the Supplier will ensure that it is able – through experience, aptitude, and approach – to fully support and enhance the Buyer's delivery model.

It is essential that the Buyer and Supplier work collaboratively to be able to respond quickly and effectively to identify and resolve issues, build and utilise subject matter expertise to maintain and enhance the operations of its systems and services, and that there are no internal hand offs, incorrect mind sets, or process inefficiencies which lead to the Buyer's capability and requirement being considered as separate rather than a single, collaborative function.

Working as part of a collaborative team the Supplier is expected to fully embrace the Buyer's culture and delivery approach. This also involves taking part in/identifying value adding activities such as knowledge sharing through presentations, 'show & tells' and other Agile ceremonies, supporting development through mentoring or joint learning opportunities, and assisting the Buyer in identifying new/alternative development, delivery or solution management options and approaches.

Live service/Service Level Agreements

The Service Level Agreement (SLA) levels ranging from Platinum, Gold, Silver to Bronze is detailed in [Annex 6a SLAs PGSB Defintions.docx](#).

The table below are the current SLAs level across the DUEC Product/Service Areas; however this may be subject to change during the period of the Call-Off Contract:

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Product/Service Area	Service Level
NHS 111 Online	Platinum
Streaming and Redirection	Platinum
Bookings and referral Standard	Platinum
Directory of Services	Gold (Aspiration to move to Platinum during course of the contract term)
Repeat Caller Service	Gold
Service Finder	Silver

It is a requirement that the Supplier fully appreciates (and demonstrates that appreciation) of their role in supporting each products level of service including incident management and out of hours and on call working.

Service Levels on Integrated Urgent Care Data Service (IUCDS)

Separately to the main SLAs for live services there is currently an IUCDS Service Level Agreement cover the in-hours support for the NHSE Integrated Urgent Care Team. Supplier resources are expected appropriately support as requested by the Buyer.

Splunk Cloud core server hosting the IUCDS reporting and analytical solution has 'Platinum' service arrangements, and AWS (Landing and edge servers) is categorised as 'Silver'. The infrastructure support is provided by the Splunk team.

Out of-Hours and On-Call working

Products and Services may have service arrangements in place for out of hours and on-call working/cover which the Supplier is expected to appropriately support as requested by the Buyer. Further information is covered in the SOWs.

The Buyer manages its on-call requirements through the use of an evaluator and triage/resolver model and an on-call rota.

4. Requirements**Transformation**

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For NHS Pathways, Directory of Services and UEC Data requirements the Buyer has a requirement to secure a Supplier to:

- Deliver development and associated services to the Buyer pursuant to Statement of Works (SOWs) agreed under the Call-Off Contract.
- Deliver such services across a range of NHS Pathways and Directory of Services data models, systems and tools.
- Potentially deliver such services across different locations (as detailed in the applicable SOWs); and
- Deliver such services in a manner compliant with the terms and conditions of the Call-Off Contract, including without limitation the Buyer's requirements as further detailed in the contract Schedules.

The Buyer expects the Supplier to work with the Buyer team as follows:

- Work closely with NHS England in-house teams and contractors including solutions assurance teams and governance bodies such as the Enterprise Architecture Board (EAB), Technical review board and Platforms directorate.
- The Buyer will have a client-side engagement team in place consisting of roles such as: Delivery & Contract Manager, Head of Development, Senior Product Roles, Technical Programme Managers, Technical Architects, Project & Delivery Managers, Developers, Data Architects and Business Analysts.
- For the Directory of Services, the Supplier will be working in a blended team with NHSE staff. It is also expected that the Supplier may be required to provide 'back-fill' resource into other Directory of Service product teams as appropriate, to allow relevant resource from those teams to be involved in the DoS Transformation work.

The requirements appropriate to this Call-Off Contract are to work proactively with the Buyer to provide an efficient End to End Services capability undertaking the full set of CDDO agile phases of some further Discovery, but predominantly Alpha, Beta and delivering into Live service to enable the required transformation of the Pathways and Directory of Services data model, tooling & associated IT systems.

The ongoing running of the Live service for both Directory of Services and NHS Pathways once bedded in is not in scope of this procurement this will be the responsibility of the NHSE BAU team.

The Supplier shall be required to adopt an agile iterative development methodology and work with the Buyer (and potentially other Buyer development Suppliers).

A full list of digital service requirements can be found in Annex 3.

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4.1. Product Development Backlog**4.1.1. Functional and Non-Functional Requirements**

<i>Not used</i>		
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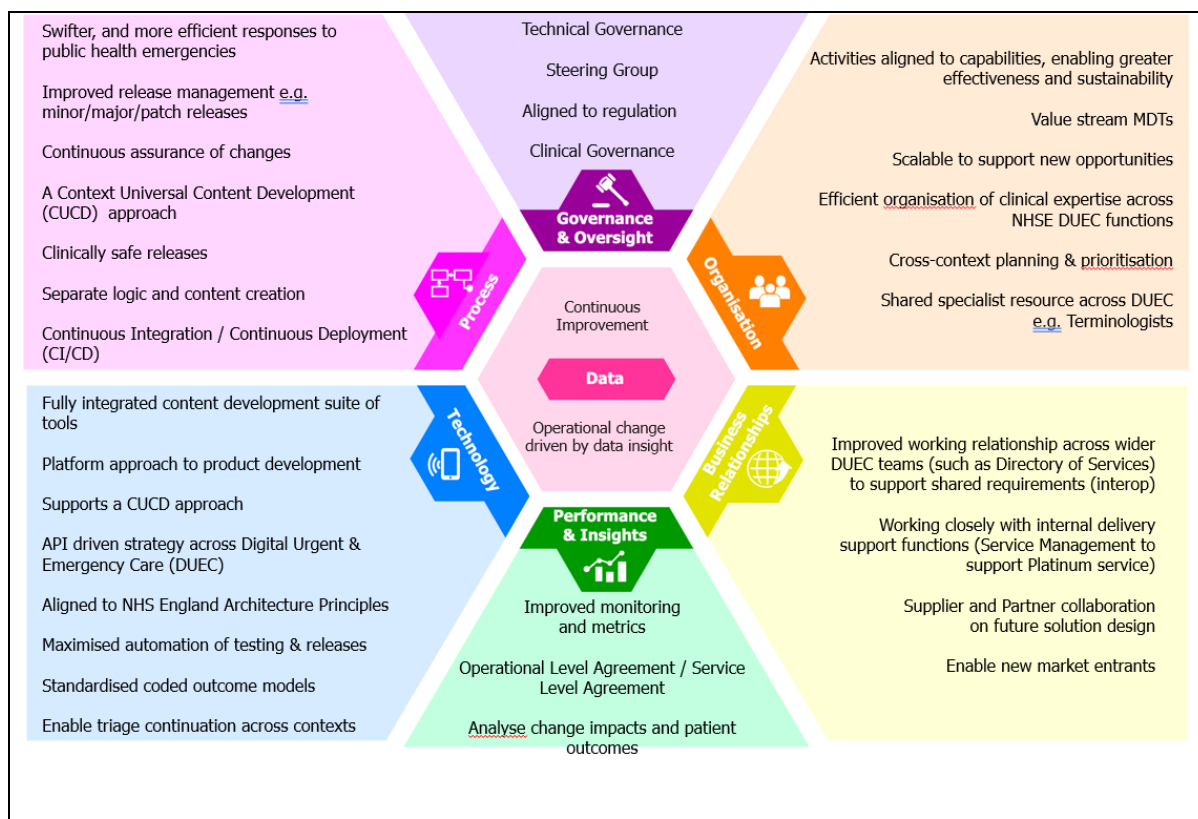
4.1.2. Target Operating Model

This Call-Off Contract will support the Buyer in the delivery of outcomes based on a Target Operating Model which is focused on products and their users rather than technologies. As highlighted above the Buyer is moving to a Pillar/Product based organisational structure which for this call-off will see:

- All the Buyer's UEC services under a single unified management and delivery structure.
- The ability to provide a joined up and holistic service to users.
- Partnership working with colleagues (Core Services Pillar) responsible for the run, maintenance and transformation of the IT infrastructure upon which the Buyer's UEC services operate.
- A focus on the SofS data and tech vision for healthcare; interoperability and openness, user needs, inclusion, privacy, and security.
- Supporting digitally enabled transformation through APIs and the move to a Cloud and Internet first delivery approach.
- Delivering reductions in:
 - Operating costs through increased efficiency and reductions in infrastructure and overhead costs
 - Tech debt through uplift of technology removing reliance on out of support hardware & software and reduction colocation hosting carbon footprint
 - Integration cost for Suppliers thereby increasing opportunity for innovation
- Support increases in:
 - Clinical Safety through reductions in potential for errors, improving clinical safety and patient health outcomes.
 - Security by uplifts to modern standards improving security and reducing the cost of fraud/cyber-attacks.
 - Delivery velocity and reducing development timescales market.
- Contributing to the vision to enable the sharing of clinical information for direct care across all care settings.
- Continuing to meet age Service Level Agreements to ensure that the UEC service is available 24x7x365.

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4.2. Initial Statement/s of Work (SOW/s)

4.2.1. SOW 1

A transformation of the suite of products within NHS Pathways is required to achieve a series of improvement objectives to the tooling that the team and wider stakeholders use.

The NHS Pathways re-platforming programme began in 2022 and is currently concluding the Discovery and Foundations phases.

This has enabled the re-platforming programme to move forward towards a phase of establishing high level designs which will then lead to a build, test and UX evaluate phase to ensure that it is meeting user needs.

Key high-level outcomes / benefits of the work will include:

- Simplified Authoring
- Simplified Reporting
- SNOMED Coded inputs and outputs
- Simplified Content Distribution
- Easier updating of content
- Simplified outcome mapping to services available

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Roadmap (broken horizontally to fit this document):

4.2.2. SOW 2

A 'Transformation' of the DoS is required to address the totality of known issues, mitigate risks to the live service and to ensure DoS can evolve to continue to meet the needs of an evolving UEC (Urgent & Emergency Care), a broader healthcare landscape and the objectives of the NHS Long Term Plan, UEC Recovery Plan and the Laura Wade-Gery Review.

The work proposed in totality (predicted to be 2.5 years) is a complete re-write and re-architecture of the DoS application, including the user interface (UI), infrastructure, search algorithm and the supporting data. The enhanced DoS will be a modern and robust application better able to meet current and emerging use cases and more advanced and innovative business needs. Furthermore, it will allow for improved integration with a wider range of additional healthcare systems and services improving the journey and experience of our users and patients.

This SoW will focus on the first year of this rewrite period. A 9–12-month preparation and discovery period will have taken place ahead of this procurement, the overview of this period is therefore to build upon this by implementing the learnings gathered during this period.

Key high-level outcomes / benefits of the full transformation work will include:

- Greater flexibility of the DoS with increased throughput of and responsiveness to change.
- Improved support for innovation and interoperability through use of modern technologies and standards e.g., FHIR and SNOMED, supporting easier integration with more systems and care settings e.g., primary care, ambulance and community and social care. As well as any potential future decision to consolidate multiple existing directories.
- Improved search and profiling of services, reducing the data management burden for those who manage service information and ultimately supporting better service identification for patient care.
- Improved performance, scalability and flexibility of the platform to accommodate higher volume of usage with no performance degradation and a reliable service available 365 x 24 x 7.
- An improved user and patient experience across a wider range of care settings and services.
- Eventual simplified maintenance of the data held in DoS with an emphasis on self-service and automation via API.
- Reduced run/maintain costs of the service.

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4.2.3. SOW 3

The UEC data re-platforming portfolio of work is in its initial phase with the Discovery and Foundations phases just starting. The SoW is focused on the first year of the portfolio, completing discovery, service design, and technical build and test stages. This work will enable the transformation of the UED Data products to enable innovation, closer integration with live services and improved ability to integrate with users.

The transformation work will bring the following key high-level outcomes/benefits:

- A capability that allows us more control and flexibility in delivering innovation using big data and advanced analytics/AI to support continuous improvement of the UEC Services.
- Closer integration with the live services.
- Improved ability to interact with users and deliver information through use of modern technologies.

This transformation activity will contribute to improving continuous improvement activities across the UEC Services. Summary of key milestones for delivery include:

- Creation of Delivery Plan and other governance arrangements in place.
- Explore re-platforming options.
- Assess impact of changes due to the transformation of other programmes.
- Support transition from legacy infrastructure.

5. Key Milestones and Call-Off Deliverables

Key Milestone/ Deliverable	Description	Timeframe or Delivery Date
Not used		

6. Responsibilities of the Parties

To be agreed between Buyer and Supplier

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7. Skills / Capabilities Profile

Further information on skills / capabilities can be seen in Annex 2.

NHS Pathways suite of Products

The NHS Pathways is made up of around 100 permanent roles in total. NHS Pathways have built several websites, web services and windows applications. All run-on C# .Net and SQL. Currently hosted on on-prem virtual instances, but work is beginning on migration to AWS.

Alongside the replatforming team below there are also:

- 3 multi-disciplinary teams which include Clinicians, Product Owners, User Centred Design roles and Delivery Managers
- A training teams
- An implementation teams
- A data insights team

NHSE Permanent team

- Technical Programme Manager
- Relationship Manager
- Business Analyst
- Technical Architect
- Clinical Author

A senior leadership team and commercial support will also be provided:

Indicative Supplier team

- Senior Delivery Manager 6
- Lead Technical Architect 6
- Chief Data Architect 7
- Lead Product Manager 5
- Senior Technical Architect 5
- Principal Business Analysts 6
- Service Designer 4
- Lead Software Developer 5
- Lead Service Designer 6
- Delivery Manager 5

Directory of Services

A high-level explanation of the technical capabilities associated with the DoS, NHS Profile Manager and NHS Service Finder is provided below.

DoS: Support for on-going maintenance and development enhancements to existing monolithic service, the core of which is PHP (PHP-8 for the UI tier, PHP-7 for the API tier). The core part of the service is deployed onto an AWS managed

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EKS cluster via Kubernetes deployment, which involves the containerisation (via Docker) of the service components. Core service infrastructure is managed and configured via Terraform (v0.13.7) and spun up using AWS as the cloud provider. Aurora Postgres 14.5 is used at the data tier level, with ElastiCache used for session caches.

Parts of the service (mainly service updates) run on serverless AWS technologies such as Lambda (Python variant) or as Kubernetes jobs that are deployed and executed on an ad-hoc basis. More regular running jobs are configured as Kubernetes cron jobs which run on the EKS cluster.

Selenium is used for UI testing, Curls and Postman calls are used for API, Rest Assured is also used. For performance testing Neoload is used.

All deployment, build, test pipelines are configured and managed using Jenkins. Source code is managed in GitLab.

Requirement is for a blended or “rainbow” team to work alongside the NHSE DoS team to complete end-to-end delivery of the DoS Transformation (~30 months to complete). Team will build upon work done to date / planned before April 24, including Discovery and Proof of Concepts for data and technical models.

NHSE Permanent team

1 x Senior Product Manager

1 x Senior Delivery Manager

1 x Senior Business Analyst

1 x Lead Systems Engineer

1 x User Researcher

1 x Lead Test Specialist

1 x Senior Software Developer

Indicative Supplier team

2 x Principal Technical Architects

1 x Senior Service Designer

1 x Senior User Researcher

5 x Senior Software Developer

4 x Senior Test Engineers

1 x Lead Engineer

2 x Senior Business Analysts

2 x Senior Data Engineer

1 x Delivery Manager

1 x Product Manager

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UEC Data team

The core business of the UEC Data Team is analytics so there is a strong data professions presence across 3 multi-disciplinary outcome teams. These include data analysis, data science and data engineering roles. This data/analytical function works closely with the developers, technical architects' business analysts and User Centred design, product and delivery roles.

The current requirement is for a blended or "rainbow" technical and UCD team to deliver the UEC Data end-to end transformation programme of work.

Some elements of the continuous iteration support for the UEC data live products and services may be required.

This includes iterative delivery of the UEC Data product backlog / roadmap.

NHSE permanent roles

- 1 x Lead Analytics SME
- 2 x Lead Data Analysts
- 4 x Information Analysts
- 1 x Data Engineer
- 2 x Senior Developers
- 1 x Lead Test Specialist
- 1x Lead System Engineer
- 1 x Senior Service Designer
- 1 x Senior Product Manager
- 2 x Delivery Managers
- 1x Clinical Lead

Indicative Supplier roles

- 1 x Senior Developer
- 1x Data Scientist
- 1 x Data Analyst
- 1x Data Engineer
- 1 x Technical Author
- 1x Clinical Writer
- 1 x Tester
- 1x Technical Architect

Potential additional roles

- 2 x *Business Analysts*
- 1 x *Content Designer*

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- *1 x UI Designer*
 - *1x Relationship Manager*
- 1 QA/Test Manager*

8. Statement of Works

The Supplier shall provide the Services in accordance with the commissioning process leading to one or more Statements of Works (SOW(s)) substantially based on the Statement of Work Template set out in Annex 10 to this Attachment 2.1 ("Statement of Work Template"). A Statement of Work consists of two parts however the Specification and Costs together form the Statement of Work: Specification: the technical specification developed using the Statement of Work Template; and Costs: the pricing workbook which shall be output from the Commercial model. The Parties agree that the templates referred to above may be updated by the Buyer from time to time to reflect emerging Buyer needs. The Buyer shall notify the Supplier of any material change to the template in writing.

As detailed in section 4 above, the first 3 SOWs (SOW1 (NHS Pathways Transformation), SOW2 (Directory Of Services Transformation) and SOW3 (UEC Data Transformation) have been drafted and will be signed at the same time as the Order Form. Each of these SOWs (which include the SOW specification and pricing workbook) are set out in Annex 11 of this Attachment 2.1.

Statement of Work Commissioning Process

Where the Buyer wishes to commission work under this Call-Off Contract, it shall:

1. Detail the requirements for each individual project including milestones and acceptance criteria and a populated data protection table, where applicable containing complete and accurate details of the Personal Data Processing applicable to the SOW ("SOW Requirements") substantially in the format of the Statement of Work Template.
2. The Buyer's Representative will communicate SOW Requirements in writing to the Supplier whereupon the Supplier shall have five (5) Working Days (or an alternative period as agreed between the parties upon the Buyer communicating the SOW Requirements) to respond. All commissioning requests shall be routed through the Buyer's Commercial department/dedicated Commercial Leads.
3. The Supplier shall respond to the SOW Requirements (the "SOW Solution") in the format specified by the Buyer at the point of communicating the SOW Requirements.
4. The parties will use the commissioning process to assess and agree the data processing requirements for each project, determine the data subjects and data

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classes to be processed by the Supplier, such details to be included, where applicable in the relevant Statement of Work.

5. The SOW Solution shall include an Implementation Plan (including details of how the work will be undertaken, a timeline/activity plan along a summary of the resources'), it shall also include a detailed price for the delivery of the SOW Requirements in the format provided by the Buyer. Where no format is specified the method used to calculate the price shall be set out in sufficient detail for the Buyer to understand how the price was determined and, as a minimum, the Supplier's pricing will be broken down by the day rates of resources proposed to fulfil the SOW Solution and will be no more expensive than the day rates set out in its Tender.

In most instances, fixed fee or outcome based pricing will be used. In other instances, time and materials will be utilised based on the submitted rate card. The final decision would lie with the Buyer.

Within five (5) Working Days of receipt of the SOW Solution, or in any other period the parties agree, the Buyer shall review and feedback comments on the SOW Solution.

Within two (2) Working Days of the Buyer providing this feedback (or an alternative period agreed between the parties upon the Buyer communicating its feedback) the Supplier shall provide a revised SOW Solution to the Buyer.

Where the Buyer agrees with either the initial or revised SOW Solution the SOW Solution shall be attached to the proposed SOW containing the SOW Requirements and the Buyer shall sign and return the proposed SOW to the Supplier for countersigning whereupon the Supplier shall commence delivery of the Services detailed in the SOW.

The completion of a signed variation shall be based upon the Services/Deliverables materially meeting the acceptance criteria agreed in that SOW.

The Call-Off Contract is non-exclusive, and the Buyer does not commit to awarding any work as part of this Call-Off Contract. Notwithstanding any other provision in this Call-Off Contract the Supplier shall have no obligation to enter into any SOW(s).

Each Statement of Work will have a unique identifying number supplied by the Buyer.

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Annex 1: Call-Off Schedule 20 – Target Sectors

HEALTH AND SOCIAL CARE SETTINGS	Tick boxes
Primary Care	Y
Ambulance Services	Y
Secondary Care - Hospital Settings	Y
Pharmacy	Y
Mental Health	Y
Community Care - Childrens Services	Y
Community Care - Adult Services	Y
Public Health & Wellbeing	Y
Screening	N
Social Care - Childrens Services	Y
Social Care - Adult Services	Y
Genomics	N
Health and Social Care Policy	N
Health Informatics	N
Medicines and Healthcare Products	N

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Health and Social Care Regulation / Quality	N
Health Sector Education, Training and Workforce	N
Health and Social Care Research	N
Blood and Transplant Services	N
Independent Health Provision	N

HEALTH AND SOCIAL CARE SYSTEMS	
SPINE (Summary Care Record)	N
Screening Systems	N
Electronic Prescription Service (EPS)	Y
Electronic Referral Service (ERS)	Y
GP IT Systems & Services	Y
Health and Social Care Mobile Apps	Y
Health and Social Care Web Apps	Y
Citizen Identification and Verification Services	Y
Health System Infrastructure (email, etc)	Y
Secondary Uses Services	Y
Health Data Collection, Processing and Dissemination	Y

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Care Management Systems	Y
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Annex 2: Call-Off Schedule 2.1 – Technology Capabilities

Application Development	Tick boxes	Top 6
Continuous Integration & Delivery Tools	Y	Y
Testing & Quality Assurance Tools	Y	

Business Applications	Tick boxes	
Data Warehousing	N	
Enterprise Applications	N	
Geospatial	N	
Project Management	Y	

Customer Management	Tick boxes	
CRM		
Enterprise Applications	N	

IT Management	Tick boxes	
Middleware	N	
Networking	N	
Service Management	N	
System Management	N	

IT Services	Tick boxes	
Anti-Virus, Vulnerability Mgt & Monitoring	N	
Cloud Orchestration	Y	
Encryption	N	
Remote Access Service	N	

(Continued on next page)

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Software Infrastructure	Tick boxes	Top 6
Enterprise Architecture Tools		
Architecture Tools	Y	
Intelligent Business Process Management Suites		
Business Process Management	N	
Architecture Tools	Y	
Discovery / Search	Y	Y
Frameworks, Languages, & Libraries	Y	Y
Identity & Access Management	Y	
Non-Relational Databases	Y	Y
Performance & Availability Monitoring	Y	
Relational Databases	Y	Y
Server Technology	N	
Server/Desktop OS	N	
Serverless	Y	Y
Source Code Management	Y	
Storage	N	
Virtualisation & Containerisation	Y	
Visualisation Tools	N	
Web Analytics	N	

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Annex 3: Call-Off Schedule 2.1 – Digital Service Requirements

For all Service Provisions and/or Deliverables, the Supplier must help the Buyer comply with any specific applicable Standards.

In this Annex, the following words and phrases shall have the following meanings:

“Accountability Model”	means those accountability models set out in Paragraph 8.4;
“Alpha”	means the alpha phase of agile delivery described in the Service Manual;
“Beta”	means the beta phase of agile development described in the Service Manual;
“DDaT”	has the meaning given to it in Paragraph 10.1;
Deliverables	Goods and/or Services that may be ordered under the Contract including the Documentation
“Discovery”	means the discovery phase of agile delivery described in the Service Manual;
“Extended Discovery”	has the meaning given to it in Paragraph 4.3;
“GDS”	means the Government Digital Service;
“Live”	means the live phase of agile development described in the Service Manual;
“Open Standards Principles”	means the Cabinet Offices’ Open Standards principles located at: https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles ;
“Profession Capability Framework”	means the GDS DDaT Profession Capability Framework located at: https://www.gov.uk/government/collections/digital-data-and-technology-profession-capability-framework ;
“Retirement”	means the retirement phase of agile development described in the Service Manual;
“Service Manual”	means the GDS Service Manual, located at: https://www.gov.uk/service-manual ;
“Service Provision”	means one or more of the service provisions set out in Paragraph 1.1 of this Annex 3 Digital Service Requirements;
“Service Standard”	means the Service Standard section of the Service Manual located at: https://www.gov.uk/service-manual/service-standard ;
“SFIA”	means the Skills Framework for the Information Age, located at: https://sfia-online.org/en ;

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“Technology Code of Practice”	means the GDS Technology Code of Practice located at https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice ;
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1. Introduction**1.1. Suppliers under this Call-Off Contract are required to provide the following Service Provisions:**

- 1.1.1. **DevOps Services** support for ongoing live services;
- 1.1.2. **Digital Definition Services.** Either separately or combined CDDO Discovery (as extended under Extended Discovery under Paragraph 4.3 below) and /or Alpha phases.
- 1.1.3. **Build and Transition Services** either separately combining CDDO Beta phase and/or Retirement phases (including transition to Live). It is anticipated that Live will be covered by an appropriate competition for DevOps Services.
- 1.1.4. **End-to-End Development Services** with the ability to combine the full set of CDDO agile phases of Discovery through to Live.
- 1.1.5. **Data Management (and similar) Services** primarily targeted at building, enhancing and maintaining data assets, migrating data from one system to another and analysis and reporting from such data assets.

1.2. Suppliers are required to be able to work using agile evolving methodologies (e.g. Scrum, Kanban, Spotify) with varying Accountability Models, as described in Paragraph 8.4.**2. Scope of Services****2.1. The scope of this Call-Off Contract includes all CDDO life-cycle phases (Discovery, Alpha, Beta, Live and Retirement), as well as ongoing data collection, processing, management, distribution and reporting.****2.1.1. Annex 4 includes a list of technologies currently in use.****2.2. The skills and capabilities required are set out at Annex 5 and are largely based on the SFIA Framework and map to the digital data and technology (DDaT) roles being promoted by GDS. There are a limited number of additional roles (for example, covering Cyber Security) which are yet to be reflected in SFIA, which are also included under Annex 5.**

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3. Service Provision 1: DevOps Services

3.1. The Supplier will be required to offer a combination of:

- 3.1.1. A fixed size core team, who will largely provide ongoing minor enhancements, maintenance and operational support (unless a small service this will exclude 1st tier help desk); plus
- 3.1.2. An agreed flexible capacity to accommodate peaks in demand (e.g. correction of a significant bug) or to cover slightly more significant enhancements.
- 3.1.3. While agreed upon at the operational level, Suppliers are required to be willing to rotate staff between operations, maintenance and enhancement.
- 3.1.4. A form of a continuously refined and prioritised backlog item list (or equivalent methodology) shall be used to evidence capture and delivery of enhancements.
- 3.1.5. Suppliers should be prepared to refresh Statements of Work for the core team at a frequency determined by the Buyer.

4. Service Provision 2: Digital Definition Services

4.1. To provide a comprehensive technical pack in support of:

- 4.1.1. Creating and evolving the business case for investment
- 4.1.2. Contributing to the pack to be issued to procure the build (Beta phase and beyond);
- 4.1.3. Optionally supporting bid clarifications, technical evaluation and related activities; and
- 4.1.4. Providing technical continuity into the build.
- 4.1.5. In addition to the typical deliverables and activities performed under the GDS definition of Discovery, the scope of “Extended Discovery” - under this Service Provision - includes digital technical support for producing the following types of activity or artefact:
- 4.1.6. Updated scope of the programme/project in terms of targeted users, stakeholders, business areas, organisational users, etc.;
- 4.1.7. Technical requirement specifications (user, functional and non-functional) – including high level acceptance testing, and associated evaluation criteria;
- 4.1.8. A list of technical constraints (i.e. the confines under which the project will have to operate);
- 4.1.9. Prioritised business requirements – forming the initial backlog item list (or equivalent) which should include:

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- epics (or equivalent) for items in the longer term,
 - the equivalent of user stories for the medium term, and
 - sprint sized items for the near term;
- 4.1.10. Pre-procurement activities and Deliverables;
- 4.1.11. Quantified make or buy analysis (where there may be opportunities to buy and/or adapt an existing product);
- 4.1.12. A list of applicable technologies (the anticipated technical stack);
- 4.1.13. A technical road map covering the duration of the expected build (or enhancement / configuration if primarily a buy) and transition to live;
- 4.1.14. Technology gap assessments (for feeding into Alpha activities);
- 4.1.15. Technical continuity and updates to requirements, business cases, etc. arising out of Alphas;
- 4.1.16. A reasonable high-level plan covering the duration of the build and transition to live – clearly identifying any critical milestones;
- 4.1.17. A detailed plan of activities ideally covering the first 3 months of the build;
- 4.1.18. Target operating models (to provide the basis for a Supplier to estimate the costs for retirement and transition);
- 4.1.19. A best assessment of skills profile to cover the duration of the project;
- 4.1.20. Handover activities (documentation, familiarisation, etc.) to the successful build contractor;
- 4.1.21. Specific activities documented under Paragraph 4.3 may be managed or conducted by the Buyer or one or more of their appointed Subcontractors.
- 4.1.22. This Service Provision also includes, at Buyer discretion, GDS Alpha phase type activity such as:
- Building and testing prototypes;
 - Demonstrating one or more options are technically possible;
 - Identifying problems (technical spikes) and how to solve them;
 - Estimating costs; and
 - Refining risks for a future build (or buy)
 - Alpha is combined with Discovery on the basis that both are required to provide a robust basis for obtaining a competitive quote for the purposes of Beta and beyond (or a buy, if determined out of this Service Provision)

5. Service Provision 3: Build and Transition Services

- 5.1. Covers the GDS phases from Beta through to transition to Live (including Retirement as applicable) for larger projects / programmes.

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- 5.2. The Supplier will be required to provide the technical input necessary to enhance, update and maintain such artefacts as requested by the Buyer as part of the scope of this Service Provision (effectively providing a degree of ongoing Discovery type activity).
- 5.3. There shall be individual Statements of Work for at least the following:
- **Private Beta** - Developing the solution to a point where it can be user tested by “friendly” users;
 - **Public Beta** - Rolling out the solution to a wider audience of end users; and
 - **Retirement and Transition to Live** - Focus is to be on data migration, technical documentation and training, etc.

6. Service Provision 4: End-to-End Development Services

- 6.1. This Service Provision is intended for cases where either:
- 6.1.1. the programme/project size is such that the value for money benefits of combining definition with build outweigh the benefits of robustly competing for build and transition having completed a robust digital definition; or
 - 6.1.2. the Buyer has a relatively complete digital definition and specification via other routes and is able to proceed quickly, with reasonable risk, into the build.
 - 6.1.3. The scope covers Discovery through to transition to Live (and possibly Retirement of any existing solution).
 - 6.1.4. Suppliers will be required to validate, update, maintain and enhance the types of artefacts described under Digital Definition (Service Provision 2) which is likely to include:
 - scope;
 - requirements;
 - constraints;
 - technologies
 - road map;
 - business case; and
 - plans.

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7. Service Provision 5: Data Management (and similar) Services

7.1. Covers digital skills, which do not cleanly fit into the previous Service Provisions:

- 7.1.1. Phased migration of data set logic from one platform to another;
- 7.1.2. Reconfiguration of data sets to align with emerging standards;
- 7.1.3. Developing discrete presentation views of datasets using web technologies;
- 7.1.4. Creating new views of data combining and linking data which had previously not been linked;
- 7.1.5. Creating complex digital dashboards;
- 7.1.6. Performing data analytics to inform health decision making;
- 7.1.7. Adding machine learning and artificial intelligence to existing solutions; and
- 7.1.8. Filtering and compiling data to target specific audiences.
- 7.1.9. Under this Service Provision the Further Competition Procedure is likely to be based on a roadmap of related themes leading to some form of desired overall solution or business goal.
- 7.1.10. Statements of Work are likely to be structured around the themes described at Paragraph 7.2 above, with multiple, often similar, individual pieces of work with varying degrees of complexity (e.g. individual data sets).
- 7.1.11. Given that activities under this Service Provision can involve Processing of Personal Data of a confidential or sensitive nature, including special category, data protection and information governance will be a particularly strong feature of this service.

8. Ways of Working (and Methodologies)

- 8.1. The Supplier will typically be expected to adopt an agile development process, starting with user needs. The methodology will be outlined in the relevant Statement of Work.
- 8.2. Waterfall development methodology will only be used in exceptional circumstances, where it can be shown to better meet user needs and should be agreed in advance with the Buyer under a Statement of Work.

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- 8.3. In some circumstances both waterfall and agile methodologies may need to be used, and this shall be agreed between the Supplier and Buyer under Statement(s) of Work.
- 8.4. At Statement of Work level, Suppliers will be required to work under any of the following **Accountability Models**:
- **Sole Responsibility**: where the Supplier takes on board full responsibility to deliver the discrete Milestones identified. This is most closely aligned with the “outcomes” model under other frameworks. The Supplier will be required to accept the full risk of delivery;
 - **Self-Directed Teams**: where the Supplier provides discrete delivery teams to produce Deliverable Increments as commissioned by the Buyer. This model lends itself to Buyer-led agile development where the specific deliverable increment is agreed closer to the point of delivery but where some risk is carried by the Supplier; or
 - **Rainbow Teams**: where the Supplier (or possibly more than one Supplier) provides a squad of individuals to work alongside Buyer staff. In this model individuals, whilst managed at a high level by the Supplier, may well be directed at an operational level by someone from another organisation.
- 8.5. To some extent aligned with the above Accountability Models (but not exclusively so), Suppliers will be expected to operate under one of three pricing models at Statement of Work level:
- **Capped Time and Materials; or**
 - **Fixed Price;**
- 8.6. Whilst the Supplier may suggest the charging model, it is the Buyer who will decide and the applicable model will be incorporated into each Statement of Work.
- 8.7. The Supplier shall monitor the provision of the Deliverables and notify the Buyer where it considers that the activity of the Buyer may impact the Suppliers' (or its Subcontractors) IR35 assessment in relation to the contractors including where there is any change to the IR35 legislation or any associated national insurance legislation and regulations which may affect the Buyer.
- 8.8. Suppliers must be highly collaborative and flexible under this Call-Off Contract.
- 8.9. It is a clear expectation that the Suppliers shall invest in the establishment and maintenance of an ongoing relationship with the Buyer.

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- 8.10. Suppliers will be required to detail their arrangements and use of non-UK based Supplier Staff (including Subcontractors) whose Services are provided outside the UK and shall be priced on separate rate cards with applicable discounts (in GBP) for each applicable jurisdiction within which the Supplier Staff work. Each rate card shall be at no greater a rate that that set out in the UK Supplier's rate card.

9. Technologies

- 9.1. The technologies currently used in the health and social care sectors and to be used in the provision of the Deliverables are extensive and varied. Using Gartner grouping, technologies include those under the headings of:

- 9.1.1. Application Development (e.g. in the Cyber space);
- 9.1.2. Business Applications (e.g. in the Data and Web space);
- 9.1.3. IT Management (e.g. currently Data Centres, API Management);
- 9.1.4. Operations Management (e.g. Agile Planning Tools, Data Integration);
- 9.1.5. Software Infrastructure (e.g. Operational Database Management).
- 9.1.6. Annex 4 contains a more comprehensive list of these technologies with specific examples used within the health and social care sectors.

10. Skills and Capabilities

- 10.1. Under individual Statements of Work, Suppliers will be required to provide one or more teams of individuals consisting of capabilities listed under the GDS Digital, Data and Technology ("DDaT") Profession Capability Framework supplemented as required by CCS under Annex 5.
- 10.2. The Buyer, under a specific Statement of Work, may request additional capabilities (not included under DDaT) but wherever possible these should align with the wider SFIA Skills Framework.
- 10.3. The Supplier is required to evidence any stated capability profile (for validation purposes) if requested, at any time (with reasonable notice), by CCS and/or the Buyer.
- 10.4. The Supplier shall ensure all roles support the Service Manual description of what you need to build a successful service.
- 10.5. The Supplier is required to keep up to date with the latest advancements in software engineering (particularly the open source technologies) and should proactively innovate by utilising the newly discovered technologies, techniques, platforms, frameworks and tools, in

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order to enhance and simplify the development and maintenance of systems they are developing.

11. Standards

11.1. The Supplier must:

11.1.1. work according to the Technology Code of Practice;

- work according to the GDS Service Manual; and
- understand what it means to work on one of the Discovery, Alpha, Beta, Live or Retirement phases described in the Service Manual.

11.2. The Supplier must support the Buyer:

11.2.1. in complying with the Service Manual;

11.2.2. through successful Service Standard assessments;

11.2.3. to develop Services based on Open Standards Principles and accessible data protocols, to ensure they are interoperable;

11.2.4. to comply with any adopted open standards that are compulsory in government as described at the following link:
<http://standards.data.gov.uk/challenges/adopted>;

11.3. The Supplier must comply with the Standards set out in Annex 6 where relevant (to the level requested by the Buyer) and with any specific Standards incorporated into the relevant Call-Off Contract and each Statement of Work.

12. Code of conduct

12.1. The Supplier must support the Buyer according to the Civil Service conduct and guidance, accessible at the following link:

<https://www.gov.uk/government/collections/civil-service-conduct-and-guidance>.

13. Collaboration Requirements

13.1. The Deliverables supplied under this Call-Off Contract and each Statement of Work may require the Supplier to work in collaboration with other Suppliers of the Buyer. In the event that the Deliverables do require such collaboration, the Supplier shall comply with the following:

13.1.1. The Supplier shall:

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- work pro-actively with (a) the Buyer, (b) the Incumbent Providers, and (c) each of the other Suppliers and contractors of the Buyer, in a spirit of trust and mutual confidence;
- cooperate with the Buyer's other Suppliers and contractors of other goods and/or services to enable and ensure efficient Delivery;
- assist in sharing information with the Buyer's other Suppliers and contractors for the purposes of facilitating provision of the Deliverables;
- provide all additional cooperation and assistance as is reasonably required by the Buyer to ensure the continuous delivery of the Deliverables and other services under the Call-Off Contract; and
- procure that the Supplier's Subcontractors provide all cooperation and assistance as required by the Buyer pursuant to the Call-Off Contract.

13.2. Interoperability of Health Information Systems and Services

- 13.2.1. Interoperability requires health information systems to work together within and across organisational boundaries and health and social care settings in order to advance the effective delivery of healthcare and wellbeing for individuals and communities.
- 13.2.2. To support the Buyer to achieve this interoperability, the Supplier shall perform all required activities in relation to ensuring interoperability between technology developed under each Statement of Work and other applicable technologies as instructed by the Buyer. All required activities may include any of the following:
- supporting service queries, requests, incident resolution;
 - other development, test, assurance and operation activities; and
 - knowledge sharing and skillset transfer between teams (including Buyer teams and other Suppliers).

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
Application Development	Application Release Orchestration, Application Security Testing, Enterprise Agile Planning Tools, Multi-experience Development Platforms, Software Test Automation.	Continuous Integration & Delivery Tools Testing & Quality Assurance Tools	Ansible v2.4, Apache Hue, Apache Maven v3.x, AWS CodeDeploy, AWS CodePipeline, AWS Command Line Interface (CLI), Chef, Concourse CI, Gradle, jBPM, Jenkins CI v1.x, Jenkins CI v2.x, NuGet, Octopus Deploy, Puppet, TeamCity, TortoiseSVN, Travis CI, Yarn 1. Akamai Cloudlet, Apache JMeter, Apache Selenium, App Check, Atlassian Crucible, BlazeMeter, ELMAH (Error Logging Modules and Handlers), Gatling, GauntLT, JUnit 4.x Micro Focus Unified Functional Testing, NeoLoad, NUnit, Optimizely, Rhino Mocks, Sahi SpecFlow, TestNG, Zed Attack Proxy.
Business Applications	Analytics and Business Intelligence Platforms, Cloud AI Developer Services, Data Management Solutions for Analytics, Data Science and Machine Learning Platforms, Enterprise Asset Management Software. Enterprise	Data Warehousing Enterprise Applications	Apache Spark, AWS Elastic Map Reduce (EMR), Grafana. Accellion Kiteworks, CCH Tagetik, Confluence, Google Docs, Google Drive, Microsoft, Exchange Server 2013, Microsoft Office 365, Microsoft Office 365

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
	Video Content Management, Insight Engines, Integrated IT Portfolio Analysis Applications, Project and Portfolio Management, Web Content Management.	Geospatial Project Management	OneDrive, Microsoft Office 365 Planner, Microsoft Office 365 SharePoint, Microsoft Office 365 Yammer Microsoft Skype for Business Client, Microsoft Skype for Business Server 2015, Microsoft Teams, NHSmail 2 Portal, Quest Email Archive Manager, Slack, Trend Micro Email Relay. AddressBase, Bing Maps. Atlassian Jira v6.x, Microsoft Office 365 Planner, Target Process Project Management.
Customer Management	CRM, Digital Experience Platforms.	Enterprise Applications	Microsoft Dynamics, Microsoft Dynamics 365.
IT Management	Digital Experience Platforms, Enterprise Low-Code Application Platforms, Full Life Cycle API Management.	Middleware	Accellion Kiteworks, Apache Active MQ, Apache Pulsar, Apache ServiceMix v5.x, AWS Simple Notification Service (SNS), AWS Simple Queue Service (SQS), Azure API Management, IBM Websphere Application Server v6.x, IBM Websphere Application Server v7.x, IBM Websphere MQ, Mule Enterprise Service Bus (ESB),

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
		Networking	<p>Mule ESB, Rabbit MQ, Rabbit MQ v3.3, Rabbit MQ v3.7, TIBCO Managed File Transfer (MFT), TIBCO Scribe.</p> <p>Apache Guacamole, AWS API Gateway, AWS Elastic Ips, AWS NAT Gateway, AWS Route53, AWS Virtual Private Cloud (VPC) Peering, Azure Application Gateway, Azure Content Delivery Network (CDN), Azure DNS, Azure Express Route, Azure Front Door, Azure Load Balancer, Azure Networks, Cisco Aggregation Services Routers (ASR), Cisco Application Centric Infrastructure (ACI), Cisco Nexus, Haproxy, OpenVPN, Shavlik, Traefik, VMware NSX.</p>
		Service Management	<p>Cherwell IT Service Management, PagerDuty, VictorOps</p> <p>Apache Ant v1.x, Apache Ranger, AWS Parameter Store, Azure Traffic Manager, Flyway, Instana, Micro Focus, ZENworks, ScaleArc,</p>

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
			Veeam Backup & Replication, VMware vRealise Automation,
IT Services	Application Testing Services, Cloud Access Security Brokers, Cloud AI Developer Services, Content Services Platforms, CRM, Network Services.	Anti-Virus, Vulnerability Mgt & Monitoring	Anchore, AWS GuardDuty, AWS Shield, AWS Web Application Firewall (WAF), Azure Anti-Malware, Black Duck, Clair, Imperva, Incapsula, Nessus, OSSEC, Palo Alto, Networks Prisma, Privitar Publisher, Snyk Trend Micro, Anti-Spam, Twistlock Wallix Bastion v3.x.
		Cloud Orchestration	AWS Batch, AWS Config, AWS Data Pipeline, AWS Elastic, BeanStalk, Azure Logic Apps, Cloud Foundry.
		Encryption	AWS Certificate Manager, Azure Key Vault, HashiCorp Vault.
		Remote Access Service	Bomgar, IUVO clin-ePost v1.10, VisionApp Remote Desktop.
Software Infrastructure	Access Management, Application Performance Monitoring, Cloud Management Platforms, Data and Analytics Service, Data Integration Tools, Data Management Solutions for	Architecture Tools	Collibra, Hibernate ORM v3.x, Hibernate ORM v4.x, Ontoserver, Orbus iServer, SAP Power Designer, Sparx Systems Enterprise Architect.
		Business Process Management	Drools.

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
	Analytics, Data Quality Tools, Digital Experience Platforms, Enterprise Architecture Tools, Enterprise Information Archiving, Full Life Cycle API Management, Metadata Management Solutions, Robotic Process Automation, Secure Web Gateways, Software Asset Management Tools, Unified Endpoint Management Tools.	Discovery/Search Frameworks, Languages, & Libraries	Apache Lucene v5.x, Apache SOLR 5.x, Azure Data Lake Analytics, Azure Search, Funnelback, Lucidsearch Fusion 5.1. .NET Core, .NET Core 2.1 LTS, .NET Core 3.1 LTS, .NET Core 6 LTS, .NET Framework, .NET Framework v3.5 / 3.5 SP1 LTS, .NET Framework v4 - 4.5.1, .NET Framework v4.5.2 - 4.8, Angular 8.x, Angular JS 6, Angular JS 7, Angular JS 8, Angular JS 9, Apache Atlas, Apache Log4net, Apache Selenium v2.x, Apache Spring Framework, Apache Spring Framework 3.x, ASP.NET, Bootstrap v3.x, Bootstrap v4.x, C#, C++, Cache MUMPS, Cucumber, ECMAScript, Flask v1.x, GO 1.x, Hibernate ORM, Jasmine.js, Java 2 Enterprise Edition 1.4, Java 2 Enterprise Edition 6, Java 2 Standard Edition, Java 2 Standard Edition 5, Java JRE 1.6, Java JRE 1.8, Java SE 11 (LTS), Java SE 17

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
		Identity & Access Management	<p>(LTS), Java SE 6, Java SE 7, Java SE 8 (LTS), Jinja 2.x, Jinja2, jQuery, jQuery 3.x, Microsoft ASP.NET MVC 3, Microsoft ASP.NET MVC 5, mFlow, Mustache.JS v2.x, Next.js v9.x, Node.js v10.x, Node.JS v14.x, Node.js v6.x, Node.js v8.x, Node.js v9.x, Open Rasta v2.x, PHP 5.3, PHP 7.1, PHP 7.3, Python 2.7, Python 3.6, Python 3.7, Python 3.8, Python VERSION TBD, Quartz, R, React.js, React.js 0.x, React.js 16.x, Redux Javascript Library, Ruby, Scala, Schematron, SQLAlchemy, Symfony, Vue.js 2.6, XStream.</p> <p>AWS Cognito, AWS Rekognition, AWS Secrets Manager, Azure Active Directory, Cisco Identity Service, Engine (ISE), Entrust CA, Entrust Security Manager, FreeIPA, Keycloak, Microsoft Identity Manager Server 2016, Open IG (Identity Gateway), OpenAM, OpenDJ 2.x, OpenIDM 3.x,</p>

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
		Non-Relational Databases	<p>OpenLDAP 2.4, Oracle Directory Service Enterprise, Pleasant Password Server, Wallix Access Manager (TBC).</p> <p>AWS DynamoDB, Azure Cosmos DB, Azure Redis Cache, Event Store, Intersystems Cache, Neo4j v3.5, Redis, Redis v3.x, Redis v4.x, Redis v5.x, RethinkDB v2.x, Riak v2.x, Stardog.</p>
		Performance & Availability Monitoring	<p>Atlassian OpsGenie, AWS CloudWatch, Azure Event Hub, Cisco AppDynamics, Datadog, Dynatrace, Elasticsearch, Nagios Core, New Relic One, Outcold Log Collector, Pingdom, Prometheus, Sensu Go, Sentry, SonarQube, Splunk, Splunk Cloud, Splunk Enterprise v6.x, Splunk Enterprise v7.x, SQL Sentry, Status Cake, UptimeRobot, Zabbix.</p>
		Relational Databases	<p>AWS DocumentDB, AWS Neptune, AWS RDS for PostgreSQL, AWS Relational Database Service (RDS), Azure SQL Data Warehouse, Azure</p>

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
		Server Technology	<p>SQL Database, Microsoft SQL Server 2008 R2, Microsoft SQL Server 2012, Microsoft SQL Server 2014, Microsoft SQL Server 2016, Microsoft SQL Server 2019, MySQL Cluster v7.x, MySQL v8.x, Oracle Database 10g, Oracle Database 11g, Oracle Directory Service Enterprise, PostgreSQL v11.x, PostgreSQL v12.x, PostgreSQL v9.x, PostgreSQL VERSION TBD.</p> <p>Apache HTTP Server 2.4, Apache Kafka, Apache Tomcat 5.5, Apache Tomcat 7.x, Apache Tomcat 8.0, Apache Tomcat 9.x, AWS CloudFront, Azure Web Sites, BloomReach Experience Manager (brXM) v13.x, Bootstrap CSS, Cookiebot, Drupal 7, Green Unicorn, Javascript, JBoss Community (Wildfly) v9.x, Microsoft Sharepoint 2007, Microsoft SharePoint 2010, Nginx v1.x, Tornado Web Server v2.x, Tornado Web Server v4.x, Tornado Web Server v5.x, uWSGI</p>

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
		Server/Desktop OS	v2.x, VMware ESXi 6.7, Wagtail CMS, Wordpress. Alpine Linux 3.x, CentOS v5.x, CentOS v6.x, CentOS v7.x, FileMaker Pro Server, HP-UX 11i, Microsoft Windows 10, Microsoft Windows Server 2008, Microsoft Windows Server 2008 R2, Microsoft Windows Server 2012 R2, Microsoft Windows Server 2016, Red Hat Enterprise Linux (RHEL) 4.x, Red Hat Enterprise Linux (RHEL) 5.x, Red Hat Enterprise Linux (RHEL) 6.x, Red Hat Enterprise Linux (RHEL) 7.x, Scientific Linux v7.7, Ubuntu 12, Ubuntu 14, Ubuntu 16, Ubuntu 18, Ubuntu 19, Windows 10X.
		Serverless	AWS Lambda, AWS Lambda@Edge, Azure Functions v1.
		Source Code Management	Apache Subversion (SVN), AWS CodeBuild, AWS CodeCommit, Azure DevOps Server, Coveralls, GitHub, GitLab 11.9, Microsoft Visual

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
		Storage	<p>Studio Team Foundation Server, Nexus, R Studio, ReSharper, Sonatype Nexus v2.x, TeamCity, TortoiseGit.</p> <p>Apache Hive, Apache Parquet, AWS Elasticache, AWS S3, Azure Blob Storage, Azure File Storage, Azure Storage, Azure Table Storage, Databricks, Lightning Memory-Mapped Database (LMDB).</p>
		Virtualisation & Containerisation	<p>AWS CloudFormation, AWS Elastic Compute Cloud (EC2), AWS Elastic Container Registry (ECR), AWS Elastic Kubernetes Service (EKS), AWS Fargate, Azure Docker VM, Azure Kubernetes Service (AKS), Azure Virtual Machines (VMs), Cobbler, Docker, Docker Swarm, Google Cloud, HashiCorp Terraform v0.x, HashiCorp Vagrant v2.x, Helm, Kubernetes, LXD System Container Manager v3.x, Oracle VM VirtualBox, Packer</p>

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Gartner Category (L1)	Gartner Sub-Category (L2)	NHS Technology Function	Technology Component (L3)
		Visualisation Tools	1.2, Rancher, VMware ESXi 5.5, VMware on AWS. CXAir, Eclipse Business Intelligence and Reporting Tools (BIRT) 4.3, Highcharts, Highmaps, Kibana, Logstash, Microsoft Power BI, Oracle Business Intelligence Enterprise Edition 11.x, SAS Enterprise Guide, SmartLogic Semaphore, Splunk, Splunk Enterprise v6.x, Tableau.
		Web Analytics	Adobe Analytics, Google Analytics, Hotjar, Matomo. Adobe Analytics, Google Analytics, Hotjar, Matomo,

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ANNEX 5: Call-Off Schedule 2.1 – Required Skillsets

Cluster	SFIA Role Family	DDaT Roles
Data	Data Engineer	Head of Data Engineering, Lead/Senior/Data Engineer
	Data Scientist	Head of Data Science, Senior/Junior/Trainee/Data Scientist
	Performance Analyst	Head of Performance Analysis, Lead/Senior/Associate/Performance Analyst
IT Ops	Business Relationship Manager	Lead/Senior/Business Relationship Manager
	Change and Release Manager	Change and Release Manager/Analyst, Configuration Analyst
	Command and Control	Head of Command and Control, Operational Control Manager, Senior Ops/Ops Analyst C&C
	Applications Operations	Principal/Lead/Senior/Associate/Engineer - Application Operations
	Engineer End User	Principal/Lead/Senior/Associate/Engineer - End User Computing
	Engineer Infrastructure	Principal/Lead/Senior/Associate/Engineer - Infrastructure Ops
	IT Service Manager	Head of IT Service Management, Senior/IT Service Manager, IT Service Analyst
	Problem Manager	Problem Manager, Problem Analysis
	Service Desk Manager	Head of Service Desk, Service Desk Manager, Senior/Service Desk Analyst
	Service Transition Manager	Lead Service/Service Transition Manager, Service Readiness/Acceptance Analyst
Product Delivery	Business Analysis	Principal/Senior/Junior/Business Analyst
	Delivery	Head of Delivery Management, Service Owner, Programme/Senior/Associate/Delivery Manager
	Product Manager	Head/Lead/Senior/Associate/Product Manager

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Cluster	SFIA Role Family	DDaT Roles
Quality Assurance and Testing	QAT Analyst	Lead QAT Tester, QAT Analyst, Lead/Data Engineer
	Test Engineer	Lead/Test Engineer, Lead Data Engineer, Tester
	Test Manager	Test Manager
Technical	Data Architect	Chief/Senior/Data Architect
	DevOps	Principal/Lead/Senior/Junior/Apprentice/Dev Ops
	Infrastructure Engineer	Principal/Lead/Senior/Associate/Infrastructure Engineer
	Network Architect	Lead/Associate/Network Architect
	Security Architect	Principal/Lead Security Architect, Senior Technical Architect
	Software Developer	Principal/Lead/Senior/Associate/Software Developer
	Technical Architect	Principal/Lead/Senior/Associate/Technical Architect
User Centred Design	Content Designer	Head of Content Design, Lead/Senior/Associate/Junior/Content Designer
	Graphic Interaction Designer	Head of Graphic/Interaction Design, Lead/Senior/Associate/Junior/Graphic/Interaction Designer
	Service Designer	Head of Service Design, Lead/Senior/Associate/Junior/Service Designer
	Technical Writer	Content Strategist, Lead/Technical Writer
	User Researcher	Head of User Research, Lead/Senior/Associate/Junior/User Researcher

The above role titles may be different to those currently in use by your organisation. There are various online resources (e.g. sfia-online.org) which map commonly used specific roles into the above table structure.

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ANNEX 6: Call-Off Schedule 2.1 – Standards

The Supplier shall be required to comply with the following Standards where relevant (Paragraph 11.3 of Annex 3 – Digital Service Requirements) and where a Standard is accessed via a URL, the version of the Standard set out on that web page shall be the version of the Standard that shall apply to this Call-Off Contract or Statement of Work upon execution of the same:

1.	General
1.1	ISO 9000; ISO 9001:2015 Quality Management
2.	IG and Security
2.1	10 Steps to Cyber Security' guidance: https://www.ncsc.gov.uk/guidance/10-steps-cyber-security
2.2	BS ISO 22301:2012 Societal security – Business Continuity management systems – Requirements
2.3	BS ISO 27001:2013 Information and Data Security
2.4	BS ISO/IEC 27002:2013 Information technology — Security techniques — Code of practice for information security controls
3.	Development and System Design Services
3.1	BS ISO/IEC 12207:2017 Systems and software engineering.
3.2	BS 8878:2010 Web accessibility. Code of Practice.
3.3	Open Standards: "Open Standards Principles 2018: For software interoperability, data and document formats in government IT specifications" (which can be found at https://www.gov.uk/government/publications/open-standards-principles) and any supplementary or replacement government guidance.
3.4	Adopted Open Standards as detailed on the Standards Hub https://www.gov.uk/government/publications/open-standards-for-government
3.5	Web Content Accessibility Guidelines (WCAG) 2.0 to level AA; or WCAG 2.1, (as updated pursuant to the Public Sector Bodies (Websites and Mobile Applications) Accessibility

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	Regulations 2018).
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4.	DHSC and NHS Standards
4.1	NHS Service Standards (and references therein): http://service-manual.nhs.uk/service-standard
4.2	The NHS digital, data and technology standards and clinical information standards as set out in this link and associated pages (as updated from time to time): http://digital.nhs.uk/about-nhs-digital/our-work/nhs-digital-data-and-technology-standards
5.	Buyer Standards
5.1	Such other standards and requirements as notified by the Buyer to the Supplier (including successor standards and requirements).

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ANNEX 7: Call-Off Schedule 2.1 – Buyer Policies**Buyer's Mandatory Policies Table:**

Note the policies below apply as may be updated from time to time.

Universal Policies (Policies that apply to all employees in all circumstances)	Contactor In-scope	Contactor Out of-scope	External Supplier	Temporary Staff	Work Package Outcomes	Work Package Augmentation
	Ind	Ind	Org	Ind	Org	Org Mandated
Mandatory Corporate Policies						
Confidentiality	Annual review and acceptance required	Must be aware	Must be aware	Annual review and acceptance required	All staff on rate equivalent to Grade 8d or above to annually review and accept this policy	Rate equivalent to Grade 8d or above Mandated otherwise to be aware
Code of Business Conduct	Annual review and acceptance required	Must be aware	Must be aware	Annual review and acceptance required	Rate equivalent to Grade 8d or above Mandated otherwise to be aware	Rate equivalent to Grade 8d or above Mandated otherwise to be aware
The Register of Interest Policy	Annual review and acceptance required	Must be aware	Must be aware	Annual review and acceptance required	Rate equivalent to Grade 8d or above Mandated otherwise to be aware	Rate equivalent to Grade 8d or above Mandated otherwise to be aware
Acceptable Use of ICT and User Obligations	Annual review and acceptance required	Must be aware	Must be aware	Annual review and acceptance required	Rate equivalent to Grade 8d or above Mandated otherwise to be aware	Rate equivalent to Grade 8d or above Mandated otherwise to be aware

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Universal Policies (Policies that apply to all employees in all circumstances)	Contactor In-scope	Contactor Out of-scope	External Supplier	Temporary Staff	Work Package Outcomes	Work Package Augmentation
	Ind	Ind	Org	Ind	Org	Org Mandated
Hospitality & the Receipt of Gifts Policy	Annual review and acceptance required	Must be aware	Must be aware	Annual review and acceptance required	Rate equivalent to Grade 8d or above Mandated otherwise to be aware	Rate equivalent to Grade 8d or above Mandated otherwise to be aware
NHS Digital Counter Fraud Policy	Annual review and acceptance required	Must be aware	Must be aware	Annual review and acceptance required	Rate equivalent to Grade 8d or above Mandated otherwise to be aware	Rate equivalent to Grade 8d or above Mandated otherwise to be aware
Other Policies						
Bring Your Own Device Policy	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware
Commercial Policy	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware
Equality and Diversity Policy	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware
Health and Safety Policy	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware
IT Operations	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware
Modern Slavery and Human Trafficking	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware
HR Organisation & Tran sformation (People and Workforce)	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware

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Universal Policies (Policies that apply to all employees in all circumstances)	Contactor In-scope	Contactor Out of-scope	External Supplier	Temporary Staff	Work Package Outcomes	Work Package Augmentation
	Ind	Ind	Org	Ind	Org	Org Mandated
Staff Vetting Procedures	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware
Travel and Expenses	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware	Must be aware

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Annex 8: Call-Off Schedule 2.1 –PGSB services

SLA's for PGSB services	Bronze	Silver	Gold	Platinum
Operational Hours (Service Hours)	8 - 6 Mon - Fri (exc BH)	24x7x365	24x7x365	24x7x365
Business Support Hours (Service Support Hours)	8 - 6 Mon - Fri (exc BH)	8 - 6 Mon - Fri (exc BH)	24x7x365	24x7x365
Planned Maintenance downtime	Service specific	Service specific	Service specific	Service specific
Availability (in business support hours)	98%	99.50%	99.90%	99.90%
downtime (mins per month)	234	58	43	43
Incident resolution Times (in business support hours)				
Sev1	8 hrs	4 hrs *	4 hrs	2 hrs
Sev2	16 hrs	8 hrs *	8 hrs	4 hrs
Sev3	40hrs	20 hrs	10 hrs (Mon - Fri 8-6 ex BH)	8 hrs (Mon - Fri 8-6 ex BH)
Sev4	120hrs	80 hrs	50 hrs (Mon - Fri 8-6 ex BH)	30 hrs (Mon - Fri 8-6 ex BH)
Sev5	240 hrs	200 hrs	140 hrs (Mon - Fri 8-6 ex BH)	100 hrs (Mon -Fri 8-6 ex BH)
Problem Fix Times				
Sev1	30 working days or an agreed release	30 working days or an agreed release	14 working days or an agreed release	14 working days or an agreed release
Sev2	60 working days or an agreed release	60 working days or an agreed release	28 working days or an agreed release	28 working days or an agreed release
Sev3	120 working days or an agreed release	120 working days or an agreed release	56 working days or an agreed release	56 working days or an agreed release
Sev4	240 working days or an agreed release	240 working days or an agreed release	112 working days or an agreed release	112 working days or an agreed release
Sev5	360 working days or an agreed release	360 working days or an agreed release	224 working days or an agreed release	224 working days or an agreed release
Service Reporting	Ad hoc	Monthly	Monthly	Monthly

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Service Request (max time listed)	max 3 months	max 3 months	max 2 months	max 1 month
DR	Optional Bolt-on	Optional Bolt-on	4 hrs	2 hrs
RPO - Recovery Point Objective.	24 hours	24 hours	zero	Zero
How much data can the customer afford the app/service/system to lose in the event of a failure?				
* runs 24x7x365				
Other SLA's service dependant i.e., Batch processing or transactional response times.				
Service Requests service specific KPI's				

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Annex 9 - NHS Pathway Product Catalogue

Attached as external document

Annex 10 – Statement of Work Template (Spec and Costs)

Attached as external document

Annex 11 – Initial SOW01, SOW02 and SOW03

Attached as external document

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NHS Pathways

Product Catalogue

Published XX Month 2021

Information and technology
for better health and care

Contents

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4. Routes to manage demand and capacity	5
5. Internal NHS Pathways products	7
6. Contact NHS Pathways for more information	9

1. Introduction

NHS Pathways enables clinical and non-clinical users to triage patients to the most appropriate care, at their time of need.

Based on the answers given during an assessment, NHS Pathways provides the most appropriate clinical response with a specific level of care and time frame.

If needed, this outcome is used to identify an appropriate service to refer a patient to, using the Directory of Services (DoS).

NHS Pathways Products are maintained and updated to meet the latest available clinical guidance and evidence^[1]. All of the clinical authoring team are registered, licensed practitioners, most with an urgent and emergency care background.

Recent Triage Data

- Over 60,000 111 and 999 calls triaged per day
- 21.3 million triages over the last 12 months
- Around 75% of 111 triages resulted in no emergency department or ambulance attendance.

Find the latest NHS Pathways data at digital.nhs.uk/services/nhs-pathways/nhs-pathways-service-information.

Using NHS Pathways

NHS Pathways products need to be embedded into a host system. We have licensed and assured host system suppliers who have completed development work against our 'Technical Specification' requirements to correctly use NHS Pathways content.

All users of NHS Pathways products complete rigorous training and are reviewed regularly via an audit process.

NHS Pathways is a Class 1 medical device. For more information visit digital.nhs.uk/services/nhs-pathways.

2. Core Telephony products - 111 and 999

NHS Pathways is a collection of interlinked clinical questions which are arranged into symptom-based flow-charts or "Pathways".

NHS Pathways is used by specially trained Health Advisors and Clinicians to assess patients over the telephone and direct them to the most appropriate care. Handling over 20 million calls per year, The Core NHS Pathways system is broadly divided into three modules:

Module 0

Module 0 aims to rule out some, but not all, life-threatening conditions. Potential emergency situations are identified by asking questions about:

- consciousness
- breathing
- choking
- fitting
- commonly occurring “declared” serious conditions, such as heart attack, stroke, anaphylaxis, or blood sugar problems (to enable rapid assessments for potentially urgent cases).

If the answers given are sufficiently serious, the questions will trigger the dispatch of an emergency ambulance. If not, the Health Advisor will move on to Module 1.

Module 1

Module 1 starts with a Body Map – an image of a human body relevant to the age and gender of the patient. Pathways related to that body area or body system are available, and the user can select the area most relevant to the caller’s report of the main or worst symptom. Where there is no single main or worst symptom, the non-clinical Health Advisor should seek clinical advice.

The system then presents various questions to the Health Advisor. Each answer will determine the next question asked until:

- an endpoint (disposition) is reached
- the call is ended early
- the call is transferred to a Clinician.

The questions continue in a hierarchical order, and so generally the more questions asked, the less severe the symptoms. Extensive care advice can also form part of the triage.

There are over 800 symptom pathways which are under constant review by the Pathways team and through external governance from the National Clinical Assurance Group (NCAG).

Depending on the complexity of the problem, the Health Advisor may be able to complete the assessment and reach an appropriate outcome for the patient without needing clinical input.

Module 2

Module 2 is the area of the system used by Clinicians.

The Clinicians manage issues that require further in-depth triage, home care advice or calls of a complex nature. It allows for a more detailed assessment to be carried out by a Clinician.

Information from the Health Advisor assessment is presented to the Clinician who validates the Health Advisor's assessment and continues from that point. If the situation has suddenly deteriorated and it is now a potentially life-threatening situation, Clinicians can reassess from the relevant point. Some questions in Module 2 will have a greater clinical element and require judgment based on the user's clinical knowledge.

Clinicians will also have access to a wider bank of care advice which is carefully arranged into symptom groups, to provide information to help support the caller with the presenting symptoms at home.

3. 999 only functionality

The clinical content and the actual patient triage in NHS Pathways are identical for both Ambulance services, and for NHS 111 services. This means that callers should receive an equitable response, whichever service they call.

However, the Ambulance service has a wider remit than the NHS 111 service and therefore it requires additional functionality which sits beside the actual triage of patients to support its unique 999 role.

Calls from Health Care Professionals (HCP) and requests for Inter-Facility Transport (IFT)

Calls to the Ambulance service from Health Care Professionals (HCP calls) cover a wide variety of circumstances such as a GP requesting transport for a patient with a suspected stroke. The HCP module in NHS Pathways covers all such instances.

Calls requesting Inter-Facility Transport (IFT calls) are for transfers between health units. The NHS Pathways IFT module offers a way for Ambulance services to prioritise these requests based on the clinical need of the patient, and to send the most suitable vehicle, for example, one capable of transporting an incubator.

Attend Incident

This is a stand-alone module which allows Ambulance services to manage (usually) major incidents identified by an Ambulance crew, such as a road traffic incident with multiple casualties, or incidents identified by the other Emergency Services.

4. Routes to manage demand and capacity

These products offer ways to help patients get to the information and support they need, focusing on:

- managing high volume calls to the NHS 111 services
- helping Clinicians dispatch an Ambulance or search for relevant services following a 'non-Pathways' assessment
- helping patients get to the information they need faster.

These products can be operated in isolation of the main telephony products. Because they focus on specific areas of clinical content, they require less user training when compared to the main 111/999 products.

Pathways Clinical Consultation Support (PaCCS)

PaCCS supports senior Clinicians to complete a clinical consultation without the structure of an NHS Pathways triage. It offers users additional support through symptom-based templates, as a prompt to access DoS service searching, home care advice, and direct ambulance dispatch.

Clinicians have the autonomy to determine the appropriate outcome for the patient, and take notes against any considered or suspected conditions, as well as general observations that can form part of a consultation summary.

ED Streaming and Redirection

This product aims to support patients when they first arrive at an emergency and urgent care setting. After patients complete a triage and their information has been used to connect to the Directory of Services (DoS), they are advised on what to do next.

The product aims to:

- advise patients if they're required to stay in their current care setting
- stream patients to the appropriate service within the Trust estate, such as Same Day Emergency Care (SDEC) or an on-site Urgent Treatment Centre (UTC)
- where suitable, redirect patients with low acuity symptoms to an external care setting such as a Primary Care or a Pharmacy service
- ease the burden on staff by prioritising patients and integrating their information directly into hospital systems.
- manage waiting room capacity by enabling patients to return at an appropriate time for their needs.

Service Advisor modules

These modules can be used by Service Advisors, who require reduced training to triage a patient on specific needs – patients are assessed, and if needed can be transferred to Health Advisors or Clinicians in the service.

Dental

Dental problems are one of the most common conditions triaged using NHS Pathways. The Dental module enables safe and consistent triage of dental patients after they have selected an IVR option.

Repeat Prescription

Enabling safe and consistent triage of patients requiring repeat medication.

Health Care Professional call back

Enabling the facilitation of Health Care Professionals receiving a call back from another Clinician when they are with a patient.

Minor Injury

This supports Service Advisors to triage Injury only calls following referrals from Health Advisors. This product increases capacity in 111 services and reduces training and implementation requirements.

5. Internal NHS Pathways products

These products support the development, review, and training of NHS Pathways content. Although mostly for internal use, some are accessed by partners for training, testing, and analysis.

Pathways Authoring Tool (PAT)

PAT is a bespoke database that contains all the information underpinning the questions, care advice and dispositions (outcomes) within Pathways. PAT integrates with another product, VPAT, to design changes to Pathways content. It's also used to:

- Store evidence and references used to design Pathways content
- Keep historical changes to the Pathways, questions, care advice and dispositions.
- Enable licensed providers and the Directory of Services to raise and monitor enquiries or requests for change related to Pathways content.

Visual Pathways Authoring Tool (VPAT)

VPAT is a bespoke tool to visually create the NHS Pathways algorithms. This visually represents how questions, care advice, Symptom Groups (SG), Symptom Discriminators (SD) and dispositions are used in a pathway. VPAT visually shows the triage logic and how the questions and dispositions are linked. VPAT also links to the main Pathways database where all content is held, known as PAT (Pathways Authoring Tool)

Pathways Web and Solo

Pathways Web and Solo are designed to act as standalone instances of the NHS Pathways Triage system to safely test clinical content.

Their primary aim is for testing and training and not designed to be used for triaging patients. They do not reproduce existing 111/999 system supplier implementations of NHS Pathways, and they don't contain the much broader functionality of Urgent and Emergency Care (UEC) telephony host systems.

Pathways Web is a website version of NHS Pathways that NHS Pathways host for internal and external permissioned users. It is also used to test new content and functionality within the Pathways programme.

Solo is a standalone client application that can be installed independently on some devices, or configured to be run on a network, with each installation reading/writing to the same SQL Server database. A network setup enables the shared use of a call queue, whereas in a standalone implementation the queue would only be accessible to that single computer. Solo also supports the functionality to be centrally deployed across a Provider's estate if their IT infrastructure.

Both Solo and Pathways Web also have additional functionality to help inspect the triage and various release versions beyond what users would normally see in a Host Supplier system.

Pathways Data and CQI Access

All NHS Pathways providers send their data to NHS Pathways via host systems through an API (CQI Access), which connects to our database. We use this data for a wide range of analysis, data modelling and reporting to clinical evidence requirements and wider system improvement.

Pathways Records and Booking (PRB)

PRB offers 111 and 999 providers a way to book staff on NHS Pathways training. It also helps sites manage trainee information and audits.

Training leads can book participants on to specific modules and accept places on behalf of staff. NHS Pathways can use PRB to share pre-module materials and manage training attendance.

NHS Pathways Accredited Trainers can record staff modules, and the NHS Pathways Training Team can review content and perform spot checks.

PRB is also used to monitor which training modules are being delivered at sites, and module evaluations. The NHS Pathways Training Team produces reports detailing pass and fail rates and uses information to monitor NHS Pathways Licence compliance.

Intelligent Data Tool (IDT)

The Intelligent Data Tool (IDT) is an online range of performance and information dashboards created by NHS Pathways. It connects to our database, using triage data to provide safe and accessible reporting. The product includes:

- **High Level Dashboard Overview:** to review information on individual Integrated Care Boards (ICBs) or telephony providers.
- **Thematic reporting:** Performance management summaries; services offered; and symptomatic trends.
- **Provider Dashboards:** to view data on their performance, drill down and export for local reports.

Other products we integrate with and support:

- 111 Online
- Directory of Services (DoS)
- Booking and Referral Standard (BaRS)
- TIM and TEM (Urgent and Emergency Care Outcomes Data)

6. Contact NHS Pathways

- ^[1] NHS Pathways complies with with DCB0129 in development and DCB0160 in deployment and use of health IT systems, mandated under Health and Social Care Act 2012.
- Clinical content and assessment protocols align with the latest advice from respected bodies that provide evidence and guidance from medical practices and bodies in the UK such as NICE, and Resuscitation Council UK.
- We follow NHSE patient safety standards.
- NHS Pathways is a medical device, more information can be found at <https://digital.nhs.uk/services/nhs-pathways/nhs-pathways-is-a-class-1-medical-device#regulatory-information>

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1. STATEMENT OF WORK (“SOW”) DETAILS

Upon execution, this SOW forms part of the Call-Off Contract (reference below).

The Parties will execute a SOW for each set of Buyer Deliverables required. Any ad-hoc Deliverables requirements are to be treated as individual requirements in their own right and the Parties should execute a separate SOW in respect of each, or alternatively agree a variation to an existing SOW.

All SOWs must fall within the Specification and provisions of the Call-Off Contract.

The details set out within this SOW apply only in relation to the Deliverables detailed herein and will not apply to any other SOWs executed or to be executed under this Call-Off Contract, unless otherwise agreed by the Parties in writing.

SOW Reference:	insert SOW Reference
SOW Title:	insert SOW Title
SOW Version:	V1.0
SOW Status:	DRAFT or FINAL
Date of SOW:	Click or tap to enter a date. [Guidance – this should align with the start date of the SOW]
Call-Off Contract Reference:	insert Call-Off Contract Reference
Call-Off Contract Title	insert Call-Off Contract Title
Variation Reference	insert Variation Reference (e.g. Vnumber from Atamis)
Buyer Portfolio Number:	Insert Portfolio Code/s
Supplier:	Insert Name of Supplier
SOW Start Date:	This SOW shall commence on insert SOW Start Date
SOW End Date:	This SOW shall expire on insert SOW End Date
Duration of SOW:	insert Duration of SOW

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2. SOW CONTRACT SPECIFICATION - PROGRAMME CONTEXT											
Service Provisions	The following Service Provisions are incorporated within this Statement of Work										
	Service Provision	Main Service		Others							
	DevOps Services	<input type="checkbox"/>		<input type="checkbox"/>							
	Digital Definition Services	<input checked="" type="checkbox"/>		<input type="checkbox"/>							
	Build and Transition Services	<input type="checkbox"/>		<input type="checkbox"/>							
	End-to-End Development Services	<input type="checkbox"/>		<input type="checkbox"/>							
	Data Management (and similar) Services	<input type="checkbox"/>		<input type="checkbox"/>							
SOW Background	<p>[Buyer Guidance: This must clearly define the context of the SOW within the context of the overall Call-Off]</p> <p>Insert reference back to the scope of the Call-Off to which this SOW relates.</p>										
Delivery phase(s)	Insert item and nature of Delivery phase(s), for example, Discovery, Alpha, Beta or Live.										
Overview of Requirement	Insert a text description of what is to be undertaken under cover of this SOW – provide the detail by reference to the milestones.										
Accountability Models	Please tick the single Accountability Model that shall be used under this Statement of Work: <table border="1" style="width: 100%;"> <tr> <td>Sole Accountability</td> <td><input type="checkbox"/></td> <td>Self-Directed Team</td> <td><input type="checkbox"/></td> <td>Rainbow Team</td> <td><input type="checkbox"/></td> </tr> </table>					Sole Accountability	<input type="checkbox"/>	Self-Directed Team	<input type="checkbox"/>	Rainbow Team	<input type="checkbox"/>
Sole Accountability	<input type="checkbox"/>	Self-Directed Team	<input type="checkbox"/>	Rainbow Team	<input type="checkbox"/>						
Emergency/Backfill/Step-In Services	The Buyer confirms that the Services provided under this Statement of Work are provided on an emergency, backfill and/or step-in basis. Please tick Yes/No: <table border="1" style="width: 100%;"> <tr> <td>Yes</td> <td><input type="checkbox"/></td> <td>No</td> <td><input type="checkbox"/></td> </tr> </table>					Yes	<input type="checkbox"/>	No	<input type="checkbox"/>		
Yes	<input type="checkbox"/>	No	<input type="checkbox"/>								
Location/s	Offshore roles are permitted under this Statement of Work				<input type="checkbox"/>						

For the purposes of HMRC Off-Payroll worker legislation (IR35), The Buyer has assessed this requirement using the Tax Centre of Excellence Contracted-Out-Service or Supply of

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Resource Determination Tool and has determined (*strike out A or B as appropriate e.g. struck out* leaving one box clear):

- A.** The individual/s and/or role/s is/are deemed to be **inside the scope of HMRC IR35**. As such it is required that the individuals pay full PAYE/Nl for the work undertaken and therefore must not be working for a Personal Services Company (PSC) unless via an approved umbrella organisation. The individual/s must not be a material shareholder (over 5%) within the organisation being contracted with
- B.** The work consists of clearly defined deliverables which must be completed within the fixed / capped time and material budget agreed for the work ahead of execution and the individual/s and/or role/s are therefore **clearly fully outside the scope of HMRC IR35**

2. BUYER REQUIREMENTS – DELIVERABLES	
Outcome Description	[Buyer Guidance: <i>The Buyer to summarise the outcomes]</i>

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3. SOW MILESTONES					
Milestone Ref.	Milestone Description	Acceptance Criteria	Buyer Dependencies	Milestone Date	Delay Payment (if applicable)
[MS01]	[Impact Assessment of Initial SOW following contract award]	[The Supplier must, on receipt of the final draft SOW content from the Buyer, complete an impact assessment ready to commence SOW mobilisation].	<p>[Draft SoW contains sufficient information / deliverables and milestones to allow pricing / evaluation]</p> <p>The Buyer makes themselves available for a call to discuss within xx hours of issue]</p>	[Within X days of contract award, no later than 7 working days prior to contract execution]	[TBC]
[MS02]	[Mobilisation Milestone (as defined in Call Off Contract Schedule 6.1 (Implementation Plan)]	[Completion of all tasks and activities defined in the applicable Mobilisation Plan.]	[As defined in the applicable Mobilisation Plan.]	[TBC]	<p>[TBC]</p> <p>[Buyer guidance: to be determined on a case-by-case basis depending on the nature of the SOW but in order to remain reasonable (and not be construed as a penalty thus risking being deemed</p>

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					<i>ineffective), the Delay Payment should reflect the consequential losses that NHSE would incur as a result of delayed mobilisation (e.g. having to extend other contracts to 'plug the gap' left by a supplier not mobilising on time)]</i>
[MS03] [Other Milestones]	[Detail to be populated]	[Detail to be populated]	[Detail to be populated]	[Detail to be populated]	[Detail to be populated]
[MS04] [Other Milestones]	[Detail to be populated]	[Detail to be populated]	[Detail to be populated]	[Detail to be populated]	[Detail to be populated]

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4. BUYER REQUIREMENTS – ADDITIONAL SOW SPECIFIC REQUIREMENTS	
SOW Mobilisation Plan	Supplier shall provide a Mobilisation plan for this SOW in accordance with Call Off Contract Schedule 6.1 (Implementation Plan).
[Mobilisation Condition Precedent]	<p>[This Statement of Work is conditional upon, and shall not become effective prior to, Achievement of the Mobilisation Milestone (the "Condition Precedent").</p> <p>The Buyer may in its sole discretion at any time agree to waive compliance with the Condition Precedent.</p> <p>The Supplier shall satisfy, or procure the satisfaction of, the Condition Precedent as soon as possible. If the Condition Precedent is not satisfied within [insert] Working Days following the Mobilisation Date, unless the Condition Precedent is waived by the Buyer, this Statement of Work shall not come into effect and neither Party shall have any obligation to pay any compensation to the other Party as a result of such cessation.]</p>
Outcome Plan	The Outcome plan is contained in the Pricing Model which is attached at Annex 1 – Financial Model. Note that the Buyer resource profile, provided as guidance, is superseded by the Suppliers offer, once signed and accepted.
Key Sub-Contractors	<p>[Buyer Guidance: <i>The parties shall include any SOW specific key sub-contractors below</i>]</p> <p>List of any Key Sub-Contractors </p>
Key Staff (Buyer)	<p>[Buyer Guidance: <i>The Buyer should include any key staff on the Buyer side below</i>]</p> <p>List of named key Buyer staff and their roles </p>
Key Staff (Supplier)	<p>[Buyer Guidance: <i>A list of any key Supplier staff should be included below – to be completed by Supplier on a case by case basis for each new SOW</i>]</p> <p>List of named key Supplier staff, their roles, and email details </p>

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4. BUYER REQUIREMENTS – ADDITIONAL SOW SPECIFIC REQUIREMENTS**Security
Applicable to
SOW**

[Buyer Guidance: *operational team to consult with Buyer Authorised Representative if security requirements require amendment for this Statement of Work]*

The Supplier confirms that all Supplier Staff working on Buyer Sites and on Buyer Systems and Deliverables, have completed Supplier Staff Vetting in accordance with Call Off Contract Schedule 2.4 (Security Management) and as specifically amended here.

**Supplier and/or
3rd Party
Intellectual
Property**

[Buyer Guidance: *In general it is not anticipated that Supplier and/or 3rd Party Intellectual Property will form part of Statement of Work Deliverables, as stipulated in Call Off Contract Schedule 12 (NHS England Provisions). However, the Parties may agree to the use of Supplier or third party furnished tooling to accelerate delivery and/or reduce the amount of effort required to produce the Deliverables. This may in turn rely on Supplier and/or 3rd Party Background IPR. It is a requirement of the contract that the license terms linked to the use of such IPR in Statement of Work Deliverables be agreed in advance. This section is intended to capture any such agreement, and the details of any such agreement should be set out clearly in this section.]*

Unless specifically noted below the Supplier agrees that the Deliverables under this Statement of Work will not, in any way, be dependent on either Supplier or Supplier furnished Third Party IPR.

One or more Deliverables under this Statement of Work will be dependent of Supplier and/or Supplier furnished 3rd Party IPR as detailed below

☐

The specific IPR (and associated licence terms) are detailed in:

[Buyer Guidance: *applicable licence terms should be attached as an Appendix to this Statement of Work]*

☐

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4. BUYER REQUIREMENTS – ADDITIONAL SOW SPECIFIC REQUIREMENTS					
Processing Data	<p>Unless explicitly noted below this SOW shall be covered by the arrangements contained in Call Off Contract Schedule 11 (Processing Personal Data).</p> <p>[Buyer Guidance: <i>If an exception then a SOW specific version of Schedule 11 should be developed, endorsed via data governance and specifically agreed by the Supplier]</i></p> <table border="1"> <tr> <td style="background-color: #cccccc;">This Statement of Work requires specific Data Processing arrangements</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="background-color: #cccccc;">The specific arrangements are held in the document entitled:</td> <td></td> </tr> </table>	This Statement of Work requires specific Data Processing arrangements	<input type="checkbox"/>	The specific arrangements are held in the document entitled:	
This Statement of Work requires specific Data Processing arrangements	<input type="checkbox"/>				
The specific arrangements are held in the document entitled:					
Additional Standards Applicable to SOW	<p>[Buyer Guidance: <i>operational team to consult with Buyer Authorised Representative if there are specific Standards requirements for this Statement of Work]</i></p> <p>From the Start Date of this Statement of Work, the Supplier shall comply with the relevant (and current as of the SOW Start Date) Standards as set out in Call Off Schedule 2.1 (Service Description) and additional standards incorporated in Call Off Schedule 2.1 Annex 6 (Standards).</p> <p>The Buyer requires the Supplier to comply with the following additional Standards requirements for this Statement of Work: [insert]</p>				

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5. CHARGES				
Call Off Contract Charges	The applicable charging method(s) for this SOW is (check one):			
	<table border="1"> <tr> <td>Capped Time and Materials</td><td><input type="checkbox"/></td> <td>Fixed Price</td><td><input type="checkbox"/></td> </tr> </table>	Capped Time and Materials	<input type="checkbox"/>	Fixed Price
Capped Time and Materials	<input type="checkbox"/>	Fixed Price	<input type="checkbox"/>	
<p>The maximum value of this SOW (irrespective of the selected charging method) as detailed in the related resource / cost model (document with the same name but with (Costs) instead of (Spec)).</p> <p>The Charges detailed in the financial model shall be invoiced in accordance with Call Off Contract Schedule 7.1 (Charges and Invoicing) Part E: Invoicing and Payment Terms.</p>				
Financial Model	The financial model applicable to this SOW is detailed set out in Annex 1 to this SOW.			
Reimbursable Expenses	Expenses are not applicable to this Call-Off. Expenses should be built into the Call-Off rates provided within Order Form Attachment 7.1 – Charges.			

6. VARIATIONS TO TERMS	
Statement of work specific variations to Terms	Variations to this SOW shall only be made in accordance with Framework Schedule 4 – Annex 2 Lot 4 Call Off Terms, Section D - Contract Governance, Clause 13 - Change.

[Buyer Guidance: SOW termination is detailed in the Order Form]

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7. SIGNATURES AND APPROVALS

Agreement of this SOW

BY SIGNING this Statement of Work, the Parties agree that it shall be incorporated into Call Off Contract Schedule 2.1 (Services Description) and incorporated into the Call-Off Contract and be legally binding on the Parties:

For and on behalf of the Supplier:

[REDACTED]

Full Name: [REDACTED]

Job Title/Role: [REDACTED]

Date Signed: 29/07/24

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

For and on behalf of the Buyer:

Buyer signatory name:

Buyer signatory email:

Buyer Signature:

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ANNEX 1 – FINANCIAL MODEL

[to be inserted from combined document]

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Attachment 4.3 Annex 1 - Key subcontractor details

[illegible]

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Order Form Attachment 4.1

SUPPLIER SOLUTION

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SCHEDULE 2.1

SERVICES DESCRIPTION

Refer to Attachment 2.1 (Services Description) of the Order Form

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SCHEDULE 2.2 - PERFORMANCE LEVELS**1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

“Available”		has the meaning given in Paragraph 1.2 of Part II of Annex 1;
“End User”		any person authorised by the Buyer to use the IT Environment and/or the Services;
“Help Desk”		the single point of contact help desk set up and operated by the Supplier for the purposes of this Contract;
“Non-Available”		in relation to the IT Environment or the Services, that the IT Environment or the Services are not Available;
“Performance Report”	Monitoring	has the meaning given in Paragraph 1.1(a) of Part B;
“Performance Review Meeting”		the regular meetings between the Supplier and the Buyer to manage and review the Supplier's performance under this Contract, as further described in Paragraph 1.5 of Part B;
“Repeat KPI Failure”		has the meaning given in Paragraph 3.1 of Part A;
“Satisfaction Survey”		has the meaning given in Paragraph 5.1 of Part II of Annex 1;
“Service Availability”		has the meaning given in Paragraph 2 of Part II of Annex 1;
“Service Downtime”		any period of time during which any of the Services are not Available; and
“System Response Time”		has the meaning given in Paragraph 2.1 of Part II of Annex 1.

PART A: PERFORMANCE INDICATORS AND SERVICE CREDITS**2. PERFORMANCE INDICATORS**

- 2.1 Attachment 2.2 (Key Performance Indicators and Subsidiary Performance Indicators) of the Order Form sets out the Key Performance Indicators and Subsidiary

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Performance Indicators which the Parties have agreed shall be used to measure the performance of the Services by the Supplier.

- 2.2 The Supplier shall monitor its performance against each Performance Indicator and shall send the Buyer a report detailing the level of service actually achieved in accordance with Part B.
- 2.3 Service Points, and therefore Service Credits, shall accrue for any KPI Failure and shall be calculated in accordance with Paragraphs 2, 3 and 5.

3. SERVICE POINTS

- 3.1 If the level of performance of the Supplier during a Service Period achieves the Target Performance Level in respect of a Key Performance Indicator, no Service Points shall accrue to the Supplier in respect of that Key Performance Indicator.
- 3.2 If the level of performance of the Supplier during a Service Period is below the Target Performance Level in respect of a Key Performance Indicator, Service Points shall accrue to the Supplier in respect of that Key Performance Indicator as set out in Paragraph 2.3.
- 3.3 The number of Service Points that shall accrue to the Supplier in respect of a KPI Failure shall be the applicable number as set out in Annex 1 depending on whether the KPI Failure is a Minor KPI Failure, a Serious KPI Failure or a Severe KPI Failure, unless the KPI Failure is a Repeat KPI Failure when the provisions of Paragraph 3.2 shall apply.

4. REPEAT KPI FAILURES AND RELATED KPI FAILURES

Repeat KPI Failures

- 4.1 If a KPI Failure occurs in respect of the same Key Performance Indicator in any two consecutive Measurement Periods, the second and any subsequent such KPI Failure shall be a “**Repeat KPI Failure**”.
- 4.2 The number of Service Points that shall accrue to the Supplier in respect of a KPI Failure that is a Repeat KPI Failure shall be calculated as follows:

$$SP = P \times 2$$

where:

SP = the number of Service Points that shall accrue for the Repeat KPI Failure; and

P = the applicable number of Service Points for that KPI Failure as set out in Attachment 2.2 (Key Performance Indicators and Subsidiary Performance Indicators) of the Order Form depending on whether the Repeat KPI Failure is a Minor KPI Failure, a Serious KPI Failure, a Severe KPI Failure or a failure to meet the KPI Service Threshold.

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Worked example based on the following Service Points regime for Service Availability:

Service Availability Severity Levels	Service Points
Target Performance Level: 99%	0
Minor KPI Failure: 98.0% - 98.9%	1
Serious KPI Failure: 97.0% - 97.9%	2
Severe KPI Failure: 96.0% - 96.9%	3
KPI Service Threshold: below 96%	4

Example 1:

If the Supplier achieves Service Availability of 98.5% in a given Measurement Period, it will incur a Minor KPI Failure for Service Availability in that Measurement Period and accordingly accrue 1 Service Point. If, in the next Measurement Period, it achieves Service Availability of 96.5%, it will incur a Severe KPI Failure and accordingly accrue 3 Service Points, but as the failure is a Repeat Failure, this amount is doubled and so the Supplier will incur 6 Service Points for the failure (i.e. $SP = 3 \times 2$). If in the next Measurement Period it achieves Service Availability of 96.5%, the Supplier will again incur 6 Service Points.

Example 2:

If the Supplier achieves Service Availability of 96.5% in a given Measurement Period, it will incur a Severe KPI Failure for Service Availability in that Measurement Period and accordingly accrue 3 Service Points. If, in the next Measurement Period, it achieves Service Availability of 98.5%, it will incur a Minor KPI Failure and accordingly accrue 1 Service Point, but as the failure is a Repeat Failure, this amount is doubled and so the Supplier will incur 2 Service Points for the failure (i.e. $SP = 1 \times 2$). If in the next Measurement Period it achieves Service Availability of 96.5%, the Supplier will incur 6 Service Points.

Related KPI Failures

- 4.3 If any specific Key Performance Indicators refer to both Service Availability and System Response Times, the System Response Times achieved by the Supplier for any period of time during a Service Period during which the relevant Service or element of a Service is determined to be Non-Available shall not be taken into account in calculating the average System Response Times over the course of that Service Period. Accordingly, the Supplier shall not incur any Service Points for failure to meet System Response Times in circumstances where such failure is a result of, and the Supplier has already incurred Service Points for, the Service being Non-Available.

5. PERMITTED MAINTENANCE

- 5.1 The Supplier shall be allowed to book a maximum of **[not used]** hours Service Downtime for Permitted Maintenance in any one Service Period which shall take place

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between the hours and on the day specified in the Maintenance Schedule unless otherwise agreed in writing with the Buyer.

6. SERVICE CREDITS

- 6.1 Schedule 7.1 (*Charges and Invoicing*) sets out the mechanism by which Service Points shall be converted into Service Credits.
- 6.2 The Buyer shall use the Performance Monitoring Reports provided pursuant to Part B, among other things, to verify the calculation and accuracy of the Service Credits (if any) applicable to each Service Period.

PART B: PERFORMANCE MONITORING**1. PERFORMANCE MONITORING AND PERFORMANCE REVIEW**

- 1.1 Within 10 Working Days of the end of each Service Period, the Supplier shall provide:
- (a) a report to the Buyer Representative which summarises the performance by the Supplier against each of the Performance Indicators as more particularly described in Paragraph 1.2 (the “**Performance Monitoring Report**”); and
 - (b) a report created by the Supplier to the Buyer’s senior responsible officer which summarises the Supplier’s performance over the relevant Service Period as more particularly described in Paragraph 1.3 (the “**Balanced Scorecard Report**”).

Performance Monitoring Report

- 1.2 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 Service Period just ended

- (a) for each Key Performance Indicator and Subsidiary Performance Indicator, the actual performance achieved over the Service Period, and that achieved over the previous 3 Measurement Periods;
- (b) a summary of all Performance Failures that occurred during the Service Period;
- (c) the severity level of each KPI Failure which occurred during the Service Period and whether each PI Failure which occurred during the Service Period fell below the PI Service Threshold;
- (d) which Performance Failures remain outstanding and progress in resolving them;
- (e) for any Material KPI Failures or Material PI Failures occurring during the Service Period, the cause of the relevant KPI Failure or PI Failure and the action being taken to reduce the likelihood of recurrence;

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- (f) the status of any outstanding Rectification Plan processes, including:
 - (i) whether or not a Rectification Plan has been agreed; and
 - (ii) where a Rectification Plan has been agreed, a summary of the Supplier's progress in implementing that Rectification Plan;
- (g) for any Repeat Failures, actions taken to resolve the underlying cause and prevent recurrence;
- (h) the number of Service Points awarded in respect of each KPI Failure;
- (i) the Service Credits to be applied, indicating the KPI Failure(s) to which the Service Credits relate;
- (j) the conduct and performance of any agreed periodic tests that have occurred, such as the annual failover test of the Service Continuity Plan;
- (k) relevant particulars of any aspects of the Supplier's performance which fail to meet the requirements of this Contract;
- (l) such other details as the Buyer may reasonably require from time to time; and

Information in respect of previous Service Periods

- (m) a rolling total of the number of Performance Failures that have occurred over the past six Service Periods;
- (n) the amount of Service Credits that have been incurred by the Supplier over the past six Service Periods;
- (o) the conduct and performance of any agreed periodic tests that have occurred in such Service Period such as the annual failover test of the Service Continuity Plan; and

Information in respect of the next Quarter

- (p) any scheduled Service Downtime for Permitted Maintenance and Updates that has been agreed between the Buyer and the Supplier for the next Quarter.

Balanced Scorecard Report

1.3 The Balanced Scorecard Report shall be presented in the form of an online accessible dashboard and, as a minimum, shall contain a high level summary of the Supplier's performance over the relevant Service Period, including details of the following:

- (a) financial indicators;
- (b) the Target Performance Levels achieved;
- (c) behavioural indicators;

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- (d) performance against its obligation to pay its Sub-contractors within thirty (30) days of receipt of an undisputed invoice;
 - (e) performance against its obligation to pay its Unconnected Sub-contractors within sixty (60) days of receipt of an invoice;
 - (f) Milestone trend chart, showing performance of the overall programme;
 - (g) sustainability and energy efficiency indicators, for example energy consumption and recycling performance; and
 - (h) Social Value (as applicable).
- 1.4 The Performance Monitoring Report and the Balanced Scorecard Report shall be reviewed and their contents agreed by the Parties at the next Performance Review Meeting held in accordance with Paragraph 1.5.
- 1.5 The Parties shall attend meetings on a monthly basis (unless otherwise agreed) to review the Performance Monitoring Reports and the Balanced Scorecard Reports. The Performance Review Meetings shall (unless otherwise agreed):
- (a) take place within 5 Working Days of the Performance Monitoring Report being issued by the Supplier;
 - (b) take place at such location and time (within normal business hours) as the Buyer shall reasonably require (unless otherwise agreed in advance); and
 - (c) be attended by the Supplier Representative and the Buyer Representative.
- 1.6 The Buyer shall be entitled to raise any additional questions and/or request any further information from the Supplier regarding any KPI Failure and/or PI Failure.

2. PERFORMANCE RECORDS

- 2.1 The Supplier shall keep appropriate documents and records (including Help Desk records, staff records, timesheets, training programmes, staff training records, goods received documentation, supplier accreditation records, complaints received etc.) in relation to the Services being delivered. Without prejudice to the generality of the foregoing, the Supplier shall maintain accurate records of call histories for a minimum of 12 months and provide prompt access to such records to the Buyer upon the Buyer's request. The records and documents of the Supplier shall be available for inspection by the Buyer and/or its nominee at any time and the Buyer and/or its nominee may make copies of any such records and documents.
- 2.2 In addition to the requirement in Paragraph 2.1 to maintain appropriate documents and records, the Supplier shall provide to the Buyer such supporting documentation as the Buyer may reasonably require in order to verify the level of the performance of the Supplier both before and after each Operational Service Commencement Date and the calculations of the amount of Service Credits for any specified period.
- 2.3 The Supplier shall ensure that the Performance Monitoring Report, the Balanced Scorecard Report (as well as historic Performance Monitoring Reports and historic

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Balance Scorecard Reports) and any variations or amendments thereto, any reports and summaries produced in accordance with this Schedule and any other document or record reasonably required by the Buyer are available to the Buyer on-line and are capable of being printed.

3. PERFORMANCE VERIFICATION

The Buyer reserves the right to verify the Availability of the IT Environment and/or the Services and the Supplier's performance under this Contract against the Performance Indicators including by sending test transactions through the IT Environment or otherwise.

ANNEX 1: KEY PERFORMANCE INDICATORS AND SUBSIDIARY PERFORMANCE INDICATORS

PART I: KEY PERFORMANCE INDICATORS AND SUBSIDIARY PERFORMANCE INDICATORS TABLES

[Guidance Note: complete the details referred to in Attachment 2.2 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of the Order Form]

PART II: DEFINITIONS

1. AVAILABLE

1.1 The IT Environment and/or the Services shall be Available when:

- (a) End Users are able to access and utilise all the functions of the Supplier System and/or the Services; and
- (b) the Supplier System is able to process the Buyer Data and to provide any required reports within the timescales set out in the Services Description (as measured on a 24 x 7 basis); and
- (c) all Performance Indicators other than Service Availability are above the KPI Service Threshold.

2. SERVICE AVAILABILITY

2.1 Service Availability shall be measured as a percentage of the total time in a Service Period, in accordance with the following formula:

$$\text{Service Availability \%} = \frac{(MP - SD) \times 100}{MP}$$

where:

MP = total number of minutes, excluding Permitted Maintenance, within the relevant Service Period; and

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SD = total number of minutes of Service Downtime, excluding Permitted Maintenance, in the relevant Service Period.

2.2 When calculating Service Availability in accordance with this Paragraph 2:

- (a) Service Downtime arising due to Permitted Maintenance that is carried out by the Supplier in accordance with Clause 9.4 (Maintenance) shall be subtracted from the total number of hours in the relevant Service Period; and
- (b) Service Points shall accrue if:
 - (i) any Service Downtime occurs as a result of Emergency Maintenance undertaken by the Supplier; or
 - (ii) where maintenance undertaken by the Supplier exceeds [*insert number*] hours in any Service Period.

3. RESPONSE TIMES

3.1 The “System Response Time” is the round trip time taken to process a message or request of the IT Environment and/or the Services, and shall be measured from the moment the last packet of data which relates to a particular message is received at the external interface of the IT Environment until a response is generated and the first block of data leaves the external interface (including, for the avoidance of doubt, the time taken for any necessary processing).

3.2 The Supplier System Response Time shall be the average System Response Time measured over the course of a Service Period.

4. HELP DESK RESPONSE TIMES

4.1 Measurement of Help Desk response times will be based on the time taken for a Help Desk operative to answer a call. Calls receiving an automated response or placed into a queuing system shall be deemed not to have been answered.

4.2 The Supplier shall monitor the Help Desk response times and shall provide the results of such monitoring to the Buyer in accordance with the provisions of Part B of this Schedule.

5. FIX TIMES

5.1 The “Fix Time” of a Service Incident is the period from the time that the Service Incident has been reported to the Supplier to the point of its Resolution and “Resolution” means in relation to a Service Incident either:

- (a) the root cause of the Service Incident has been removed and the Services are being provided in accordance with the Services Description and Service Levels; or
- (b) the Buyer has been provided with a workaround in relation to the Service Incident deemed acceptable by the Buyer.

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- 5.2 Fix Times for Severity 3 Service Incidents, Severity 4 Service Incidents and Severity 5 Service Incidents shall be measured in Operational Hours.

Worked example: if the Operational Hours for a fault are 0800-1800, then the clock stops measuring Fix Time at 1800 in the evening and restarts at 0800 the following day).

- 5.3 Fix times for Severity 1 Service Incidents and Severity 2 Service Incidents shall be measured 24x7.

- 5.4 The Supplier shall measure Fix Times as part of its service management responsibilities and report periodically to the Buyer on Fix Times as part of the Performance Monitoring Report.

- 5.5 For the purposes of this Paragraph 5, the following expressions shall have the meanings set opposite them below:

“Operational Hours” In relation to any Service, the hours for which that Service is to be operational as set out in Attachment 2.1 (*Services Description*) of the Order Form;

“Service Incident” a reported occurrence of a failure to deliver any part of the Services in accordance with the Buyer Requirements or the Performance Indicators;

“Severity 1 Service Incident” a Service Incident which, in the reasonable opinion of the Buyer:

- (a) constitutes a loss of the Service which prevents a large group of End Users from working;
- (b) has a critical impact on the activities of the Buyer;
- (c) causes significant financial loss and/or disruption to the Buyer; or
- (d) results in any material loss or corruption of Buyer Data;

Non-exhaustive examples:

a loss of power to a data centre causing failure of Services;
or

a failure of the Services to provide user authentication service;

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“Severity Incident”	2	Service	<p>a Service Incident which, in the reasonable opinion of the Buyer has the potential to:</p> <ul style="list-style-type: none"> (a) have a major (but not critical) adverse impact on the activities of the Buyer and no workaround acceptable to the Buyer is available; (b) have a major (but not critical) adverse impact on the activities of the Buyer and no workaround acceptable to the Buyer is available; or (c) cause a financial loss and/or disruption to the Buyer which is more than trivial but less severe than the significant financial loss described in the definition of a Severity 1 Service Failure; <p><i>Non-exhaustive examples:</i></p> <p>corruption of organisational database tables; or</p> <p>loss of ability to update Buyer Data.</p>
“Severity Incident”	3	Service	<p>a Service Incident which, in the reasonable opinion of the Buyer has the potential to:</p> <ul style="list-style-type: none"> (a) have a major adverse impact on the activities of the Buyer which can be reduced to a moderate adverse impact due to the availability of a workaround acceptable to the Buyer; or (b) have a moderate adverse impact on the activities of the Buyer; <p><i>Non-exhaustive example:</i></p> <p>inability to access data for a class of customers;</p>
“Severity Incident”	4	Service	<p>a Service Incident which, in the reasonable opinion of the Buyer has the potential to have a minor adverse impact on the provision of the Services to End Users</p> <p><i>Non-exhaustive example:</i></p> <p>inability to access data for a single customer; and</p>
“Severity Incident”	5	Service	<p>a Service Incident comprising a flaw which is cosmetic and, as such, does not undermine the End User’s confidence in the information being displayed;</p> <p><i>Non-exhaustive examples:</i></p>

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spelling error; or

misalignment of data on screen display.

6. SATISFACTION SURVEYS

6.1 In order to assess the level of performance of the Supplier, the Buyer may undertake satisfaction surveys in respect of End Users or various groups of End Users (each such survey a "Satisfaction Survey"), the results of which may be reflected in the Balanced Scorecard Report. The subject matter of Satisfaction Surveys may include:

(a) the assessment of the Supplier's performance by the End Users against the agreed Key Performance Indicators and Subsidiary Performance Indicators; and/or

(b) other suggestions for improvements to the Services.

6.2 The Buyer shall reflect in the Balanced Scorecard Report any aspects of the Supplier's performance of the Services which the responses to the Satisfaction Surveys reasonably suggest are not meeting the Services Description.

7. VIRTUAL LIBRARY COMPLETENESS

The Virtual Library shall be complete where all of the information required under Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form has been uploaded to the Virtual Library in accordance with Paragraph 3 of Schedule 8.4 (Reports and Records Provisions).

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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/ ; and
“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 term of this Contract, the Parties shall monitor and notify each other of any new or emergent standards which could affect the Supplier’s provision, or the Buyer’s receipt, of the Services. Any changes to the Standards, including the adoption of any such new or emergent standard, shall be agreed in accordance with the Change Control Procedure.
- 2.2 Where a new or emergent standard is to be developed or introduced by the Buyer, the Supplier shall be responsible for ensuring that the potential impact on the Supplier’s provision, or the Buyer’s receipt, of the Services is explained to the Buyer (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 Buyer and shall be implemented within an agreed timescale.

3. TECHNOLOGY AND DIGITAL SERVICES PRACTICE

The Supplier shall (when designing, implementing and delivering the 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

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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 on behalf of the Buyer pursuant to this Contract 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 Buyer otherwise agrees in writing.

5. TECHNOLOGY ARCHITECTURE STANDARDS

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 the Open Group Architecture Framework 9.2 or its equivalent, then this shall be deemed acceptable.

6. ACCESSIBLE DIGITAL STANDARDS

The Supplier shall comply with (or with equivalents to):

- 6.1 the World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI) Web Content Accessibility Guidelines (WCAG) 2.1 Conformance Level AA;
- 6.2 ISO/IEC 13066-1: 2011 Information Technology – Interoperability with assistive technology (AT) – Part 1: Requirements and recommendations for interoperability; and
- 6.3 The NHS England Service Accessibility Standards and government guidance on making your service accessible to everyone that needs it;
- (a) <https://service-manual.nhs.uk/accessibility/>; and
- (b) <https://www.gov.uk/service-manual/helping-people-to-use-your-service/making-your-service-accessible-an-introduction>.

7. SERVICE MANAGEMENT SOFTWARE & STANDARDS

- 7.1 Subject to Paragraphs 2 to 4 (inclusive), the Supplier shall reference relevant industry and HM Government standards and best practice guidelines in the management of the Services, including the following and/or their equivalents:
- (a) ITIL v4;
- (b) ISO/IEC 20000-1 2018 "Information technology — Service management – Part 1";
- (c) ISO/IEC 20000-2 2019 "Information technology — Service management – Part 2";

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- (d) ISO 10007: 2017 “Quality management systems – Guidelines for configuration management”;
- (e) ISO 22313:2020 “Security and resilience. Business continuity management systems. Guidance on the use of ISO 22301” and, ISO/IEC 27031:2011 and ISO 22301:2019; and
- (f) ISO 27001 Information Security Management Systems;
- (g) ISO 27002 Code of Practice for Information Security Controls;
- (h) ISO 27005 Information Security Risk Management;
- (i) ISO 27031 Guidelines for Information and Communication Technology Readiness for Business Continuity;
- (j) ISO 22301 Business Continuity Management Systems

7.2 For the purposes of management of the Services and delivery performance 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 REQUIREMENTS

8.1 The Supplier shall comply with the environmental requirements set out in Attachment 2.3 (Environmental Requirements) of the Order Form.

9. HARDWARE SAFETY STANDARDS

9.1 The Supplier shall comply with those BS or other standards relevant to the provision of the Services, including the following or their equivalents:

- (a) any new hardware required for the delivery of the Services (including printers), shall conform to BS EN IEC 62368-1:2020+A11:2020 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;
- (b) any new audio, video and similar electronic apparatus required for the delivery of the Services, shall conform to the following standard: BS EN IEC 62368-1:2020+A11:2020 or any subsequent replacements;
- (c) any new laser printers or scanners using lasers, required for the delivery of the Services, shall conform to either of the following safety Standards: BS EN 60825-1:2014 or any subsequent replacements; and

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- (d) any new apparatus for connection to any telecommunication network, and required for the delivery of the Services, shall conform to the following safety Standard: BS EN 62949:2017 or any subsequent replacements.

9.2 Where required to do so as part of the 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. ADDITIONAL STANDARDS

10.1 The Supplier shall also comply with the following additional Standards:

- (a) NCSC security recommendations - <https://www.ncsc.gov.uk/collection/cyber-security-design-principles>
- (b) NIST cybersecurity standard recommendations - <https://www.nist.gov/cyberframework>
- (c) GDS service standard - <https://www.gov.uk/service-manual/service-standard>
- (d) NHS service standard - <https://service-manual.nhs.uk/service-standard>
- (e) Any clinical software build shall be compliant with the clinical risk management standards DCB0129 and DCB 0160 - <https://digital.nhs.uk/services/solution-assurance/the-clinical-safety-team/clinical-risk-management-standards> as may be updated from time to time
- (f) NHS England standards - <https://digital.nhs.uk/about-nhs-digital/our-work/nhs-digital-data-and-technology-standards/framework> as may be updated from time to time
- (g) Government Digital Standard and Password Guidance - <https://design-system.service.gov.uk/patterns/passwords/> and https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/458857/Password_guidance_-_simplifying_your_approach.pdf
- (h) NHS guidelines for cloud infrastructure - <https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/nhs-and-social-care-data-off-shoring-and-the-use-of-public-cloud-services/nhs-and-social-care-data-off-shoring-and-the-use-of-public-cloud-services-guidance> as may be updated from time to time
- (i) The Business Continuity Institute Good Practice Guidelines - <https://www.thebci.org/training-qualifications/good-practice-guidelines.html>

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ANNEX: ENVIRONMENTAL REQUIREMENTS

DEFINITIONS

1. In this Annex, the following definitions shall apply:
- | | |
|---------------------------------|---|
| “Permitted Item” | means those items which are permissible under this Contract to the extent set out in Table B of Attachment 2.3 (Environmental Requirements) of the Order Form; |
| “Prohibited Items” | means those items which are not permissible under this Contract as set out at Table A of Attachment 2.3 (Environmental Requirements) of the Order Form; |
| “Sustainability Reports” | written reports to be completed by the Supplier containing the information outlined in Table C of Attachment 2.3 (Environmental Requirements) of the Order Form; |
| “Waste Hierarchy” | means prioritisation of waste management in the following order of preference:

<ul style="list-style-type: none">(1) Prevention – by using less material in design and manufacture. Keeping products for longer;(2) Preparing for re-use – by checking, cleaning, repairing, refurbishing, whole items or spare parts;(3) Recycling – by turning waste into a new substance or produce, including composting if it meets quality protocols;(4) Other Recovery – through anaerobic digestion, incineration with energy recovery, gasification and pyrolysis which produce energy (fuels, heat and power) and materials from waste; some backfilling; and(5) Disposal - Landfill and incineration without energy recovery. |

ENVIRONMENTAL REQUIREMENTS

2. The Supplier shall comply in all material respects with all applicable environmental laws and regulations in force in relation to this Contract.
3. The Supplier warrants that it has obtained ISO 14001 certification from an accredited body and shall comply with and maintain certification requirements throughout the Term.

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4. In performing its obligations under this Contract the Supplier shall to the reasonable satisfaction of the Buyer:
 - 4.1 demonstrate low carbon resource efficiency, including minimising the use of resources and responding promptly to the Buyer's reasonable questions;
 - 4.2 prioritise waste management in accordance with the Waste Hierarchy;
 - 4.3 be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the law;
 - 4.4 ensure that it and any third parties used to undertake recycling disposal or other recovery as a consequence of this Contract do so in a legally compliant way, undertake reasonable checks on a regular basis to ensure this;
 - 4.5 inform the Environmental Agency within one Working Day in the event that a permit or exemption to carry or send waste generated under this Contract is revoked and in circumstances where a permit or exemption to carry or send waste generated under this Contract is revoked the Supplier shall cease to carry or send waste or allow waste to be carried by any Sub-contractor until authorisation is obtained from the Environmental Agency;
 - 4.6 minimise the release of greenhouse gases (including carbon dioxide emissions), air pollutants, volatile organic compounds and other substances damaging to health and the environment; and
 - 4.7 reduce and minimise carbon emissions by taking into account factors including, but not limited to, the locations from which materials are sourced, the transport of materials, the locations from which the work force are recruited and emissions from offices and on-site equipment.
5. The Supplier shall use reasonable endeavours to avoid the use of paper and card in carrying out its obligations under this Contract. Where unavoidable under reasonable endeavours, the Supplier shall ensure that any paper or card deployed in the performance of the Services consists of one hundred percent (100%) recycled content and used on both sides where feasible to do so.
6. The Supplier shall not provide to the Buyer Goods or Deliverables which comprise wholly or partly of Prohibited Items unless such item is a Permitted Item.
7. The Supplier shall not use anything which comprises wholly or partly of the Prohibited Items to provide the Services under this Contract unless:
 - 7.1 it is a Permitted Item; or
 - 7.2 the use is primarily related to the management of the Supplier's own facilities or internal operations as opposed to the provision of Services.

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- 8. The Supplier shall complete the Sustainability Report in relation its provision of the Services under this Contract and provide the Sustainability Report to the Buyer on the date and frequency outlined in Table C of this Annex.
- 9. The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with the provisions of this Annex within fourteen (14) days of such request, provided that such requests are limited to two per Contract Year.

TABLE A – Prohibited Items

Please refer to Attachment 2.3 Part B – Environmental Requirements of the Order Form

TABLE B – Permitted Items

Please refer to Attachment 2.3 Part B – Environmental Requirements of the Order Form

TABLE C – Sustainability Reports

Please refer to Attachment 2.3 Part B – Environmental Requirements of the Order Form

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SCHEDULE 2.4: SECURITY MANAGEMENT**Part A: Security Assurance**

1. Definitions

1.1 In this Schedule:

“Anti-Malicious Software”	means software that scans for and identifies possible Malicious Software in the IT Environment;
“Breach of Security”	<ul style="list-style-type: none">(a) an event that results, or could result, in:(b) any unauthorised access to or use of the Buyer Data, the Services and/or the Information Management System; and/or(c) the loss, corruption and/or unauthorised disclosure of any information or data (including the Confidential Information and the Buyer Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract;
“Certification Requirements”	means the information security requirements set out in Paragraph 6;
“CHECK Service Provider”	means a company which has been certified by the National Cyber Security Centre, holds "Green Light" status and is authorised to provide the IT Health Check services required by Paragraph 7.1;
“CREST Service Provider”	means a company with a SOC Accreditation from CREST International;
“Higher Risk Sub-contractor”	<p>means a Sub-contractor that Processes Buyer Data, where that data includes either:</p> <ul style="list-style-type: none">(a) the Personal Data of 1000 or more individuals in aggregate during the period between the first Operational Service Commencement Date and the date on which this Contract terminates in accordance with Clause 4.1(b); or(b) Special Category Personal Data;
“Cyber Essentials”	means the Cyber Essentials certificate issued under the Cyber Essentials Scheme;

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“Cyber Essentials Plus”	means the Cyber Essentials Plus certificate issued under the Cyber Essentials Scheme;
“Cyber Essentials Scheme”	means the Cyber Essentials scheme operated by the National Cyber Security Centre;
“Incident Management Process”	means the process which the Supplier shall implement immediately after it becomes aware of a Breach of Security which is intended to restore normal operations as quickly as possible, minimising any adverse impact on the Buyer Data, the Buyer, the Services and/or users of the Services and which shall be prepared by the Supplier in accordance with Paragraph 4 using the template set out in Annex 3;
“Information Assurance Assessment”	means the set of policies, procedures, systems and processes which the Supplier shall implement, maintain and update in accordance with Paragraph 4 in order to manage, mitigate and, where possible, avoid information security risks including cyber-attacks, hacks, data leaks, Personal Data Breaches and/or theft and which shall be prepared by the Supplier using the template set out in Annex 3;
“Information Management System”	<p>means</p> <ul style="list-style-type: none"> (a) those parts of the Supplier System, and those of the Sites, that the Supplier or its Sub-contractors will use to provide the parts of the Services that require Processing Buyer Data; and (b) the associated information assets and systems (including organisational structure, controls, policies, practices, procedures, processes and resources);
“Information Security Approval Statement”	<p>means a notice issued by the Buyer which sets out the information risks which the Supplier has identified as being associated with using the Information Management System and confirms that:</p> <ul style="list-style-type: none"> (a) the Buyer is satisfied that the identified risks have been adequately and appropriately addressed; (b) the Buyer has accepted the residual risks; and

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- (c) the Supplier may use the Information Management System to Process Buyer Data;

“IT Health Check”

has the meaning given in Paragraph 7.1;

“Medium Risk Sub-contractor”

means a Sub-contractor that Processes Buyer Data, where that data

- (a) includes the Personal Data of between 100 and 999 individuals (inclusive) in the period between the first Operational Service Commencement Date and the date on which this Contract terminates in accordance with Clause 4.1(b); and
- (b) does not include Special Category Personal Data;

“Personal Data Processing Statement”

means a document setting out:

- (a) the types of Personal Data which the Supplier and/or its Sub-contractors Processes or will Process under this Contract;
- (b) the categories of Data Subjects whose Personal Data the Supplier and/or its Sub-contractors Processes or will Process under this Contract;
- (c) the nature and purpose of such Processing;
- (d) the locations at which the Supplier and/or its Sub-contractors Process Personal Data under this Contract; and
- (e) the Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data Processed under this Contract against a Breach of Security (insofar as that Breach of Security relates to data) or a Personal Data Breach;

“Process”

means any operation which is performed on data, whether or not by automated means, including 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;

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“Required Changes Register”

mean the register within the Security Management Plan which is to be maintained and updated by the Supplier and which shall record each of the changes that the Supplier shall make to the Information Management System and/or the Security Management Plan as a consequence of the occurrence of any of the events set out in Paragraph 5.2 together with the date by which such change shall be implemented and the date on which such change was implemented;

“Risk Register”

is the risk register within the Information Assurance Assessment which is to be prepared and submitted to the Buyer for approval in accordance with Paragraph 4;

“Security Management Plan”

means the document prepared by the Supplier using the template in Annex 3, comprising:

- (a) the Information Assurance Assessment;
- (b) the Personal Data Processing Statement;
- (c) the Required Changes Register; and
- (d) the Incident Management Process;

“Special Category Personal Data”

means the categories of Personal Data set out in article 9(1) of the GDPR.

2. Introduction

2.1 This Schedule sets out:

- 2.1.1 the arrangements the Supplier must implement before, and comply with when, providing the Services and performing its other obligations under this Contract to ensure the security of the Buyer Data and the Information Management System;
- 2.1.2 the Certification Requirements applicable to the Supplier and each of those Sub-contractors which Processes Buyer Data;
- 2.1.3 The security requirements in Annex 1, with which the Supplier must comply;
- 2.1.4 the tests which the Supplier shall conduct on the Information Management System during the Term;
- 2.1.5 the Supplier's obligations to:
 - (a) return or destroy Buyer Data on the expiry or earlier termination of this Contract; and

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- (b) prevent the introduction of Malicious Software into the Supplier System and to scan for, contain the spread of, and minimise the impact of Malicious Software which is introduced into the Supplier System in Paragraph 9; and
- (c) report Breaches of Security to the Buyer.

3. Principles of Security

- 3.1 The Supplier acknowledges that the Buyer places great emphasis on the confidentiality, integrity and availability of the Buyer Data and, consequently on the security of:
 - 3.1.1 the Sites;
 - 3.1.2 the IT Environment;
 - 3.1.3 the Information Management System; and
 - 3.1.4 the Services.
- 3.2 Notwithstanding the involvement of the Buyer in assessing the arrangements which the Supplier implements to ensure the security of the Buyer Data and the Information Management System, the Supplier shall be, and shall remain, responsible for:
 - 3.2.1 the security, confidentiality, integrity and availability of the Buyer Data whilst that Buyer Data is under the control of the Supplier or any of its Sub-contractors; and
 - 3.2.2 the security of the Information Management System.
- 3.3 The Supplier shall:
 - 3.3.1 comply with the security requirements in Annex 1; and
 - 3.3.2 ensure that each Sub-contractor that Processes Buyer Data complies with the Sub-contractor Security Requirements.
- 3.4 The Supplier shall provide the Buyer with access to Supplier Personnel responsible for information assurance to facilitate the Buyer's assessment of the Supplier's compliance with its obligations set out in this Schedule at reasonable times on reasonable notice.

4. Information Security Approval Statement

- 4.1 The Supplier must ensure that its Implementation Plan sets out in sufficient detail how it will ensure compliance with the requirements of this Schedule, including any requirements imposed on Sub-contractors by Annex 2, from the first Operational Services Commencement Date.

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- 4.2 The Supplier may not use the Information Management System to Process Buyer Data unless and until:
 - 4.2.1 the Supplier has procured the conduct of an IT Health Check of the Supplier System by a CHECK Service Provider or a CREST Service Provider in accordance with Paragraph 7.1;
 - 4.2.2 the Buyer has issued the Supplier with an Information Security Approval Statement in accordance with the process set out in this Paragraph 4: and
 - 4.2.3 the Supplier has completed a Data Security and Protection Toolkit assessment.
- 4.3 The Supplier shall document in the Security Management Plan how the Supplier and its Sub-contractors shall comply with the requirements set out in this Schedule and the Contract in order to ensure the security of the Buyer Data and the Information Management System.
- 4.4 The Supplier shall prepare and submit to the Buyer within 20 Working Days of the date of this Contract, the Security Management Plan, which comprises:
 - 4.4.1 an Information Assurance Assessment;
 - 4.4.2 the Required Changes Register;
 - 4.4.3 the Personal Data Processing Statement; and
 - 4.4.4 the Incident Management Process.
- 4.5 The Buyer shall review the Supplier's proposed Security Management Plan as soon as possible and, in any event within 20 Working Days of receipt and shall either issue the Supplier with:
 - 4.5.1 an Information Security Approval Statement, which shall confirm that the Supplier may use the Information Management System to Process Buyer Data; or
 - 4.5.2 a rejection notice, which shall set out the Buyer's reasons for rejecting the Security Management Plan.
- 4.6 If the Buyer rejects the Supplier's proposed Security Management Plan, the Supplier shall take the Buyer's reasons into account in the preparation of a revised Security Management Plan, which the Supplier shall submit to the Buyer for review within 10 Working Days or such other timescale as agreed with the Buyer.
- 4.7 The Buyer may require, and the Supplier shall provide the Buyer and its authorised representatives with:
 - 4.7.1 access to the Supplier Personnel;
 - 4.7.2 access to the Information Management System to audit the Supplier and its Sub-contractors' compliance with this Contract; and

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- 4.7.3 such other information and/or documentation that the Buyer or its authorised representatives may reasonably require,
- 4.7.4 to assist the Buyer to establish whether the arrangements which the Supplier and its Sub-contractors have implemented in order to ensure the security of the Buyer Data and the Information Management System are consistent with the representations in the Security Management Plan. The Supplier shall provide the access required by the Buyer in accordance with this Paragraph within 10 Working Days of receipt of such request, except in the case of a Breach of Security in which case the Supplier shall provide the Buyer with the access that it requires within 24 hours of receipt of such request.

5. Compliance Reviews

- 5.1 The Supplier shall regularly review and update the Security Management Plan, and provide such to the Buyer, at least once each year and as required by this Paragraph.
- 5.2 The Supplier shall notify the Buyer within 2 Working Days after becoming aware of:
 - 5.2.1 a significant change to the components or architecture of the Information Management System;
 - 5.2.2 a new risk to the components or architecture of the Information Management System;
 - 5.2.3 a vulnerability to the components or architecture of the Service which is classified 'Medium', 'High', 'Critical' or 'Important' in accordance with the classification methodology set out in Paragraph 9.2 of Annex 1 to this Schedule;
 - 5.2.4 a change in the threat profile;
 - 5.2.5 a significant change to any risk component;
 - 5.2.6 a significant change in the quantity of Personal Data held within the Service;
 - 5.2.7 a proposal to change any of the Sites from which any part of the Services are provided; and/or
 - 5.2.8 an ISO27001 audit report produced in connection with the Certification Requirements indicates significant concerns.
- 5.3 Within 10 Working Days of such notifying the Buyer or such other timescale as may be agreed with the Buyer, the Supplier shall make the necessary changes to the Required Changes Register and submit the updated Required Changes Register the Buyer for review and approval.
- 5.4 Where the Supplier is required to implement a change, including any change to the Information Management System, the Supplier shall effect such change at its own cost and expense.

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6. Certification Requirements

6.1 The Supplier shall be certified as compliant with:

6.1.1 ISO/IEC 27001:2013 by a United Kingdom Accreditation Service-approved certification body or is included within the scope of an existing certification of compliance with ISO/IEC 27001:2013; and

6.1.2 Cyber Essentials PLUS,

and shall provide the Buyer with a copy of each such certificate of compliance before the Supplier shall be permitted to receive, store or Process Buyer Data.

6.2 The Supplier shall ensure that each Higher Risk Sub-contractor is certified as compliant with either:

6.2.1 ISO/IEC 27001:2013 by a United Kingdom Accreditation Service-approved certification body or is included within the scope of an existing certification of compliance with ISO/IEC 27001:2013; or

6.2.2 Cyber Essentials PLUS,

and shall provide the Buyer with a copy of each such certificate of compliance before the Higher-Risk Sub-contractor shall be permitted to receive, store or Process Buyer Data.

6.3 The Supplier shall ensure that each Medium Risk Sub-contractor is certified compliant with Cyber Essentials.

6.4 The Supplier shall ensure that the Supplier and each Sub-contractor who is responsible for the secure destruction of Buyer Data:

6.4.1 securely destroys Buyer Data only on Sites which are included within the scope of an existing certification of compliance with ISO/IEC 27001:2013; and

6.4.2 are certified as compliant with the NCSC Assured Service (CAS) Service Requirement Sanitisation Standard or an alternative standard as agreed by the Buyer.

6.5 The Supplier shall provide the Buyer with evidence of its and its Sub-contractor's compliance with the requirements set out in this Paragraph 6 before the Supplier or the relevant Sub-contractor (as applicable) may carry out the secure destruction of any Buyer Data.

6.6 The Supplier shall notify the Buyer as soon as reasonably practicable and, in any event within 2 Working Days, if the Supplier or any Sub-contractor ceases to be compliant with the Certification Requirements and, on request from the Buyer, shall or shall procure that the relevant Sub-contractor shall:

6.6.1 immediately ceases using the Buyer Data; and

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6.6.2 procure that the relevant Sub-contractor promptly returns, destroys and/or erases the Buyer Data in accordance with the requirements set out in this Paragraph.

6.6.3 The Buyer may agree to exempt, in whole or part, the Supplier or any Sub-contractor from the requirements of this Paragraph 6. Any exemption must be in writing to be effective. The Supplier must include the exemption in the Security Management Plan.

7. Security Testing

7.1 The Supplier shall, at its own cost and expense procure and conduct:

7.1.1 testing of the Information Management System by a CHECK Service Provider or a CREST Service Provider (“**IT Health Check**”); and

7.1.2 such other security tests as may be required by the Buyer,

7.2 The Supplier shall complete all of the above security tests before the Supplier submits the Security Management Plan to the Buyer for review in accordance with Paragraph 4; and it shall repeat the IT Health Check not less than once every 12 months during the Term and submit the results of each such test to the Buyer for review in accordance with this Paragraph.

7.3 In relation to each IT Health Check, the Supplier shall:

7.3.1 agree with the Buyer the aim and scope of the IT Health Check;

7.3.2 promptly, and no later than ten (10) Working Days, following the receipt of each IT Health Check report, provide the Buyer with a copy of the full report;

7.3.3 in the event that the IT Health Check report identifies any vulnerabilities, the Supplier shall:

(a) prepare a remedial plan for approval by the Buyer (each a "Vulnerability Correction Plan") which sets out in respect of each vulnerability identified in the IT Health Check report:

(i) how the vulnerability will be remedied;

(ii) unless otherwise agreed in writing between the Parties, the date by which the vulnerability will be remedied, which must be:

(A) within three months of the date the Supplier received the IT Health Check report in the case of any vulnerability categorised with a severity of “medium”;

(B) within one month of the date the Supplier received the IT Health Check report in the case of any vulnerability categorised with a severity of “high”; and

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- (C) within 10 Working Days of the date the Supplier received the IT Health Check report in the case of any vulnerability categorised with a severity of “critical”;
 - (iii) the tests which the Supplier shall perform or procure to be performed (which may, at the discretion of the Buyer, include a further IT Health Check) to confirm that the vulnerability has been remedied;
 - (b) comply with the Vulnerability Correction Plan; and
 - (c) conduct such further tests on the Service as are required by the Vulnerability Correction Plan to confirm that the Vulnerability Correction Plan has been complied with.
- 7.4 The Supplier shall ensure that any testing which could adversely affect the Supplier System shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Services and the date, timing, content and conduct of such tests shall be agreed in advance with the Buyer.
- 7.5 If any testing conducted by or on behalf of the Supplier identifies a new risk, new threat, vulnerability or exploitation technique that has the potential to affect the security of the Information Management System, the Supplier shall within 2 Working Days of becoming aware of such risk, threat, vulnerability or exploitation technique provide the Buyer with a copy of the test report and:
 - 7.5.1 propose interim mitigation measures to vulnerabilities in the Information Management System known to be exploitable where a security patch is not immediately available; and
 - 7.5.2 where and to the extent applicable, remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the Supplier System) within the timescales set out in the test report or such other timescales as may be agreed with the Buyer.
- 7.6 The Supplier shall conduct such further tests of the Supplier System as may be required by the Buyer from time to time to demonstrate compliance with its obligations set out this Schedule and the Contract.
- 7.7 The Supplier shall notify the Buyer immediately if it fails to, or believes that it will not, mitigate the vulnerability within the timescales set out in Annex 1 to this Schedule.

8. Security Monitoring and Reporting

- 8.1 The Supplier shall:
 - 8.1.1 monitor the delivery of assurance activities;
 - 8.1.2 maintain and update the Security Management Plan in accordance with Paragraph 5;

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- 8.1.3 agree a document which presents the residual security risks to inform the Buyer's decision to give approval to the Supplier to Process, store and transit the Buyer Data;
- 8.1.4 monitor security risk impacting upon the operation of the Service;
- 8.1.5 report Breaches of Security in accordance with the approved Incident Management Process;
- 8.1.6 agree with the Buyer the frequency and nature of the security reports to be prepared and submitted by the Supplier to the Buyer within 20 Working Days of Effective Date.

9. Malicious Software

- 9.1 The Supplier shall install and maintain Anti-Malicious Software or procure that Anti-Malicious Software is installed and
- 9.2 maintained on any part of the Information Management System which may Process Buyer Data and ensure that such Anti-Malicious Software is configured to perform automatic software and definition updates as well as regular scans of the Information Management System to check for, prevent the introduction of Malicious Software or where Malicious Software has been introduced into the Information Management System, to identify, contain the spread of, and minimise the impact of Malicious Software.
- 9.3 If Malicious Software is found, the parties shall cooperate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Buyer Data, assist each other to mitigate any Losses and to restore the Services to their desired operating efficiency.
- 9.4 Any cost arising out of the actions of the parties taken in compliance with the provisions of Paragraph 9.3 shall be borne by the parties as follows:
 - 9.4.1 by the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software supplied by the Supplier or the Buyer Data (whilst the Buyer Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and
 - 9.4.2 by the Buyer, in any other circumstance.

10. Breach of Security

- 10.1 If either party becomes aware of a Breach of Security it shall notify the other in accordance with the Incident Management Process.
- 10.2 The Incident Management Process shall, as a minimum, require the Supplier to do the following upon it becoming aware of a Breach of Security or attempted Breach of Security:
 - 10.2.1 Immediately take all reasonable steps necessary to:

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- (a) minimise the extent of actual or potential harm caused by such Breach of Security;
- (b) remedy such Breach of Security to the extent possible;
- (c) apply a tested mitigation against any such Breach of Security; and
- (d) prevent a further Breach of Security in the future which exploits the same root cause failure;

10.2.2 as soon as reasonably practicable and, in any event, within 2 Working Days, following the Breach of Security or attempted Breach of Security, provide to the Buyer full details of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Buyer.

10.3 In the event that any action is taken in response to a Breach of Security or attempted Breach of Security as a result of non-compliance by the Supplier, its Sub-contractors and/or all or any part of the Information Management System with this Contract, then such remedial action shall be completed at no additional cost to the Buyer.

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ANNEX 1: SECURITY REQUIREMENTS**1. Security Classification of Information**

If the provision of the Services requires the Supplier to Process Buyer Data which is classified as OFFICIAL-SENSITIVE, the Supplier shall implement such additional measures as agreed with the Buyer from time to time in order to ensure that such information is safeguarded in accordance with the applicable Standards.

2. End User Devices

2.1 The Supplier shall ensure that any Buyer Data which resides on a mobile, removable or physically uncontrolled device is stored encrypted using a product or system component which has been formally assured through a recognised certification process agreed with the Buyer except where the Buyer has given its prior written consent to an alternative arrangement.

2.2 The Supplier shall ensure that any device which is used to Process Buyer Data meets all of the security requirements set out in the NCSC End User Devices Platform Security Guidance, a copy of which can be found at: <https://www.ncsc.gov.uk/collection/end-user-device-security>.

3. Networking

The Supplier shall ensure that any Buyer Data which it causes to be transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.

4. Personnel Security

4.1 All Supplier Personnel shall be subject to a pre-employment check before they may participate in the provision and or management of the Services. Such pre-employment checks must include all pre-employment checks which are required by the HMG Baseline Personnel Security Standard including: verification of the individual's identity; verification of the individual's nationality and immigration status; and, verification of the individual's employment history; verification of the individual's criminal record.

4.2 The Buyer and the Supplier shall review the roles and responsibilities of the Supplier Personnel who will be involved in the management and/or provision of the Services in order to enable the Buyer to determine which roles require additional vetting and a specific national security vetting clearance (e.g. a Counter Terrorist Check; a Security Check). Roles which are likely to require additional vetting and a specific national security vetting clearance include system administrators whose role would provide those individuals with privileged access to IT systems which Process Buyer Data or data which, if it were Buyer Data, would be classified as OFFICIAL-SENSITIVE.

4.3 The Supplier shall not permit Supplier Personnel who fail the security checks required by Paragraphs 4.1 and 4.2 to be involved in the management and/or provision of the Services except where the Buyer has expressly agreed in writing to the involvement of the named individual in the management and/or provision of the Services.

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- 4.4 The Supplier shall ensure that Supplier Personnel are only granted such access to Buyer Data as is necessary to enable the Supplier Personnel to perform their role and to fulfil their responsibilities.
- 4.5 The Supplier shall ensure that Supplier Personnel who no longer require access to the Buyer Data (e.g. they cease to be employed by the Supplier or any of its Sub-contractors), have their rights to access the Buyer Data revoked within 1 Working Day.
- 4.6 The Supplier shall ensure that Supplier Staff that have access to the Sites, the IT Environment or the Buyer Data receive regular training on security awareness that reflects the degree of access those individuals have to the Sites, the IT Environment or the Buyer Data.
- 4.7 The Supplier shall ensure that the training provided to Supplier Staff under paragraph 4.6 includes training on the identification and reporting fraudulent communications intended to induce individuals to disclose Personal Data or any other information that could be used, including in combination with other Personal Data or information, or with other techniques, to facilitate unauthorised access to the Sites, the IT Environment or the Buyer Data ("phishing").

5. Identity, Authentication and Access Control

- 5.1 The Supplier shall operate an access control regime to ensure:
 - 5.1.1 all users and administrators of the Supplier System are uniquely identified and authenticated when accessing or administering the Services; and
 - 5.1.2 all persons who access the Sites are identified and authenticated before they are allowed access to the Sites.
- 5.2 The Supplier shall apply the 'principle of least privilege' when allowing persons access to the Supplier System and Sites so that such persons are allowed access only to those parts of the Sites and the Supplier System they require.
- 5.3 The Supplier shall retain records of access to the Sites and to the Supplier System and shall make such record available to the Buyer on request.

6. Data Destruction or Deletion

The Supplier shall:

- 6.1 prior to securely sanitising any Buyer Data or when requested the Supplier shall provide the Government with all Buyer Data in an agreed open format;
- 6.2 have documented processes to ensure the availability of Buyer Data in the event of the Supplier ceasing to trade;
- 6.3 securely erase in a manner agreed with the Buyer any or all Buyer Data held by the Supplier when requested to do so by the Buyer;
- 6.4 securely destroy in a manner agreed with the Buyer all media that has held Buyer Data at the end of life of that media in accordance with any specific requirements in this Contract and, in the absence of any such requirements, as agreed by the Buyer; and

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- 6.5 implement processes which address the CPNI and NCSC guidance on secure sanitisation.

7. Audit and Protective Monitoring

- 7.1 The Supplier shall collect audit records which relate to security events in the Information Management System or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include regular reports and alerts setting out details of access by users of the Information Management System, to enable the identification of (without limitation) changing access trends, any unusual patterns of usage and/or accounts accessing higher than average amounts of Buyer Data.
- 7.2 The Supplier and the Buyer shall work together to establish any additional audit and monitoring requirements for the Information Management System.
- 7.3 The retention periods for audit records and event logs must be agreed with the Buyer and documented in the Security Management Plan.

8. Location of Buyer Data

The Supplier shall not and shall procure that none of its Sub-contractors Process Buyer Data outside the United Kingdom without the prior written consent of the Buyer, which may be subject to conditions.

9. Vulnerabilities and Corrective Action

- 9.1 The Buyer and the Supplier acknowledge that from time to time vulnerabilities in the Information Management System will be discovered which unless mitigated will present an unacceptable risk to the Buyer Data.
- 9.2 The severity of vulnerabilities for COTS Software shall be categorised by the Supplier as 'Critical', 'Important' and 'Other' by aligning these categories to the vulnerability scoring according to the agreed method in the Security Management Plan and using the appropriate vulnerability scoring systems including:
- 9.2.1 the 'National Vulnerability Database' 'Vulnerability Severity Ratings': 'High', 'Medium' and 'Low' respectively (these in turn are aligned to CVSS scores as set out by NIST at <http://nvd.nist.gov/cvss.cfm>); and
- 9.2.2 Microsoft's 'Security Bulletin Severity Rating System' ratings 'Critical', 'Important', and the two remaining levels ('Moderate' and 'Low') respectively.
- 9.3 Subject to Paragraph 9.4, the Supplier shall procure the application of security patches to vulnerabilities in the Information Management System within:
- 9.3.1 seven (7) days after the public release of patches for those vulnerabilities categorised as 'Critical';
- 9.3.2 thirty (30) days after the public release of patches for those vulnerabilities categorised as 'Important'; and

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- 9.3.3 sixty (60) days after the public release of patches for those vulnerabilities categorised as 'Other'.
- 9.4 The timescales for applying patches to vulnerabilities in the Information Management System set out in Paragraph 9.3 shall be extended where:
- 9.4.1 the Supplier can demonstrate that a vulnerability in the Information Management System is not exploitable within the context of the Services (e.g. because it resides in a Software component which is not involved in running in the Services) provided such vulnerabilities shall be remedied by the Supplier within the timescales set out in Paragraph 9.3 if the vulnerability becomes exploitable within the context of the Services;
- 9.4.2 the application of a 'Critical' or 'Important' security patch adversely affects the Supplier's ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of five (5) days, provided the Supplier had followed and continues to follow the security patch test plan agreed with the Buyer; or
- 9.4.3 the Buyer agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the Security Management Plan.
- 9.5 The Security Management Plan shall include provisions for major version upgrades of all COTS Software to be kept up to date such that all COTS Software are always in mainstream support throughout the Term unless otherwise agreed by the Buyer in writing. All COTS Software should be no more than N-1 versions behind the latest software release.

10. Secure Architecture

- 10.1 The Supplier shall design the Information Management System in accordance with:
- 10.1.1 the NCSC "Security Design Principles for Digital Services", a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/security-design-principles-digital-services-main>;
- 10.1.2 the NCSC "Bulk Data Principles", a copy of which can be found at <https://www.ncsc.gov.uk/guidance/protecting-bulk-personal-data-main>; and
- 10.1.3 the NSCS "Cloud Security Principles", a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles> and which are summarised below:
- (a) "Cloud Security Principle 1: data in transit protection" which, amongst other matters, requires that user data transiting networks should be adequately protected against tampering and eavesdropping;
- (b) "Cloud Security Principle 2: asset protection and resilience" which, amongst other matters, requires that user data, and the assets storing or processing it, should be protected against physical tampering, loss, damage or seizure;

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- (c) "Cloud Security Principle 3: separation between users" which, amongst other matters, requires that a malicious or compromised user of the service should not be able to affect the service or data of another;
- (d) "Cloud Security Principle 4: governance framework" which, amongst other matters, requires that the Supplier should have a security governance framework which coordinates and directs its management of the Services and information within it;
- (e) "Cloud Security Principle 5: operational security" which, amongst other matters, requires that the Services need to be operated and managed securely in order to impede, detect or prevent a Breach of Security;
- (f) "Cloud Security Principle 6: personnel security" which, amongst other matters, requires that where Supplier Personnel have access to Buyer Data and/or the Buyer System that those personnel be subject to appropriate security screening and regular security training;
- (g) "Cloud Security Principle 7: secure development" which, amongst other matters, requires that the Services be designed and developed to identify and mitigate threats to their security;
- (h) "Cloud Security Principle 8: supply chain security" which, amongst other matters, requires the Supplier to ensure that appropriate security controls are in place with its Sub-contractors and other suppliers;
- (i) "Cloud Security Principle 9: secure user management" which, amongst other matters, requires the Supplier to make the tools available for the Buyer to securely manage the Buyer's use of the Service;
- (j) "Cloud Security Principle 10: identity and authentication" which, amongst other matters, requires the Supplier to implement appropriate controls in order to ensure that access to Service interfaces is constrained to authenticated and authorised individuals;
- (k) "Cloud Security Principle 11: external interface protection" which, amongst other matters, requires that all external or less trusted interfaces with the Services should be identified and appropriately defended;
- (l) "Cloud Security Principle 12: secure service administration" which, amongst other matters, requires that any ICT system which is used for administration of a cloud service will have highly privileged access to that service;
- (m) "Cloud Security Principle 13: audit information for users" which, amongst other matters, requires the Supplier to be able to provide the Buyer with the audit records it needs to monitor access to the Service and the Buyer Data held by the Supplier and/or its Sub-contractors; and
- (n) "Cloud Security Principle 14: secure use of the service" which, amongst other matters, requires the Supplier to educate Supplier Personnel on the safe and secure use of the Information Management System.

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ANNEX 2: SECURITY REQUIREMENTS FOR SUB-CONTRACTORS**1. Application of Annex**

- 1.1 This Annex applies to all Sub-contractors that Process Buyer Data.
- 1.2 The Supplier must:
 - 1.2.1 ensure that those Sub-contractors comply with the provisions of this Annex;
 - 1.2.2 keep sufficient records to demonstrate that compliance to the Buyer; and
 - 1.2.3 ensure that its Implementation Plan includes Deliverable Items, Milestones and Milestone Dates that relate to the design, implementation and management of any systems used by Sub-contractors to Process Buyer Data.

2. Designing and managing secure solutions

- 2.1 The Sub-contractor shall implement their solution(s) to mitigate the security risks in accordance with the NCSC's Cyber Security Design Principles <https://www.ncsc.gov.uk/collection/cyber-security-design-principles>.
- 2.2 The Sub-contractor must assess their systems against the NCSC Cloud Security Principles: <https://www.ncsc.gov.uk/collection/cloud-security?curPage=/collection/cloud-security/implementing-the-cloud-security-principles> at their own cost and expense to demonstrate that the people, process, technical and physical controls have been delivered in an effective way. The Sub-contractor must document that assessment and make that documentation available to the Buyer on the Buyer's request.

3. Data Processing, Storage, Management and Destruction

- 3.1 The Sub-contractor must not Process any Buyer Data outside the United Kingdom. The Buyer may permit the Sub-contractor to Process Buyer Data outside the United Kingdom and may impose conditions on that permission, with which the Sub-contractor must comply. Any permission must be in writing to be effective.
- 3.2 The Sub-contractor must securely erase any or all Buyer Data held by the Sub-contractor when requested to do so by the Buyer; and securely destroy all media that has held Buyer Data at the end of life of that media in accordance with the NCSC Assured Service (CAS) Service Requirement Sanitisation Standard, or an alternative agreed in writing by the Buyer.

4. Personnel Security

- 4.1 The Sub-contractor must perform appropriate checks on their staff before they may participate in the provision and or management of the Services. Those checks must include all pre-employment checks required by the HMG Baseline Personnel Security Standard including: verification of the individual's identity; verification of the individual's nationality and immigration status; verification of the individual's employment history; and verification of the individual's criminal record. The HMG Baseline Personnel Security Standard is at <https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>.

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4.2 The Sub-contractor must, if the Buyer requires, at any time, ensure that one or more of the Sub-contractor's staff obtains Security Check clearance in order to Process Buyer Data containing Personal Data above certain volumes specified by the Buyer, or containing Special Category Personal Data.

4.3 Any Sub-contractor staff who will, when performing the Services, have access to a person under the age of 18 years must undergo Disclosure and Barring Service checks.

5. End User Devices

5.1 The Sub-contractor shall ensure that any Buyer Data stored (for any period of time) on a mobile, removable or physically uncontrolled device is encrypted. The Sub-contractor must follow the Information Commissioner's Office guidance on implementing encryption, which can be found at <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/security/encryption/>.

5.2 The Supplier shall ensure that any device used to Process Buyer Data meets all the security requirements set out in the NCSC End User Devices Platform Security Guidance, which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security>.

6. Networking

The Supplier shall ensure that any Buyer Data which it causes to be transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.

7. Patching and Vulnerability Scanning

7.1 The Sub-contractor must proactively monitor supplier vulnerability websites and ensure all necessary patches and upgrades are applied to maintain security, integrity and availability in accordance with the NCSC Cloud Security Principles.

8. Third Party Sub-contractors

8.1 The Sub-contractor must not transmit or disseminate the Buyer Data to any other person unless specifically authorised by the Buyer. Such authorisation must be in writing to be effective and may be subject to conditions.

8.2 The Sub-contractor must not, when performing any part of the Services, use any software to Process the Buyer Data where the licence terms of that software purport to grant the licensor rights to Progress the Buyer Data greater than those rights strictly necessary for the use of the software.

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ANNEX 3: SECURITY MANAGEMENT PLAN TEMPLATE**Security Management Plan Template****[Project/Service and Supplier Name]****1. Executive Summary**

<This section should contain a brief summary of the business context of the system, any key IA controls, the assurance work done, any off-shoring considerations and any significant residual risks that need acceptance.>

2. System Description**2.1 Background**

< A short description of the project/product/system. Describe its purpose, functionality, aim and scope.>

2.2 Organisational Ownership/Structure

< Who owns the system and operates the system and the organisational governance structure. This should include how any ongoing security management is integrated into the project governance e.g. how a Security Working Group reports to the project board.>

2.3 Information assets and flows

<The information assets processed by the system which should include a simple high level diagram on one page. Include a list of the type and volumes of data that will be processed, managed and stored within the supplier system. If personal data, please include the fields used such as name, address, department DOB, NI number etc.>

2.4 System Architecture

<A description of the physical system architecture, to include the system management. A diagram will be needed here>

2.5 Users

<A brief description of the system users, to include HMG users as well as any service provider users and system managers. If relevant, security clearance level requirements should be included.>

2.6 Locations

<Where the data assets are stored and managed from. If any locations hold independent security certifications (e.g. ISO27001:2013) these should be noted. Any off-shoring considerations should be detailed.>

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2.7 Test and Development Systems

<Include information about any test and development systems, their locations and whether they contain live system data.>

2.8 Key roles and responsibilities

<A brief description of the lead security roles such as that of the SIRO, IAO, Security manager, Accreditor >

3. Risk Assessment**3.1 Accreditation/Assurance Scope**

<This section describes the scope of the Accreditation/Assurance for the system. The scope of the assurance assessment should be clearly indicated, with components of the architecture upon which reliance is placed but assurance will not be done clearly shown e.g. a cloud hosting service. A logical diagram should be used along with a brief description of the components.>

3.2 Risk appetite

<A risk appetite should be agreed with the SIRO/SRO and included here.>

3.3 Business impact assessment

< A description of the information assets and the impact of their loss or corruption (e.g. large amounts of Official Sensitive personal data the loss of which would be severely damaging to individuals, embarrassing to HMG, and make HMG liable to ICO investigations) in business terms should be included. This section should cover the impact on loss of confidentiality, integrity and availability of the assets. The format of this assessment may be dependent on the risk assessment method chosen.>

3.4 Risk assessment

<The content of this section will depend on the risk assessment methodology chosen, but should contain the output of the formal information risk assessment in a prioritised list using business language. Experts on the system and business process should have been involved in the risk assessment to ensure the formal risk methodology used has not missed out any risks. The example table below should be used as the format to identify the risks and document the controls used to mitigate those risks. >

Risk ID	Inherent risk	Inherent risk level	Vulnerability	Controls	Residual risk level
R1	Internet attackers could hack the system	Medium	The service systems are exposed to the internet via the web portal.	C1: Internet-facing firewalls C2: Internet-facing IP whitelist C3: System hardening	Very low

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				C4: Protective monitoring C5: Application access control C16: Anti-virus for incoming files C54: Files deleted when processed C59: Removal of departmental identifier	
R2	Remote attackers could intercept or disrupt information crossing the internet	Medium	File sharing with organisations across the internet	C9: TLS communications C10: PGP file-sharing	Very low
R3	Internal users could maliciously or accidentally alter bank details.	Medium-High	Users bank details can be altered as part of the normal business function	C12. System administrators hold SC clearance. C13. All changes to user information are logged and audited. C14. Letters are automatically sent to users home addresses when bank details are altered. C15. Staff awareness training	Low

3.5 Controls

<The controls listed above to mitigate the risks identified should be detailed. There should be a description of each control, further information and configuration details where relevant, and an assessment of the implementation status of, and assurance in, the control. A sample layout is included below.>

ID	Control title	Control description	Further information and assurance status
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C1	Internet-facing firewalls	Internet-facing firewalls are in place between the internet and the system', which restrict access from the internet to the required ports only.	Assured via ITHC firewall rule check
C2	Internet-facing IP whitelist	An IP whitelist is in place for all access from the internet.	Assured via ITHC
C15	Staff awareness training	All staff must undertake annual security awareness training and this process is audited and monitored by line managers.	Assured as part of ISO27001 certification

3.6 Residual risks and actions

<A summary of the residual risks which are likely to be above the risk appetite stated after all controls have been applied and verified should be listed with actions and timescales included.>

4. In-service controls

< This section should describe the controls relating to the information lifecycle, including development, testing, in-service, termination and on-going risk management and accreditation assurance. Details of any formal assurance requirements specified in the contract such as security CHECK testing or maintained ISO27001 certification should be included. This section should include at least:

- (a) information risk management and timescales and triggers for a review;*
- (b) contractual patching requirements and timescales for the different priorities of patch;*
- (c) protective monitoring arrangements to include how anomalous behaviour is identified and acted upon as well as how logging and auditing of user activity is done;*
- (d) configuration and change management;*
- (e) incident management;*
- (f) vulnerability management;*
- (g) user access management; and*
- (h) data sanitisation and disposal.>*

5. Security Operating Procedures (SyOPs)

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*< If needed any SyOps requirements should be included and referenced here.>***6. Major Hardware and Software and end of support dates***< This should be a table which lists the end of support dates for hardware and software products and components. An example table is shown below.>*

Name	Version	End of mainstream Support/Extended Support	Notes/RAG Status
Server Host	HP XXXX	Feb 2020/ March 2022	

7. Incident Management Process*<The suppliers' process, as agreed with the Buyer/Customer, should be included here. It must as a minimum include the protocol for how and when incidents will be reported to the Buyer/customer and the process that will be undertaken to mitigate the incidents and investigate the root cause.>***8. Security Requirements for User Organisations***<Any security requirements for connecting organisations or departments should be included or referenced here.>***9. Required Changes Register***<The table below shows the headings for the Required Changes Register which should be maintained and used to update the contents of this document at least annually.>*

Ref	Section	Change	Agreed With	Date agreed	Documentation update	Status
1	6.4	A new Third Party supplier XXXX will be performing the print capability.	Buyer name	11/11/2018	Jul-2019	Open

10. Personal Data Processing Statement*<This should include: (i) the types of Personal Data which the Supplier and/or its Sub-contractors are Processing on behalf of the Buyer; (ii) the categories of Data Subjects whose Personal Data the Supplier and/or its Sub-contractors are Processing on behalf of the Buyer; the nature and purpose of such Processing; (iii) the locations at which the Supplier and/or its Subcontractors Process Buyer Data; and, (iv) the Protective Measures that the Supplier and, where applicable, its Subcontractors have*

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implemented to protect the Buyer Data against a Security Breach including a Personal Data Breach.>

11. Annex A. ISO27001 and/or Cyber Essential Plus certificates

<Any certifications relied upon should have their certificates included>

12. Annex B. Cloud Security Principles assessment

<A spreadsheet may be attached>

13. Annex C. Protecting Bulk Data assessment if required by the Buyer/Customer

<A spreadsheet may be attached>

14. Annex E. Latest ITHC report and Vulnerability Correction Plan

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Part B: Security Accreditation

Not used

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SCHEDULE 3**BUYER RESPONSIBILITIES****1. INTRODUCTION**

- 1.1 The responsibilities of the Buyer set out in Attachment 3 (Buyer Responsibilities) of the Order Form shall constitute the Buyer Responsibilities under this Contract. Any obligations of the Buyer in Attachment 2.1 (Services Description) of the Order Form and Attachment 4.1 (Supplier Solution) of the Order Form shall not be Buyer Responsibilities and the Buyer shall have no obligation to perform any such obligations unless they are specifically stated to be “Buyer Responsibilities” and cross referenced in the table in Attachment 3 (Buyer Responsibilities) of the Order Form.
- 1.2 The responsibilities specified within this Schedule and Attachment 3 (Buyer Responsibilities) of the Order Form shall be provided to the Supplier free of charge, unless otherwise agreed between the Parties.

2. GENERAL OBLIGATIONS

The Buyer shall:

- (a) perform those obligations of the Buyer which are set out in Attachment 3 (Buyer Responsibilities) of the Order Form;
- (b) use its reasonable endeavours to provide the Supplier with access to appropriate members of the Buyer's staff, as such access is reasonably requested by the Supplier in order for the Supplier to discharge its obligations throughout the Term and the Termination Assistance Period;
- (c) provide sufficient and suitably qualified staff to fulfil the Buyer's roles and duties under this Contract as defined in the Implementation Plan;
- (d) 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 Contract provided that such documentation, data and/or information is available to the Buyer and is authorised for release by the Buyer; and
- (e) procure for the Supplier such agreed access and use of the Buyer Premises (as a licensee only) and facilities (including relevant IT systems) as is reasonably required for the Supplier to comply with its obligations under this Contract, such access to be provided during the Buyer's normal working hours on each Working Day or as otherwise agreed by the Buyer (such agreement not to be unreasonably withheld or delayed).

3. NOTE USED

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SCHEDULE 4.1

SUPPLIER SOLUTION

Refer to Attachment 4.1 of the Order Form

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SCHEDULE 4.2

COMMERCIALLY SENSITIVE INFORMATION

Refer to Attachment 4.2 (Commercially Sensitive Information) of the Order Form

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SCHEDULE 4.3

NOTIFIED KEY SUB-CONTRACTORS

Refer to Attachment 4.3 (Notified Key-Subcontractors) of the Order Form

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SCHEDULE 4.4

THIRD PARTY CONTRACTS

Refer to Attachment 4.4 (Third Party Contracts) of the Order Form

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SCHEDULE 5

SOFTWARE

1. THE SOFTWARE

Refer to Attachment 5 (Software) of the Order Form

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**ANNEX 1: FORM OF LETTER RE SUB-LICENSING OF SUPPLIER COTS SOFTWARE
AND SUPPLIER COTS BACKGROUND IPRS**

[Supplier letterhead]

[insert Buyer

name and address]

[Date]

Dear Sirs

**LICENCES FOR SUPPLIER COTS SOFTWARE AND SUPPLIER COTS BACKGROUND
IPRs**

We refer to the agreement between us dated *[insert date]* in respect of *[brief summary of subject of the Contract]* (the “Contract”). Capitalised expressions used in this letter have the same meanings as in the Contract.

In accordance with Clause 17.4(b) of the Contract we confirm that:

1. the Buyer is licensed by the Supplier to use the Supplier COTS Software and Supplier COTS Background IPRs identified in the first column of the Appendix to this letter (the “Appendix”) on the terms of the licences identified in the second column of the Appendix (the “Licences”); and
2. notwithstanding any provision to the contrary in the Licences, it is agreed that the Buyer may sub-license, assign and novate the Supplier COTS Software and Supplier COTS Background IPRs as referred to in Clause 17.4(b) of the Contract.

Yours faithfully,

Signed:

On behalf of [name of the Supplier]

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ANNEX 2: FORM OF CONFIDENTIALITY UNDERTAKING**CONFIDENTIALITY AGREEMENT****THIS AGREEMENT** is made on [**date**] 20**BETWEEN:**

- (1) [**insert name**] of [**insert address**] (the “**Sub licensee**”); and
- (2) [**insert name**] of [**insert address**] (the “**Supplier**” and together with the Supplier, the “**Parties**”).

WHEREAS:

- (A) [*insert name of Buyer*] (the “**Buyer**”) and the Supplier are party to a contract dated [**insert date**] (the “**Contract**”) for the provision by the Supplier of [**insert brief description of services**] to the Buyer.
- (B) The Buyer wishes to grant a sub licence to the Sub licensee in respect of certain software and intellectual property rights licensed to the Buyer pursuant to the Contract (the “**Sub licence**”).
- (C) It is a requirement of the Contract that, before the Buyer grants such sub licence to the Sub licensee, the Sub licensee execute a confidentiality agreement in favour of the Supplier in or substantially in the form of this Contract to protect the Confidential Information of the Supplier.

IT IS AGREED as follows:**1. Interpretation**

- 1.1 In this Contract, unless the context otherwise requires:

“Confidential Information” means:

- (a) Information, including all personal data within the meaning of the Data Protection Act 2018, and however it is conveyed, provided by the Buyer to the Sub licensee pursuant to or in connection with the Sub licence that relates to:
 - (i) the Supplier; or
 - (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Supplier;
- (b) the source code and the object code of the software sub licensed to the Sub licensee pursuant to the Sub licence together with build information, relevant design and development information, technical specifications of all

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functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation supplied by the Supplier to the Buyer pursuant to or in connection with the Sub licence;

(c) other Information provided by the Buyer pursuant to this Contract to the Sub licensee that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Sub licensee's attention or into the Sub licensee's possession in connection with the Sub licence; and

(d) Information derived from any of the above,

but not including any Information that:

(a) was in the possession of the Sub licensee without obligation of confidentiality prior to its disclosure by the Buyer;

(b) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Contract or breach of a duty of confidentiality; or

(c) was independently developed without access to the Information;

“Information” means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

“Sub licence” has the meaning given to that expression in recital (B) to this Contract.

1.2 In this Contract:

(a) a reference to any gender includes a reference to other genders;

(b) the singular includes the plural and vice versa;

(c) the words “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;

(d) references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or

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after the date of this Contract) and any prior or subsequent subordinate legislation made under it;

- (e) headings are included for ease of reference only and shall not affect the interpretation or construction of this Contract; and
- (f) references to Clauses are to clauses of this Contract.

2. Confidentiality Obligations

2.1 In consideration of the Buyer entering into the Sub licence, the Sub licensee shall:

- (a) treat all Confidential Information as secret and confidential;
- (b) have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);
- (c) not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Supplier or except as expressly set out in this Contract;
- (d) not transfer any of the Confidential Information outside the United Kingdom;
- (e) not use or exploit any of the Confidential Information for any purpose whatsoever other than as permitted under the Sub licence;
- (f) immediately notify the Supplier in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- (g) upon the expiry or termination of the Sub licence:
 - (i) destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;
 - (ii) ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Sub licensee) from any computer, word processor, voicemail system or any other device; and
 - (iii) make no further use of any Confidential Information.

3. Permitted Disclosures

3.1 The Sub licensee may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:

- (a) reasonably need to receive the Confidential Information in connection with the Sub licence; and

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- (b) have been informed by the Sub licensee of the confidential nature of the Confidential Information; and
 - (c) have agreed to terms similar to those in this Contract.
- 3.2 The Sub licensee shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Sub licensee.
- 3.3 Before making a disclosure pursuant to Clause 3.2, the Sub licensee shall, if the circumstances permit:
 - (a) notify the Supplier in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and
 - (b) ask the court or other public body to treat the Confidential Information as confidential.
- 4. **General**
- 4.1 The Sub licensee acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Supplier shall remain with and be vested in the Supplier.
- 4.2 This Contract does not include, expressly or by implication, any representations, warranties or other obligations:
 - (a) to grant the Sub licensee any licence or rights other than as may be expressly stated in the Sub licence;
 - (b) to require the Supplier to disclose, continue disclosing or update any Confidential Information; or
 - (c) as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of the Sub licence.
- 4.3 The rights, powers and remedies provided in this Contract are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 4.4 Without prejudice to any other rights or remedies that the Supplier may have, the Sub licensee acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Sub licensee of any of the provisions of this Contract. Accordingly, the Sub licensee acknowledges that the Supplier shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Contract and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.

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- 4.5 The maximum liability of the Sub licensee to the Supplier for any breach of this Contract shall be limited to ten million pounds (£10,000,000).
- 4.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Contract.
- 4.7 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Contract.
- 4.8 This Contract may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Contract, but all the counterparts shall together constitute but one and the same instrument.

5. Notices

- 5.1 Any notice to be given under this Contract (each a “Notice”) shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 5.2.

- 5.2 Any Notice:

(a) if to be given to the Supplier shall be sent to:

[Address]

Attention: [*Contact name and/or position, e.g. “The Finance Director”*]

(b) if to be given to the Sub licensee shall be sent to:

[Name of Organisation]

[Address]

Attention: []

6. Governing law

- 6.1 This Contract shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Contract whether contractual or non-contractual, shall be governed by and determined in accordance with English law.
- 6.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Contract.

IN WITNESS of the above this Contract has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

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For and on behalf of [*name of Supplier*]

Signature: _____

Date:

Name:

Position:

For and on behalf of [*name of Sub licensee*]

Signature: _____

Date:

Name:

Position:

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SCHEDULE 6.1**IMPLEMENTATION PLAN****1. INTRODUCTION****1.1 This Schedule:**

- (a) defines the process for the preparation and implementation of the Outline Implementation Plan and Detailed Implementation Plan; and
- (b) identifies the Milestones (and associated Deliverables) including the Milestones which trigger payment to the Supplier of the applicable Milestone Payments following the issue of the applicable Milestone Achievement Certificate.

2. OUTLINE IMPLEMENTATION PLAN

- 2.1 The Outline Implementation Plan is set out in Attachment 6.1 of the Order Form.
- 2.2 All changes to the Outline Implementation Plan shall be subject to the Change Control Procedure provided that the Supplier shall not attempt to postpone any of the Milestones using the Change Control Procedure or otherwise (except in accordance with Clause 31 (Buyer Cause)).

3. APPROVAL OF THE DETAILED IMPLEMENTATION PLAN

- 3.1 The Supplier shall submit a draft of the Detailed Implementation Plan to the Buyer for approval within 20 Working Days of the Effective Date.
- 3.2 The Supplier shall ensure that the draft Detailed Implementation Plan:
 - (a) incorporates all of the Milestones and Milestone Dates set out in the Outline Implementation Plan;
 - (b) includes (as a minimum) the Supplier's proposed timescales in respect of the following for each of the Milestones:
 - (i) the completion of each design document;
 - (ii) the completion of the build phase;
 - (iii) the completion of any Testing to be undertaken in accordance with Schedule 6.2 (Testing Procedures); and
 - (iv) training and roll-out activities;
 - (c) clearly outlines all the steps required to implement the Milestones to be achieved in the next 12 months, together with a high level plan for the remainder of the programme, in conformity with the Buyer Requirements;

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- (d) clearly outlines the required roles and responsibilities of both Parties, including staffing requirements; and
 - (e) is produced using a software tool as specified, or agreed by the Buyer.
- 3.3 Prior to the submission of the draft Detailed Implementation Plan to the Buyer in accordance with Paragraph 3.1, the Buyer shall have the right:
 - (a) to review any documentation produced by the Supplier in relation to the development of the Detailed Implementation Plan, including:
 - (i) details of the Supplier's intended approach to the Detailed Implementation Plan and its development;
 - (ii) copies of any drafts of the Detailed Implementation Plan produced by the Supplier; and
 - (iii) any other work in progress in relation to the Detailed Implementation Plan; and
 - (b) to require the Supplier to include any reasonable changes or provisions in the Detailed Implementation Plan.
- 3.4 Following receipt of the draft Detailed Implementation Plan from the Supplier, the Buyer shall:
 - (a) review and comment on the draft Detailed Implementation Plan as soon as reasonably practicable; and
 - (b) notify the Supplier in writing that it approves or rejects the draft Detailed Implementation Plan no later than 20 Working Days after the date on which the draft Detailed Implementation Plan is first delivered to the Buyer.
- 3.5 If the Buyer rejects the draft Detailed Implementation Plan:
 - (a) the Buyer shall inform the Supplier in writing of its reasons for its rejection; and
 - (b) the Supplier shall then revise the draft Detailed Implementation Plan (taking reasonable account of the Buyer's comments) and shall re-submit a revised draft Detailed Implementation Plan to the Buyer for the Buyer's approval within 20 Working Days of the date of the Buyer's notice of rejection. The provisions of Paragraph 3.4 and this Paragraph 3.5 shall apply again to any resubmitted draft Detailed Implementation Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 3.6 If the Buyer approves the draft Detailed Implementation Plan, it shall replace the Outline Implementation Plan from the date of the Buyer's notice of approval.
- 4. UPDATES TO AND MAINTENANCE OF THE DETAILED IMPLEMENTATION PLAN**
- 4.1 Following the approval of the Detailed Implementation Plan by the Buyer:

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- (a) the Supplier shall submit a revised Detailed Implementation Plan to the Buyer every 3 months starting 3 months from the Effective Date;
 - (b) without prejudice to Paragraph 4.1(a), the Buyer shall be entitled to request a revised Detailed Implementation Plan at any time by giving written notice to the Supplier and the Supplier shall submit a draft revised Detailed Implementation Plan to the Buyer within 20 Working Days of receiving such a request from the Buyer (or such longer period as the Parties may agree provided that any failure to agree such longer period shall be referred to the Dispute Resolution Procedure);
 - (c) any revised Detailed Implementation Plan shall (subject to Paragraph 4.2) be submitted by the Supplier for approval in accordance with the procedure set out in Paragraph 3; and
 - (d) the Supplier's performance against the Implementation Plan shall be monitored at meetings of the Service Management Board (as defined in Schedule 8.1 (Governance)). In preparation for such meetings, the current Detailed Implementation Plan shall be provided by the Supplier to the Buyer not less than 5 Working Days in advance of each meeting of the Service Management Board.
- 4.2 Save for any amendments which are of a type identified and notified by the Buyer (at the Buyer's discretion) to the Supplier in writing as not requiring approval, any material amendments to the Detailed Implementation Plan shall be subject to the Change Control Procedure provided that:
- (a) any amendments to elements of the Detailed Implementation Plan which are based on the contents of the Outline Implementation Plan shall be deemed to be material amendments; and
 - (b) in no circumstances shall the Supplier be entitled to alter or request an alteration to any Milestone Date except in accordance with Clause 31 (*Buyer Cause*).
- 4.3 Any proposed amendments to the Detailed Implementation Plan shall not come into force until they have been approved in writing by the Buyer.

5. GOVERNMENT REVIEWS

The Supplier acknowledges that the Services may be subject to Government review at key stages of the project. The Supplier shall cooperate with any bodies undertaking such review and shall allow for such reasonable assistance as may be required for this purpose within the Charges.

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ANNEX 1: OUTLINE IMPLEMENTATION PLAN

Refer to Order Form Attachment 6.1 (Outline Implementation Plan)

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SCHEDULE 6.2 : TESTING PROCEDURES**1. DEFINITIONS**

1.1 In this Schedule, the following words shall have the following meanings and shall supplement Schedule 1 (Definitions):

"Component"	means any constituent parts of the Deliverables;
"Live Proving"	means demonstration of successful operation of a deployed Deliverable in an end to end business context;
"Material Test Issue"	means a test issue of Severity Level 1 or Severity Level 2 as set out in the relevant Test Plan;
"Release"	shall mean a set of Deliverables, agreed by the Buyer as being something which can be released to the intended users of the set of Deliverables;
"Satisfaction Certificate"	means a certificate materially in the form of the document contained in Annex 2 issued by the Buyer when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria;
"Severity Level"	means the level of severity of a Test Issue, the criteria for which are described in Annex 1;
"Test"	means a procedure intended to establish the quality, performance, or reliability of a Component;
"Test Issue"	means a test issue of Severity Level 3, Severity Level 4 or Severity Level 5 as set out in the relevant Test Plan;
"Test Issue Management Log"	means a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule;
"Test Plan"	means a specific set of tests to be incorporated as part of a release plan;
"Test Reports"	means the reports to be produced by the Supplier setting out the results of Tests;
"Test Specification"	means the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6.2 of this Schedule;
"Test Strategy"	means a strategy for the conduct of Testing as described further in Paragraph 4.2 of this Schedule;
"Test Success Criteria"	in relation to a Test, the test success criteria for that Test as referred to in Paragraph Error! Reference source not found. of this Schedule;
"Test Witness"	means any person appointed by the Buyer pursuant to Paragraph 10 of this Schedule;

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“Tester”

means the organisation responsible for testing as allocated in accordance with the Test Strategy (described in Paragraph 3.1); and

"Testing Procedures"

means the applicable testing procedures and Test Success Criteria set out in this Schedule.

2. AGILE TESTING

2.1 Testing described in this Schedule shall apply to software as well as other Deliverables (for example migration of data sets).

2.2 When requested by the Buyer, the Supplier shall, with appropriate input from the Buyer, undertake Release planning and shall produce a Test Plan.

2.3 With each Agile development iteration development teams are required to incorporate the underlying ethos of Agile testing and the Supplier shall:

- (i) write the test script;
- (ii) write the code / perform the digital activity; and
- (iii) test the code / activity against the test script.

2.4 Wherever possible Testers are required to automate testing (e.g. relevant functional test cases) and automate and execute any regression tests. This shall form part of acceptance testing.

2.5 Prior to release additional tests such as, but not limited to:

- (i) load tests;
- (ii) complete regression tests;
- (iii) penetration tests;
- (iv) user acceptance tests;
- (v) integration tests;
- (vi) deployment tests; and
- (vii) Release readiness tests

as agreed within the Test Plan, shall be executed by the Tester.

2.6 The Supplier shall develop reusable test scripts in a modular manner which can be incorporated within a larger library of routinely run test scripts.

2.7 The Test Strategy will define how testing within the context of iterative agile development interacts with the broader testing of Deliverables and other testing required.

3. HOW TESTING SHOULD WORK

3.1 The identity of the Testers shall vary according to the responsibilities allocated for the relevant Test in the Test Strategy (as supplemented by the Test Plan). If the Test Strategy asserts “sole responsibility” for Testing, then the Tester shall be the Supplier and the Supplier shall hold accountability. If the Test Strategy refers to Testers in blended teams which may involve both the Buyer and Supplier (such as “Rainbow Teams” or “Self Directed Teams”) then accountability for testing shall be clearly defined within the Test Strategy.

3.2 All Tests conducted by the Tester shall be conducted in accordance with the Test Strategy, Test Specification and, as appropriate within an agile context, the Test Plan.

3.3 The Tester shall not submit any Deliverable for Testing:

- 3.3.1 unless the Tester is reasonably confident that it will satisfy the relevant Test Success Criteria;

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- 3.3.2 until the Buyer has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
- 3.3.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
- 3.4 Where agreed within the Test Plan, the Tester shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
- 3.5 Agile iterative tests, as agreed within the Test Strategy, shall align with the iterative development cycle and shall contribute to, but not necessarily be reflected in, the Deliverable level testing regime described within this Schedule.
- 3.6 Prior to the issue of a Satisfaction Certificate, the Buyer shall be entitled to review the relevant Test Reports and the Test Issue Management Log.

4. PLANNING FOR TESTING

- 4.1 The Supplier shall develop an overarching Test Strategy within twenty (20) Working Days after the Effective Date.
- 4.2 The overarching Test Strategy shall include the following principles:
 - 4.2.1 an overview of how Testing will be conducted in relation to the relevant Implementation Plan;
 - 4.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
 - 4.2.3 the procedure to be followed if a Deliverable fails a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
 - 4.2.4 the procedure to be followed to sign off each Test;
 - 4.2.5 the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;
 - 4.2.6 the names and contact details of the Buyer and the Supplier's Test representatives;
 - 4.2.7 a high level identification of the resources required for Testing including Buyer and/or third party involvement in the conduct of the Tests;
 - 4.2.8 the technical environments required to support the Tests; and
 - 4.2.9 the procedure for managing the configuration of the Test environments.
 - 4.2.10 extraordinary processes for testing of hotfixes and other emergency releases.
- 4.3 The Test Strategy shall be approved by the Buyer.
- 4.4 As individual requests for change are initiated, the Supplier shall update the overarching Test Strategy to reflect the specific needs of each request for change.

5. PREPARING FOR TESTING

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5.1 As defined within the Test Strategy, the Tester shall develop Test Plans and submit these for Approval as soon as practicable but in any case no later than two (2) Working Days prior to the start date for the relevant Testing as specified in the relevant Implementation Plan.

5.2 Each Test Plan shall include as a minimum:

5.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and

5.2.2 a detailed procedure for the Tests to be carried out.

5.3 The Buyer shall not unreasonably withhold or delay its approval of the Test Plan provided that the Tester shall implement any reasonable requirements of the Buyer in the Test Plan.

6. HOW DELIVERABLES WILL BE TESTED

6.1 Following approval of a Test Plan, the Tester shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 2 Working Days prior to the start of the relevant Testing (as specified in the Implementation Plan).

6.2 Each Test Specification shall include as a minimum:

6.2.1 the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Buyer and the extent to which it is equivalent to live operational data;

6.2.2 a plan to make the resources available for Testing;

6.2.3 Test scripts;

6.2.4 Test pre-requisites and the mechanism for measuring them; and

6.2.5 expected Test results, including:

(a) a mechanism to be used to capture and record Test results; and

(b) a method to process the Test results to establish their content.

6.2.6 a plan to verify successful deployment of the Deliverable, such as through post deployment tests and monitoring.

7. PERFORMING THE TESTS

7.1 Before submitting any Deliverables for Testing the Tester shall subject the relevant Deliverables to its own internal quality control measures.

7.2 The Tester shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 10.3.

7.3 The Tester shall notify the Buyer at least 3 Working Days in advance of the date, time and location of the relevant Tests and the Buyer shall ensure that the Test Witnesses attend the Tests.

7.4 Where in person attendance at a test is not reasonably practical, the Tester shall facilitate virtual Test Witnessing such as via online screen sharing.

7.5 The Buyer may raise and close Test Issues during the Test witnessing process.

7.6 The Tester shall provide to the Buyer in relation to each Test:

7.6.1 a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and

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- 7.6.2 the final Test Report within 2 Working Days of completion of Testing.
- 7.7 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
 - 7.7.1 an overview of the Testing conducted;
 - 7.7.2 identification of the relevant Test Success Criteria that have/have not been satisfied together with the Tester's explanation of why any criteria have not been met;
 - 7.7.3 the Tests that were not completed together with the Tester's explanation of why those Tests were not completed;
 - 7.7.4 the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 8.1; and
 - 7.7.5 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
 - 7.7.6 for each test not passed, a proposed severity of the Test Issue's severity impact and fix priority as specified in Paragraph 8.1.
- 7.8 When a Milestone has been completed the Tester shall submit any Deliverables relating to that Milestone for Testing.
- 7.9 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Buyer shall be entitled to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.
- 7.10 If the Tester successfully completes the requisite Tests (by achieving the applicable Test Success Criteria), the Buyer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion.
- 7.11 Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain responsible for ensuring that the Testing of Deliverables are implemented in accordance with this Contract as defined within the Test Strategy.

8. DISCOVERING PROBLEMS

- 8.1 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Tester shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 8.2 The Tester shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Tester shall make the Test Issue Management Log available to the Buyer upon request.
- 8.3 The Buyer shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Tester. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using an expedited dispute timetable.

9. LIVE PROVING

- 9.1 The Buyer may, in its sole discretion, require the Tester to facilitate Live Proving of the Deliverable in an end to end business context.
- 9.2 Live Proving facilitation may include, but is not restricted to:
 - 9.2.1 Active monitoring and reporting of status of transactions through querying of production databases.

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9.2.2 Acceleration and manipulation of Live Proving transactions as specified by the Buyer.

10. TEST WITNESSING

- 10.1 The Buyer may, in its sole discretion, require the attendance (in person or virtual) at any Test of one or more Test Witnesses selected by the Buyer, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 10.2 The Tester shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
- 10.3 The Test Witnesses:
- 10.3.1 shall actively review the Test documentation;
 - 10.3.2 will attend and engage in the performance of the Tests on behalf of the Buyer so as to enable the Buyer to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
 - 10.3.3 shall not be involved in the execution of any Test;
 - 10.3.4 shall be required to verify that the Tester conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
 - 10.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Buyer to assess whether the Tests have been Achieved;
 - 10.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
 - 10.3.7 may require the Tester to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

11. AUDITING THE QUALITY OF THE TEST

- 11.1 The Buyer or an agent or contractor appointed by the Buyer may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**").
- 11.2 The Tester shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 11.3 The Buyer will give the Tester at least 5 Working Days' written notice of the Buyer's intention to undertake a Testing Quality Audit.
- 11.4 The Tester shall provide all reasonable necessary assistance and access to all relevant documentation required by the Buyer to enable it to carry out the Testing Quality Audit.
- 11.5 If the Testing Quality Audit gives the Buyer concern in respect of the Testing Procedures or any Test, the Buyer shall prepare a written report for the Tester detailing its concerns and the Tester shall, within a reasonable timeframe, respond in writing to the Buyer's report.
- 11.6 In the event of an inadequate response to the written report from the Tester, the Buyer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Buyer.

12. OUTCOME OF THE TESTING

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- 12.1 The Buyer will issue a Satisfaction Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.
- 12.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Buyer shall notify the Tester and:
- 12.2.1 the Buyer may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;
 - 12.2.2 the Buyer may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Tester to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or
 - 12.2.3 where the Supplier has “sole responsibility” (as identified in the Testing Strategy) and where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Buyer’s other rights and remedies, such failure shall constitute a material Default.
- 12.3 Where the Supplier has “sole responsibility” (as identified in the Testing Strategy), the Buyer shall be entitled, without prejudice to its other rights and remedies, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for the relevant Deliverable(s) to be satisfied.
- 12.4 The Buyer shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:
- 12.4.1 the issuing by the Buyer of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
 - 12.4.2 performance by the Supplier to the reasonable satisfaction of the Buyer of any other tasks identified in the Implementation Plan as associated with that Milestone.
- 12.5 The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of relevant Milestones in accordance with the provisions of Schedule 7.1 (Charges).
- 12.6 If a Milestone is not Achieved, the Buyer shall promptly issue a report to the Supplier setting out the applicable Test Issues and any other reasons for the relevant Milestone not being Achieved.
- 12.7 If there are Test Issues, but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Buyer shall issue a Satisfaction Certificate.
- 12.8 If there is one or more Material Test Issue(s), the Buyer shall refuse to issue a Satisfaction Certificate and, without prejudice to the Buyer’s other rights and remedies, such failure shall constitute a material Default if the Supplier holds “sole responsibility” (as identified in the Testing Strategy).
- 12.9 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Buyer may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
- 12.9.1 any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Buyer agrees otherwise (in which case the Tester shall submit a Rectification Plan for approval by the Buyer within 10 Working Days of receipt of the Buyer’s report pursuant to Paragraph 11.5); and
 - 12.9.2 where the Buyer issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

13. RISK

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- 13.1 The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:
 - 13.1.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Buyer's requirements for that Deliverable or Milestone; or
 - 13.1.2 affect the Buyer's right subsequently to reject all or any element of the Deliverables and/or any Milestone to which a Satisfaction Certificate relates.

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Annex 1:

Test Issues – Severity Levels**1. SEVERITY 1 ERROR**

- 1.1 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.

2. SEVERITY 2 ERROR

- 2.1 This is an error for which, as reasonably determined by the Buyer, there is no practicable workaround available, and which:

- 2.1.1 causes a Component to become unusable;
- 2.1.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
- 2.1.3 has an adverse impact on any other Component(s) or any other area of the Deliverables;

3. SEVERITY 3 ERROR

- 3.1 This is an error which:

- 3.1.1 causes a Component to become unusable;
- 3.1.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
- 3.1.3 has an impact on any other Component(s) or any other area of the Deliverables;

but for which, as reasonably determined by the Buyer, there is a practicable workaround available;

4. SEVERITY 4 ERROR

- 4.1 This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Deliverables.

5. SEVERITY 5 ERROR

- 5.1 This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Deliverables.

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Annex 2:

Satisfaction Certificate

To: [insert name of Supplier]

From: [insert name of Buyer]

[insert Date dd/mm/yyyy]

Dear Sirs,

Satisfaction Certificate

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

We refer to the agreement ("**Call-Off Contract**") [insert Call-Off Contract reference number] relating to the provision of the [insert description of the Deliverables] between the [insert Buyer name] ("**Buyer**") and [insert Supplier name] ("**Supplier**") dated [insert Call-Off Start Date dd/mm/yyyy].

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

[We confirm that all the Deliverables relating to [insert relevant description of Deliverables/agreed Milestones and/or reference number(s) from the Implementation Plan] have been tested successfully in accordance with the Test Plan [or that a conditional Satisfaction Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria].

[OR]

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments)].

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Buyer]

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SCHEDULE 7.1 CHARGES AND INVOICING**1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

“Achieved Profit Margin”	the cumulative Supplier Profit Margin calculated from (and including) the Effective Date (or, if applicable, the date of the last adjustment to the Charges made pursuant to Paragraph 2.2 of Part D) to (and including) the last day of the previous Contract Year;
“Anticipated Contract Life Profit Margin”	the anticipated Supplier Profit Margin over the Term as reflected in the Financial Model;
“Capped ADR”	in relation to a Milestone Payment or Service Charge means a capped average day rate calculated by reference to a Time and Materials pricing mechanism in Attachment 7.1;
“Certificate of Costs”	a certificate of costs signed by the Supplier's Chief Financial Officer or Director of Finance (or equivalent as agreed in writing by the Buyer in advance of issue of the relevant certificate) and substantially in the format set out in Annex 3;
“Costs”	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Services:</p> <ul style="list-style-type: none"> (a) the cost to the Supplier or the Key Sub-contractor (as the context requires), calculated per Work Day, of engaging the Supplier Personnel, including: <ul style="list-style-type: none"> (i) base salary paid to the Supplier Personnel; (ii) employer's national insurance contributions; (iii) Employer Pension Contributions; (iv) car allowances; (v) any other contractual employment benefits; (vi) staff training; (vii) work place accommodation; (viii) work place IT equipment and tools reasonably necessary to perform the Services (but not including items included within limb (b) below); and (ix) reasonable recruitment costs, as agreed with the Buyer; (b) costs incurred in respect of those Assets which are detailed on the Registers and which would be treated as capital costs according to generally accepted accounting

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principles within the UK, which shall include the cost to be charged in respect of Assets by the Supplier to the Buyer or (to the extent that risk and title in any Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Assets;

- (c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the delivery of the Services;
- (d) Forecast Contingency Costs;
- (e) Reimbursable Expenses to the extent these are incurred in delivering any Services where the Charges for those Services are to be calculated on a Fixed Price or Firm Price pricing mechanism;

but excluding:

- (i) Overhead;
- (ii) financing or similar costs;
- (iii) maintenance and support costs to the extent that these relate to maintenance and/or support services provided beyond the Term, whether in relation to Assets or otherwise;
- (iv) taxation;
- (v) fines and penalties;
- (vi) amounts payable under Schedule 7.3 (*Benchmarking*); and
- (vii) non-cash items (including depreciation, amortisation, impairments and movements in provisions);

“Delay Payment Rate” has the meaning given in Paragraph 1.1(a) of Part C;

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“The Employer Pension Contributions”

means:

- (a) in respect of CSPA Eligible Employees those sums set out at Clauses 7.1.1 (annual administration charges covering core services), 7.1.5 (employer contributions), 7.1.7 (the ASLC) and 7.1.8 (flat charges applicable to the Partnership Pension Account) of the Admission Contract;
- (b) in respect of NHSPA Eligible Employees, the standard employer contribution rate applicable to NHS Pension Scheme employers during the Term and payable by the Supplier^[1] (but no other costs, contributions, charges or surcharges payable by the Supplier to or in respect of the NHS Pension Scheme or in respect of any NHS Premature Retirement Rights, unless otherwise agreed in writing by the Buyer);
- (c) in respect of LGPS Eligible Employees the standard employer contribution rate applicable to LGPS Eligible Employees during the Term and payable by the Supplier^[2] (but no other costs, contributions, charges or surcharges payable by the Supplier to or in respect of the LGPS or in respect of any Beckmann Liabilities, unless otherwise agreed in writing by the Buyer); and

such other employer pension contributions, charges or costs incurred by the Supplier which have been expressly agreed by the Buyer in writing to constitute 'Employer Pension Contributions';

“European Standard”

in relation to an electronic invoice means the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870.

“Forecast Contingency Costs”

the costs which the Supplier forecasts may be incurred in relation to the risks and contingencies that are identified in the Risk Register, such costs being those set out in the column headed 'Forecast Contingency Costs' in the Risk Register (as such costs are updated from time to time);

“Guaranteed Maximum Price”

in relation to a Milestone, 110% of the Target Price for the relevant Milestone;

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“Incurred Costs”	<p>in relation to a Milestone, the sum of:</p> <p>the fixed day costs set out in Table 3 of Part A of Attachment 7.1 (Charges) of the Order Form multiplied by the number of Work Days that have been expended by the Supplier Personnel in Achieving the relevant Milestone; and</p> <p>any amount that would fall within limbs (b) or (c) of the definition of “Costs” (but subject to exceptions (i) to (vii) in that definition), to the extent that such amount has been incurred in Achieving the relevant Milestone;</p>
“Indexation” and “Index”	the adjustment of an amount or sum in accordance with Paragraph 55 of Part C;
“Maximum Permitted Profit Margin”	the Anticipated Contract Life Profit Margin plus 5%;
“Milestone Group”	has the meaning given in Paragraph 1.5 of Part B;
“Milestone Retention”	has the meaning given in Paragraph 1.3 of Part B;
“Overhead”	<p>those amounts which are intended to recover a proportion of the Supplier’s or the Key Sub-contractor’s (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Personnel and accordingly included within limb (a) of the definition of “Costs” or the day cost set out in Table 3 of Part A of Attachment 7.1 (Charges) of the Order Form;</p>
“Reimbursable Expenses”	<p>reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer’s expenses policy current from time to time, but not including:</p> <p>(a) travel expenses incurred as a result of Supplier Personnel travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and</p> <p>(b) subsistence expenses incurred by Supplier Personnel whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</p>
“Supplier Profit”	in relation to a period or a Milestone (as the context requires), the difference between the total Charges (in nominal cash flow terms but excluding any Deductions) and total Costs (in nominal cash flow terms) for the relevant period or in relation to the relevant Milestone;

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“Supplier Profit Margin”	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
“Supporting Documentation”	sufficient information in writing to enable the Buyer reasonably to assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer detailed in the information are properly payable, including copies of any applicable Milestone Achievement Certificates or receipts;
“Target Cost”	has the meaning given in Paragraph 3.1 of Part A;
“Target Price”	has the meaning given in Paragraph 3.1 of Part A;
“Verification Period”	in relation to an Allowable Assumption, the period from (and including) the Effective Date to (and including) the date at which the relevant Allowable Assumption expires, as set out against the relevant Allowable Assumption in column 11 in the table in Part D of Attachment 7.1 (Charges) of the Order Form;
“Work Day”	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
“Work Hours”	the hours spent by the Supplier Personnel properly working on the Services including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;

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Part A: Pricing**1. APPLICABLE PRICING MECHANISM**

- 1.1 Milestone Payments and Service Charges shall be calculated using the pricing mechanism specified in Part B of Attachment 7.1 (Charges) of the Order Form and on the basis of the rates and prices specified in Part A of Attachment 7.1 (Charges) of the Order Form as more particularly set out in this Schedule.
- 1.2 Table 1 of Part B of Attachment 7.1 (Charges) of the Order Form sets out which pricing mechanism shall be used to calculate each Milestone Payment, which shall be one or more of the following:
- (a) **“Time and Materials”**, in which case the provisions of Paragraph 2 shall apply;
 - (b) **“Guaranteed Maximum Price with Target Cost”**, in which case the provisions of Paragraph 3 shall apply;
 - (c) **“Fixed Price”**, in which case the provisions of Paragraph 4 shall apply; or
 - (d) **“Firm Price”**, in which case the provisions of Paragraph 5 shall apply.
- 1.3 Table 2 of Annex 2 sets out which pricing mechanism shall be used to calculate each Service Charge, which shall be one or more of the following:
- (a) **“Time and Materials”**, in which case the provisions of Paragraph 2 shall apply;
 - (b) **“Volume Based”** pricing, in which case the provisions of Paragraph 6 shall apply; or
 - (c) **“Fixed Price”** in which case the provisions of Paragraph 4 shall apply.

2. TIME AND MATERIALS MILESTONE PAYMENTS OR SERVICE CHARGES

- 2.1 Where Table 1 or Table 2 of Part B of Attachment 7.1 (Charges) of the Order Form indicates that a Milestone Payment or Service Charge (as applicable) is to be calculated by reference to a Time and Materials pricing mechanism:
- (a) the day rates set out in Table 1 of Part A of Attachment 7.1 (Charges) of the Order Form shall be used to calculate the relevant Charges, provided that the Supplier (or its Sub-contractor) shall:
 - (i) not be entitled to include any uplift for risks or contingencies within its day rates;
 - (ii) not be paid any Charges to the extent that they would otherwise exceed the cap specified against the relevant Charge in Table 2 of Part A of Attachment 7.1 (Charges) of the Order Form unless the Supplier has obtained the Buyer's prior written consent. The Supplier shall monitor the amount of each Charge incurred in relation to the relevant cap and notify the Buyer immediately in the event of any risk that the cap may be exceeded and the Buyer shall instruct the Supplier on how to proceed;
 - (iii) unless otherwise agreed by the Buyer in relation to the relevant Milestone Payment or Service Charge (as the case may be), not be paid any Charges to

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the extent that they would otherwise exceed the amount calculated by multiplying:

- (A) the total number of days expended by the Supplier in relation to the relevant Milestone; or
- (B) the total number of days expended by the Supplier during the relevant Service Period in relation to the relevant Service,

by the Capped ADR; and

- (iv) only be entitled to be paid Charges that have been properly and reasonably incurred, taking into account the Supplier's obligation to deliver the Services in a proportionate and efficient manner; and
 - (b) the Supplier shall keep records of hours properly worked by Supplier Personnel (in the form of timesheets) and expenses incurred and submit a summary of the relevant records with each invoice. If the Buyer requests copies of such records, the Supplier shall make them available to the Buyer within 10 Working Days of the Buyer's request.
- 2.2 The Supplier shall be entitled to Index the rates set out in Table 1 of Part A of Attachment 7.1 (Charges) of the Order Form and the Capped ADR in accordance with Paragraph 5 of Part C, but any caps set out in Table 2 of Part A of Attachment 7.1 (Charges) of the Order Form shall not be subject to Indexation.

3. GUARANTEED MAXIMUM PRICE WITH TARGET COST INCENTIVE MILESTONE PAYMENTS

- 3.1 Where Table 1 of Part B of Attachment 7.1 (Charges) of the Order Form indicates that a Milestone Payment is to be calculated by reference to the Guaranteed Maximum Price with Target Cost pricing mechanism, the target Costs (the "**Target Cost**") and the target Charge (the "**Target Price**") for the relevant Milestone shall be as set out in Table 4 of Part A of Attachment 7.1 (Charges) of the Order Form.
- 3.2 If the Incurred Costs relating to a Milestone are lower than the Target Cost for that Milestone, the difference between the Incurred Costs and the Target Cost shall be shared equally between the Buyer and the Supplier (resulting in the Supplier receiving a higher Supplier Profit Margin in relation to that Milestone), and the Milestone Payment shall be calculated as follows:

$$\text{Milestone Payment} = \text{TP} - ((\text{TC} - \text{IC})/2)$$

where:

- TP is the Target Price for the relevant Milestone;
- TC is the Target Cost for the relevant Milestone; and
- IC is the Incurred Costs relating to the relevant Milestone.

- 3.3 If the Incurred Costs relating to a Milestone are greater than the Target Cost for that Milestone, the difference between the Incurred Costs and the Target Cost shall be borne equally between the Buyer and the Supplier (resulting in the Supplier receiving a lower Supplier Profit Margin in relation to that Milestone), provided that the maximum Milestone Payment payable by the Buyer for the relevant Milestone shall not exceed an amount equal to the guaranteed maximum price

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for that Milestone as set out in Table 4 of Part A of Attachment 7.1 (Charges) of the Order Form (the “**Guaranteed Maximum Price**”) Represented numerically:

(a) if:

- (i) $IC > TC$; and
- (ii) $TP + ((IC - TC)/2) < GMP$,

then Milestone Payment = $TP + ((IC - TC)/2)$; or

(b) if:

- (i) $IC > TC$; and
- (ii) $TP + ((IC - TC)/2) \geq GMP$,

then Milestone Payment = GMP

where:

- IC is the Incurred Costs relating to the relevant Milestone;
- TC is the Target Cost for the relevant Milestone;
- TP is the Target Price for the relevant Milestone; and
- GMP is $TP * 1.1$, being the Guaranteed Maximum Price for the relevant Milestone.

- 3.4 The Supplier shall be entitled to Index the day costs set out in Table 3 of Part A of Attachment 7.1 (Charges) of the Order Form annually, but the Target Cost, Target Price and Guaranteed Maximum Price shall not be subject to Indexation.

4. FIXED PRICE MILESTONE PAYMENTS OR SERVICE CHARGES

- 4.1 Where Table 1 or Table 2 of Part B of Attachment 7.1 (Charges) of the Order Form indicates that a Milestone Payment or Service Charge is to be calculated by reference to a Fixed Price pricing mechanism, the relevant Charge shall be the amount set out against that Charge in Table 5 of Part A of Attachment 7.1 (Charges) of the Order Form.

- 4.2 Charges calculated by reference to a Fixed Price pricing mechanism shall be subject to increase by way of Indexation.

5. FIRM PRICE MILESTONE PAYMENTS

- 5.1 Where Table 1 of Part B of Attachment 7.1 (Charges) of the Order Form indicates that a Milestone Payment is to be calculated by reference to a Firm Price pricing mechanism, the relevant Charge shall be the amount set out against that Charge in Table 6 of Part A of Attachment 7.1 (Charges) of the Order Form.

- 5.2 Charges calculated by reference to a Firm Price pricing mechanism shall not be subject to increase by way of Indexation.

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6. VOLUME BASED SERVICE CHARGES

- 6.1 Where Table 2 of Part B of Attachment 7.1 (Charges) of the Order Form indicates that a Service Charge is to be calculated by reference to a Volume Based pricing mechanism, the relevant Charges shall be calculated on the basis of the unit costs set out against that Service Charge in Table 7 of Part A of Attachment 7.1 (Charges) of the Order Form.
- 6.2 In the event that the volume of any Services that are to be calculated by reference to a Volume Based pricing mechanism fall outside the relevant volume bands set out against that Service Charge in Table 7 of Part A of Attachment 7.1 (Charges) of the Order Form, the relevant Service Charges shall be calculated in accordance with the Change Control Procedure and Paragraph 4 of Part C.
- 6.3 The Charge per unit set out in Table 7 of Part A of Attachment 7.1 (Charges) of the Order Form shall be subject to annual Indexation.

7. REIMBURSABLE EXPENSES

- 7.1 Where:
- (a) Services are to be charged using the Time and Materials or Guaranteed Maximum Price with Target Cost pricing mechanism; and
 - (b) the Buyer so agrees in writing,
- the Supplier shall be entitled to be reimbursed by the Buyer for Reimbursable Expenses (in addition to being paid the relevant Charges), provided that such Reimbursable Expenses are supported by Supporting Documentation.
- 7.2 The Buyer shall provide a copy of its current expenses policy to the Supplier upon request.
- 7.3 Except as expressly set out in Paragraph 7.1, the Charges shall include all costs and expenses relating to the Deliverables, the Services and/or the Supplier's performance of its obligations under this Contract and no further amounts shall be payable by the Buyer to the Supplier in respect of such performance, including in respect of matters such as:
- (a) any incidental expenses that the Supplier incurs, including travel, subsistence and lodging, document and report reproduction, shipping, desktop and office equipment costs required by the Supplier Personnel, including network or data interchange costs or other telecommunications charges; or
 - (b) any amount for any services provided or costs incurred by the Supplier prior to the Effective Date.

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Part B: Charging Mechanisms**1. MILESTONE PAYMENTS**

- 1.1 Subject to the provisions of Paragraph 1.3 of Part C in relation to the deduction of Delay Payments, on the Achievement of a Milestone the Supplier shall be entitled to invoice the Buyer for the Milestone Payment associated with that Milestone less the applicable Milestone Retention in accordance with this Part B.
- 1.2 Each invoice relating to a Milestone Payment shall be supported by:
- (a) a Milestone Achievement Certificate; and
 - (b) where the Milestone Payment is to be calculated by reference to a Guaranteed Maximum Price with Target Cost or Time and Materials pricing mechanism, a Certificate of Costs with Supporting Documentation.
- 1.3 The “**Milestone Retention**” for each Milestone shall be calculated as follows:
- (a) where the Milestone Payment for the relevant Milestone is determined by reference to a Guaranteed Maximum Price with Target Cost pricing mechanism, 10% of the Target Price for the Milestone;
 - (b) where the Milestone Payment for the relevant Milestone is determined by reference to a Time and Materials, Fixed Price or Firm Price pricing mechanism, 10% of the Charges for that Milestone,

and, in the case of a Key Milestone, prior to deduction from the Milestone Payment of any Delay Payment attributable to that Key Milestone and without taking account of any amount payable by the Supplier pursuant to Paragraph 1.3 of Part C.

Guaranteed Maximum Price with Target Cost pricing mechanism

- 1.4 Where a Milestone Payment relating to a single Milestone is to be calculated by reference to a Guaranteed Maximum Price with Target Cost pricing mechanism, then the following payment process shall apply:
- (a) upon the issue of a Milestone Achievement Certificate for the Milestone, the Supplier may invoice the Buyer for the Target Price for the relevant Milestone, less the Milestone Retention calculated using such Target Price; and
 - (b) no later than 60 Working Days after the invoice referred to in Paragraph 1.3(a) has been issued, the Supplier shall:
 - (i) submit to the Buyer a report setting out the Incurred Costs and actual Milestone Payment for the Milestone;
 - (ii) issue to the Buyer an invoice or credit note for the difference between the actual Milestone Payment payable and the Target Price invoiced for the Milestone (in each case, after deducting the applicable Milestone Retention);
 - (iii) where a credit note is to be issued to the Buyer pursuant to Paragraph 1.4(b)(ii), repay to the Buyer a sum equal to such difference as a debt within 10 Working Days of issue of the credit note; and
 - (iv) issue a Certificate of Costs with Supporting Documentation, which shall exclude any accruals, prepayments and provisions.

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- 1.5 Where Milestones are stated in Table 4 of Part A of Attachment 7.1 (Charges) of the Order Form to constitute a group of Milestones (a “**Milestone Group**”) and the Milestone Payments relating to the Milestones in that Milestone Group are each to be calculated by reference to a Guaranteed Maximum Price with Target Cost pricing mechanism, then the following payment process shall apply:
- (a) in respect of each Milestone within the Milestone Group, the Supplier may invoice the Buyer for the Target Price for the relevant Milestone, less the Milestone Retention calculated using such Target Price, upon the issue of the associated Milestone Achievement Certificate; and
 - (b) no later than 60 Working Days after the issue of the invoice for the final Milestone Payment relating to the Milestone Group, the Supplier shall:
 - (i) submit to the Buyer a report setting out the Incurred Costs and actual Milestone Payments for the Milestone Group;
 - (ii) issue to the Buyer an invoice or credit note for the difference between the aggregate of the actual Milestone Payments payable and Target Prices invoiced for Milestones in the Milestone Group (in each case, after deducting all Milestone Retentions relating to that Milestone Group);
 - (iii) where a credit note is to be issued to the Buyer pursuant to Paragraph 1.5(b)(ii), repay to the Buyer a sum equal to such difference as a debt within 10 Working Days of issue of the credit note; and
 - (iv) issue a Certificate of Costs with Supporting Documentation, which shall exclude any accruals, prepayments and provisions.
- 1.6 If the Supplier does not repay any such sum as is referred to in Paragraph 1.4(b)(ii) or 1.5(b)(ii) within 10 Working Days of issue of the relevant credit note, it shall repay such sum together with interest on such sum at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from (and including) the due date up to (but excluding) the date of actual payment, whether before or after judgment.
- 1.7 Following the issue of a Certificate of Costs in accordance with Paragraph 1.2, 1.4(b)(iii) or 1.5(b)(iii), the Supplier shall not be entitled to invoice the Buyer for any additional Charges relating to the Milestone or Milestone Group (as applicable) save as provided in Paragraph 1.8.

Release of Milestone Retentions

- 1.8 On Achievement of a CPP Milestone relating to the Supplier Solution or one or more Services (as the case may be), the Supplier shall be entitled to invoice the Buyer for an amount equal to all Milestone Retentions that relate to Milestones identified in the “*CPP Milestone Charge Number*” column of Table 1 (or, in relation to Milestone Retentions in respect of Optional Services, Table 3) of Part B of Attachment 7.1 (Charges) of the Order Form and corresponding CPP Milestone Charge Number identified in Paragraph 2 of Attachment 6.2 (Testing Procedures) of the Order Form as being payable in respect of that CPP Milestone and have not been paid before such CPP Milestone.

2. SERVICE CHARGES

- 2.1 Each Service to which a Service Charge relates shall commence on the Achievement of the Milestone set out against that Service in the “*Service Charge Trigger Event*” column of Table 2 of Part B of Attachment 7.1 (Charges) of the Order Form.

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2.2 Service Charges shall be invoiced by the Supplier for each Service Period in arrear in accordance with the requirements of Part E.

2.3 If a Service Charge is to be calculated by reference to a Fixed Price pricing mechanism and the relevant Service:

- (a) commences on a day other than the first day of a month; and/or
- (b) ends on a day other than the last day of a month,

the Service Charge for the relevant Service Period shall be pro-rated based on the proportion which the number of days in the month for which the Service is provided bears to the total number of days in that month.

2.4 Any Service Credits that accrue during a Service Period shall be deducted from the Service Charges payable for the next following Service Period. An invoice for a Service Charge shall not be payable by the Buyer unless all adjustments (including Service Credits) relating to the Service Charges for the immediately preceding Service Period have been agreed.

3. OPTIONAL SERVICES

If the Buyer gives notice pursuant to Clause 5.10 (*Optional Services*) that it requires the Supplier to provide any or all of the Optional Services:

- (a) the Milestone Payments (if any) for the relevant Optional Services shall be calculated by reference to the pricing mechanism for those Optional Services set out in Table 3 of Part B of Attachment 7.1 (Charges) of the Order Form; and
- (b) the Service Charges for the relevant Optional Services shall be calculated by reference to the pricing mechanism for those Optional Services set out in Table 4 of Part B of Attachment 7.1 (Charges) of the Order Form,

in both cases using the relevant rates and prices specified in Part A of Attachment 7.1 (Charges) of the Order Form.

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Part C: Adjustments to the Charges and Risk Register**1. DELAY PAYMENTS**

1.1 If a Key Milestone has not been Achieved on or before the relevant Milestone Date, the Supplier shall pay a Delay Payment to the Buyer in respect of that Key Milestone. Delay Payments shall accrue:

- (a) at the daily rate (the “**Delay Payment Rate**”) determined in accordance with Paragraph 1.2;
- (b) from (but excluding) the relevant Milestone Date to (and including) the later of:
 - (i) the date on which the Key Milestone is Achieved; and
 - (ii) the expiry of the Delay Deduction Period; and
- (c) on a daily basis, with any part day’s Delay counting as a day.

1.2 Where a Delay Payment is payable in respect of a Key Milestone, the Delay Payment Rate shall be:

- (a) where the Supplier has given the Buyer less than 3 months’ prior notice of the Delay, the amount set out in column 4 of Table 1 of Part B of Attachment 7.1 (Charges) of the Order Form for the Key Milestone;
- (b) where the Supplier has given the Buyer between three (3) months’ and six (6) months’ prior notice of the Delay, the amount set out in column 5 of Table 1 of Part B of Attachment 7.1 (Charges) of the Order Form for the Key Milestone; or
- (c) where the Supplier has given the Buyer more than 6 months’ prior notice of the Delay, the amount set out in column 6 of Table 1 of Part B of Attachment 7.1 (Charges) of the Order Form for the Key Milestone.

1.3 Where the Supplier serves a notice pursuant to Paragraph 1.2(b) or 1.2(c), the Supplier shall, within 5 Working Days of the date the notice is served:

- (a) pay to the Buyer in cleared funds on account of the relevant Delay Payment (but subject always to Paragraph 1.4) an amount equal to:
 - (i) in the case of a notice served pursuant to Paragraph 1.2(b), five (5) days of Delay Payments; or
 - (ii) in the case of a notice served pursuant to Paragraph 1.2(c), ten (10) days of Delay Payments in accordance with paragraph 1.4,

in each case calculated at the applicable Delay Payment Rate; and

- (b) issue a credit note to the Buyer in respect of the relevant amount.

Failure to make payment within 10 Working Days of the Supplier’s notice shall invalidate the notice.

1.4 Any amounts paid to the Buyer pursuant to Paragraph 1.3 shall not be refundable to the Supplier in any circumstances, including where a Delay as referred to in the Supplier’s notice:

- (a) does not occur; or

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- (b) does occur but continues for fewer days during the relevant Delay Deduction Period than the number of days referred to in Paragraph 1.3(a) or 1.3(b) as the case may be.
- 1.5 The Parties agree that Delay Payments calculated in accordance with the applicable Delay Payment Rates are in each case a genuine pre-estimate of the Losses which the Buyer will incur as a result of any failure by the Supplier to Achieve the relevant Key Milestone by the Milestone Date. Delay Payment Rates are stated exclusive of VAT.
- 1.6 The Delay Payment in respect of a Key Milestone (net of any payment made in respect of that Key Milestone pursuant to Paragraph 1.3) shall be shown as a deduction from the amount due from the Buyer to the Supplier in the next invoice due to be issued by the Supplier after the date on which the relevant Key Milestone is Achieved or the expiry of the Delay Deduction Period (as the case may be). If the relevant Key Milestone is not Achieved by the expiry of the Delay Deduction Period and no invoice is due to be issued by the Supplier within 10 Working Days of expiry of the Delay Deduction Period, then the Supplier shall within 10 Working Days of expiry of the Delay Deduction Period:
 - (a) issue a credit note to the Buyer in respect of the total amount of the Delay Payment in respect of the Key Milestone (net of any payment made in respect of the Key Milestone pursuant to Paragraph 1.3); and
 - (b) pay to the Buyer as a debt a sum equal to the total amount of the Delay Payment in respect of the Key Milestone together with interest on such amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from (and including) the due date up to (but excluding) the date of actual payment, whether before or after judgment.

2. PAYMENTS FOR DELAYS DUE TO BUYER CAUSE

- 2.1 If the Supplier is entitled in accordance with Clause 31.1(iii)(D) (*Buyer Cause*) to compensation for failure to Achieve a Milestone by its Milestone Date, then, subject always to Clause 25 (*Limitations on Liability*), such compensation shall be determined in accordance with the following principles:
 - (a) the compensation shall reimburse the Supplier for additional Costs incurred by the Supplier that the Supplier:
 - (i) can demonstrate it has incurred solely and directly as a result of the Buyer Cause; and
 - (ii) is, has been, or will be unable to mitigate, having complied with its obligations under Clause 31.1 (*Buyer Cause*)

together with an amount equal to the Anticipated Contract Life Profit Margin thereon;

- (b) the compensation shall not operate so as to put the Supplier in a better position than it would have been in but for the occurrence of the Buyer Cause;
- (c) where the Milestone Payment for the relevant Milestone is to be calculated by reference to the Guaranteed Maximum Price with Target Cost pricing mechanism, then:
 - (i) the Target Price for the Milestone shall be increased in accordance with the following formula:

$$NTP = TP + (AC \times 1. x)$$

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where:

- NTP is the revised Target Price for the relevant Milestone;
- TP is the original Target Price for the relevant Milestone;
- AC is an amount equal to any additional Costs incurred by the Supplier in Achieving the Milestone to the extent that the Supplier can demonstrate that such additional Costs were caused by the Buyer Cause; and
- x is the Supplier Profit Margin that the Supplier would have received in respect of the relevant Milestone on the basis of the unadjusted Target Cost and unadjusted Target Price for that Milestone, as set out in Table 4 of Annex 1, expressed as a decimal; and

- (ii) the Guaranteed Maximum Price shall be increased to an amount equal to 110% of the Target Price as adjusted pursuant to Paragraph 2.1(c)(i);
- (d) where the relevant Milestone Payment is to be calculated based upon a Fixed Price or a Firm Price pricing mechanism, the compensation shall include such amount as is appropriate to maintain the Supplier Profit Margin set out in respect of the relevant Milestone in Table 5 or Table 6 of Part A of Attachment 7.1 (Charges) of the Order Form; and
- (e) where the Milestone Payment includes any Charges which are capped, then to the extent that the compensation agreed pursuant to this Paragraph 2 results in the Buyer paying additional Time and Materials Charges for resources or effort which the Supplier demonstrates are required as a result of the Buyer Cause, such additional Time and Materials Charges shall be disregarded for the purposes of calculating the relevant cap.

The Supplier shall provide the Buyer with any information the Buyer may require in order to assess the validity of the Supplier's claim to compensation.

3. SERVICE CREDITS

- 3.1 Service Credits shall be calculated by reference to the number of Service Points accrued in any one Service Period pursuant to the provisions of Schedule 2.2 (*Performance Levels*).
- 3.2 For each Service Period:
 - (a) the Service Points accrued shall be converted to a percentage deduction from the Service Charges for the relevant Service Period on the basis of one point equating to a **[Insert Percentage]**% deduction in the Service Charges; and
 - (b) the total Service Credits applicable for the Service Period shall be calculated in accordance with the following formula:

$$SC = TSP \times X \times AC$$

where:

- SC is the total Service Credits for the relevant Service Period;
- TSP is the total Service Points that have accrued for the relevant Service Period;

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X is [Insert percentage deduction per Service Point]%; and

AC is the total Services Charges payable for the relevant Service Period (prior to deduction of applicable Service Credits).

3.3 The liability of the Supplier in respect of Service Credits shall be subject to Clause 25.4(c) (*Financial and other Limits*) provided that, for the avoidance of doubt, the operation of the Service Credit Cap shall not affect the continued accrual of Service Points in excess of such financial limit in accordance with the provisions of Schedule 2.2 (*Performance Levels*).

3.4 Service Credits are a reduction of the Service Charges payable in respect of the relevant Services to reflect the reduced value of the Services actually received and are stated exclusive of VAT.

3.5 Service Credits shall be shown as a deduction from the amount due from the Buyer to the Supplier in the invoice for the Service Period immediately succeeding the Service Period to which they relate.

4. CHANGES TO CHARGES

4.1 Any Changes to the Charges shall be developed and agreed by the Parties in accordance with Schedule 8.2 (*Change Control Procedure*) and on the basis that the Supplier Profit Margin on such Charges shall:

(a) be no greater than that applying to Charges using the same pricing mechanism as at the Effective Date (as set out in the Contract Inception Report); and

(b) in no event exceed the Maximum Permitted Profit Margin.

4.2 The Buyer may request that any Impact Assessment presents Charges without Indexation for the purposes of comparison.

5. INDEXATION

5.1 Any amounts or sums in this Contract which are expressed to be “subject to Indexation” shall be adjusted in accordance with the provisions of this Paragraph 5 to reflect the effects of inflation.

5.2 Where Indexation applies, the relevant adjustment shall be:

(a) applied on the first day of the second April following the Effective Date and on the first day of April in each subsequent year (each such date an “**adjustment date**”); and

(b) determined by multiplying the relevant amount or sum by the percentage increase or changes in the Consumer Price Index published for the 12 months ended on the 31 January immediately preceding the relevant adjustment date.

5.3 Except as set out in this Paragraph 5, neither the Charges nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier or Sub-contractors of the performance of their obligations.

6. ALLOWABLE ASSUMPTIONS

6.1 The Supplier shall determine whether each Allowable Assumption is accurate within its Verification Period.

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- 6.2 During each Verification Period, the Buyer shall provide the Supplier with reasonable assistance and access to information within its possession or reasonable control and which the Buyer deems is relevant to the Allowable Assumption being verified.
- 6.3 Within 10 Working Days of the end of each Verification Period, the Supplier shall provide the Buyer with a written report setting out the results of the Supplier's verification activity for the relevant Allowable Assumption, including whether the Allowable Assumption is accurate or whether the Implementation Plan and/or the Contract Inception Report require adjustment.
- 6.4 Each Allowable Assumption shall be deemed accurate unless adjusting for the relevant Allowable Assumption has an impact:
- (a) on the Financial Model greater than the associated trigger for invocation, as set out in column 9 of the table in Part D of Attachment 7.1 (Charges) of the Order Form; or
 - (b) on the Implementation Plan which would require adjustment under the Change Control Procedure, as identified in column 3 of the table in Part D of Attachment 7.1 (Charges) of the Order Form,
- in which case Paragraph 6.5 shall apply.
- 6.5 Where the Parties agree that an Allowable Assumption is not accurate and the Financial Model and/or Implementation Plan require adjusting:
- (a) the Supplier shall take all reasonable steps to mitigate the impact of the Allowable Assumption on the Financial Model and/or the Implementation Plan;
 - (b) the Supplier may (subject to Paragraph 6.5(c)) propose a Change to take account of the impact of the adjustment of the Allowable Assumption and such Change Request shall be considered in accordance with the Change Control Procedure; and
 - (c) where the Supplier proposes a Change to the Charges under Paragraph 6.5(b), the Change Request shall reflect the requirements of the table in Part D of Attachment 7.1 (Charges) of the Order Form, including the requirement that any proposed adjustment to the Charges shall not exceed the maximum impact on the relevant Charges as specified in column 7 of the table in Part D of Attachment 7.1 (Charges) of the Order Form.

7. RISK REGISTER

The Parties shall review the Risk Register set out in Part C of Attachment 7.1 (Charges) of the Order Form from time to time and as otherwise required for the purposes of Schedule 8.1 (*Governance*).

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Part D: Excessive Supplier Profit Margin**1. LIMIT ON SUPPLIER PROFIT MARGIN**

- 1.1 The Supplier acknowledges that the Achieved Profit Margin applicable over the Term shall not exceed the Maximum Permitted Profit Margin.
- 1.2 The Supplier shall include in each Annual Contract Report the Achieved Profit Margin as at the end of the Contract Year to which the Annual Contract Report is made up and the provisions of Paragraph 2 of Part B of Schedule 7.5 (*Financial Reports and Audit Rights*) shall apply to the approval of the Annual Contract Report.

2. ADJUSTMENT TO THE CHARGES IN THE EVENT OF EXCESS SUPPLIER PROFIT

- 2.1 If an Annual Contract Report demonstrates (or it is otherwise determined pursuant to Paragraph 2 of Part B of Schedule 7.5 (*Financial Reports and Audit Rights*)) that the Achieved Profit Margin as at the end of the Contract Year to which the Annual Contract Report is made up exceeds the Maximum Permitted Profit Margin:
- (a) the Supplier shall, within 5 Working Days of delivery to the Buyer of the Annual Contract Report, propose such adjustments to the Charges as will ensure that the Achieved Profit Margin both over the Contract Year to which the next Annual Contract Report will relate and over the Term will not exceed the Maximum Permitted Profit Margin;
 - (b) the Buyer (acting reasonably) may agree or reject the proposed adjustments;
 - (c) if the Buyer rejects the proposed adjustments it shall give reasons and the Supplier shall propose revised adjustments within 10 Working Days of receiving those reasons; and
 - (d) if the Parties cannot agree such revised adjustments and the Buyer terminates this Contract by issuing a Termination Notice to the Supplier pursuant to Clause 33.1(a) (*Termination by the Buyer*), then for the purpose of calculating any Compensation Payment due to the Supplier, the Termination Notice shall be deemed to have been served as at the date of receipt by the Buyer of the relevant Annual Contract Report.
- 2.2 Pending agreement of a proposed adjustment to the Charges pursuant to this Part D, the Charges then in force shall continue to apply. Once the adjustments to the Charges are agreed in accordance with Paragraph 2.1, the Parties shall document the adjustment in a Change Authorisation Note and the adjusted Charges shall apply with effect from the first day of the Service Period that immediately follows the Service Period in which the Change Authorisation Note is executed or such other date as is specified in the Change Authorisation Note.

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Part E: Invoicing and Payment Terms**1. SUPPLIER INVOICES**

- 1.1 The Buyer shall accept for processing any electronic invoice that complies with the European Standard, provided that it is valid and undisputed.
- 1.2 If the Supplier proposes to submit for payment an invoice that does not comply with the European standard the Supplier shall:
- (a) comply with the requirements of the Buyer's e-invoicing system;
 - (b) prepare and provide to the Buyer for approval of the format a template invoice within 10 Working Days of the Effective Date which shall include, as a minimum the details set out in Paragraph 1.3 together with such other information as the Buyer may reasonably require to assess whether the Charges that will be detailed therein are properly payable; and
 - (c) make such amendments as may be reasonably required by the Buyer if the template invoice outlined in (b) is not approved by the Buyer.
- 1.3 The Supplier shall ensure that each invoice is submitted in the correct format for the Buyer's e-invoicing system, or that it contains the following information:
- (a) the date of the invoice;
 - (b) a unique invoice number;
 - (c) the Service Period or other period(s) to which the relevant Charge(s) relate;
 - (d) the correct reference for this Contract;
 - (e) the reference number of the purchase order to which it relates (if any);
 - (f) the dates between which the Services subject of each of the Charges detailed on the invoice were performed;
 - (g) a description of the Services;
 - (h) the pricing mechanism used to calculate the Charges (such as Guaranteed Maximum Price with Target Cost, Fixed Price, Time and Materials etc.);
 - (i) any payments due in respect of Achievement of a Milestone, including the Milestone Achievement Certificate number for each relevant Milestone;
 - (j) the total Charges gross and net of any applicable deductions and, separately, the amount of any Reimbursable Expenses properly chargeable to the Buyer under the terms of this Contract, and, separately, any VAT or other sales tax payable in respect of each of the same;
 - (k) details of any Service Credits or Delay Payments or similar deductions that shall apply to the Charges detailed on the invoice;

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- (l) reference to any reports required by the Buyer in respect of the Services to which the Charges detailed on the invoice relate (or in the case of reports issued by the Supplier for validation by the Buyer, then to any such reports as are validated by the Buyer in respect of the Services);
 - (m) a contact name and telephone number of a responsible person in the Supplier's finance department in the event of administrative queries;
 - (n) the banking details for payment to the Supplier via electronic transfer of funds (i.e. name and address of bank, sort code, account name and number); and
 - (o) where the Services have been structured into separate Service lines, the information at (a) to (n) of this paragraph 1.3 shall be broken down in each invoice per Service line.
- 1.4 The Supplier shall invoice the Buyer in respect of Services in accordance with the requirements of Part B. The Supplier shall first submit to the Buyer a draft invoice setting out the Charges payable. The Parties shall endeavour to agree the draft invoice within 5 Working Days of its receipt by the Buyer, following which the Supplier shall be entitled to submit its invoice.
- 1.5 Each invoice shall at all times be accompanied by Supporting Documentation. Any assessment by the Buyer as to what constitutes Supporting Documentation shall not be conclusive and the Supplier undertakes to provide to the Buyer any other documentation reasonably required by the Buyer from time to time to substantiate an invoice.
- 1.6 The Supplier shall submit all invoices and Supporting Documentation through the Buyer's electronic system or if that is not possible to:
- sbs.apinvoicing@nhs.net
- with a copy (again including any Supporting Documentation) to such other person and at such place as the Buyer may notify to the Supplier from time to time.
- 1.7 All Supplier invoices shall be expressed in sterling or such other currency as shall be permitted by the Buyer in writing.
- 1.8 The Buyer shall regard an invoice as valid only if it complies with the provisions of this Part E. Where any invoice does not conform to the Buyer's requirements set out in this Part E, the Buyer shall promptly return the disputed invoice to the Supplier and the Supplier shall promptly issue a replacement invoice which shall comply with such requirements.
- 1.9 If the Buyer fails to consider and verify an invoice in accordance with paragraphs 1.4 and 1.8, the invoice shall be regarded as valid and undisputed for the purpose of paragraph 2.1 (payment in 30 days) after a reasonable time has passed.

2. PAYMENT TERMS

- 2.1 Subject to the relevant provisions of this Schedule, the Buyer shall make payment to the Supplier within thirty (30) days of verifying that the invoice is valid and undisputed.

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- 2.2 Unless the Parties agree otherwise in writing, all Supplier invoices shall be paid in sterling by electronic transfer of funds to the bank account that the Supplier has specified on its invoice.

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ANNEX 1: PRICING MECHANISM

Refer to Order Form Attachment 7.1 (Charges)

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ANNEX 2: CHARGING MECHANISM AND ADJUSTMENTS

Refer to Order Form Attachment 7.1 (Charges)

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ANNEX 3: PRO-FORMA CERTIFICATE OF COSTS

I **[name of CFO or Director of Finance or equivalent as agreed in advance in writing with the Buyer]** of **[insert name of Supplier]**, certify that the financial information provided as part of this Certificate of Costs, incurred in relation to the **[insert name/reference for the Contract]** (the “**Contract**”) in relation to the following [Milestone/Milestone Group]:

[Insert details of Milestone/Milestone Group]

1. has been reasonably and properly incurred in accordance with *[name of Supplier]*’s books, accounts, other documents and records;
2. is accurate and not misleading in all key respects; and
3. is in conformity with the Contract and with all generally accepted accounting principles within the United Kingdom.

Signed **[Director of Finance or equivalent]**

[Name of Supplier]

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ANNEX 4: RISK REGISTER

Refer to Order Form Attachment 7.1 (Charges)

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ANNEX 5: Allowable Assumptions

Refer to Order Form Attachment 7.1 (Charges)

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1.1 In this Schedule, the following definitions shall apply:

“Applicable Supplier Personnel” any Supplier Personnel who:

- (i) at the Termination Date:
 - (a) are employees of the Supplier;
 - (b) are Dedicated Supplier Personnel;
 - (c) have not transferred (and are not in scope to transfer at a later date) to the Buyer or the Replacement Supplier by virtue of the Employment Regulations; and
- (ii) are dismissed or given notice of dismissal by the Supplier within:
 - (a) 40 Working Days of the Termination Date; or
 - (b) such longer period required by Law, their employment contract (as at the Termination Date) or an applicable collective agreement; and
- (iii) have not resigned or given notice of resignation prior to the date of their dismissal by the Supplier; and
- (iv) the Supplier can demonstrate to the satisfaction of the Buyer:
 - (a) are surplus to the Supplier's requirements after the Termination Date notwithstanding its obligation to provide services to its other customers;
 - (b) are genuinely being dismissed for reasons of redundancy; and
 - (c) have been selected for redundancy by the Supplier on objective grounds other than the fact that the Supplier is entitled to reimbursement under this provision in respect of such employees;

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“Breakage Payment”	Costs	an amount equal to the Redundancy Costs and the Contract Breakage Costs as at the Termination Date as determined in accordance with Paragraph 3;
“Compensation Payment”		the payment calculated in accordance with Paragraph 6;
“Contract Costs”	Breakage	the amounts payable by the Supplier to its Key Sub-contractors or other third parties (as applicable) for terminating all relevant Key Sub-contracts or Third Party Contracts as a direct result of the early termination of this Contract;
“Dedicated Personnel”	Supplier	all Supplier Personnel then assigned to the Services or any part of the Services. If the Supplier is unsure as to whether Supplier Personnel are or should be regarded as so assigned, it shall consult with the Buyer whose view shall be determinative provided that the employee has been materially involved in the provision of the Services or any part of the Services;
“Profit Already Paid”		the Supplier Profit paid or payable to the Supplier under this Contract for the period from the Effective Date up to (and including) the Termination Date;
“Redundancy Costs”		<p>the total sum of any of the following sums paid to Applicable Supplier Personnel, each amount apportioned between the Supplier and the Buyer based on the time spent by such employee on the Services as a proportion of the total Service duration:</p> <ul style="list-style-type: none"> (a) any statutory redundancy payment; and (b) in respect of an employee who was a Transferring Former Supplier Employee or a Transferring Buyer Employee, any contractual redundancy payment (or where such a contractual benefit on redundancy is a benefit payable from a pension scheme, the increase in cost to the Supplier as a net present value compared to the benefit payable on termination of employment without redundancy), provided that such employee was entitled to such contractual redundancy payment immediately prior to his or her transfer to the Supplier under the Employment Regulations;
“Request for Estimate”		a written request sent by the Buyer to the Supplier, requiring that the Supplier provide it with an accurate estimate of the Termination Payment and Compensation Payment that would be payable if the Buyer exercised its right under Clause 33.1(a) (<i>Termination by the Buyer</i>) to terminate this Contract for convenience on a specified Termination Date;

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“Shortfall Period”	has the meaning given in Paragraph 6.2;
“Termination Estimate”	has the meaning given in Paragraph 11.2;
“Third Party Contract”	a contract with a third party entered into by the Supplier exclusively for the purpose of delivering the Services, as listed in Attachment 4.4 (<i>Third Party Contracts</i>) of the Order Form;
“Total Costs Incurred”	the Costs incurred by the Supplier up to the Termination Date in the performance of this Contract and detailed in the Financial Model (but excluding Contract Breakage Costs, Redundancy Costs and any costs the Supplier would not otherwise be able to recover through the Charges) less any Deductions up to (and including) the Termination Date;
“Unrecovered Costs”	the Costs incurred by the Supplier in the performance of this Contract (as summarised in the Financial Model) to the extent that the same remain at the Termination Date to be recovered through Charges that but for the termination of this Contract would have been payable by the Buyer after the Termination Date in accordance with Schedule 7.1 (<i>Charges and Invoicing</i>) as such Costs and Charges are forecast in the Financial Model;
“Unrecovered Payment”	an amount equal to the lower of: <ul style="list-style-type: none"> (a) the sum of the Unrecovered Costs and the Unrecovered Profit; and (b) the amount specified in Paragraph 4; and
“Unrecovered Profit”	$(\text{Total Costs Incurred} \times \text{Anticipated Contract Life Profit Margin}) - \text{Profit Already Paid} + \text{Milestone Retentions remaining unpaid at the Termination Date.}$

2. TERMINATION PAYMENT

The Termination Payment payable pursuant to Clause 34.3(a) (*Payments by the Buyer*) shall be an amount equal to the aggregate of the Breakage Costs Payment and the Unrecovered Payment.

3. BREAKAGE COSTS PAYMENT

3.1 The Supplier may recover through the Breakage Costs Payment only those costs incurred by the Supplier directly as a result of the termination of this Contract which:

- (a) would not have been incurred had this Contract continued until expiry of the Initial Term, or in the event that the Term has been extended, the expiry of the Extension Period;
- (b) are unavoidable, proven, reasonable, and not capable of recovery;

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- (c) are incurred under arrangements or agreements that are directly associated with this Contract;
- (d) are not Contract Breakage Costs relating to contracts or Sub-contracts with Affiliates of the Supplier; and
- (e) relate directly to the termination of the Services.

Limitation on Breakage Costs Payment

3.2 The Breakage Costs Payment shall not exceed the lower of:

- (a) the relevant limit set out in Annex 1; and
- (b) 120% of the estimate for the Breakage Costs Payment set out in any relevant Termination Estimate.

Redundancy Costs

3.3 The Buyer shall not be liable under this Schedule for any costs associated with Supplier Personnel (whether relating to redundancy, redeployment or otherwise) other than the Redundancy Costs.

3.4 Where the Supplier can demonstrate that a member of Supplier Personnel will be made redundant following termination of this Contract, but redeployment of such person is possible and would offer value for money to the Buyer when compared with redundancy, then the Buyer shall pay the Supplier the actual direct costs incurred by the Supplier or its Sub-contractor arising out of the redeployment of such person (including retraining and relocation costs) subject to a maximum amount of £30,000 per relevant member of the Supplier Personnel.

Contract Breakage Costs

3.5 The Supplier shall be entitled to Contract Breakage Costs only in respect of Third Party Contracts or Sub-contracts which:

- (a) are not assigned or novated to a Replacement Supplier at the request of the Buyer in accordance with Schedule 8.5 (*Exit Management*); and
- (b) the Supplier can demonstrate:
 - (i) are surplus to the Supplier's requirements after the Termination Date, whether in relation to use internally within its business or in providing services to any of its other customers; and
 - (ii) have been entered into by it in the ordinary course of business.

3.6 The Supplier shall seek to negotiate termination of any Third Party Contracts or Sub-contracts with the relevant third party or Sub-contractor (as the case may be) using all reasonable endeavours to minimise the cancellation or termination charges.

3.7 Except with the prior written agreement of the Buyer, the Buyer shall not be liable for any costs (including cancellation or termination charges) that the Supplier is obliged to pay in respect of:

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- (a) the termination of any contractual arrangements for occupation of, support of and/or services provided for Supplier premises which may arise as a consequence of the termination of this Contract; and/or
- (b) Assets not yet installed at the Termination Date.

4. UNRECOVERED PAYMENT

The Unrecovered Payment shall not exceed the lowest of:

- (a) the relevant limit set out in Attachment 7.2 (Maximum Payments on Termination) of the Order Form;
- (b) 120% of the estimate for the Unrecovered Payment set out in any relevant Termination Estimate; and
- (c) the Charges that but for the termination of this Contract would have been payable by the Buyer after the Termination Date in accordance with Schedule 7.1 (*Charges and Invoicing*) as forecast in the Financial Model.

5. MITIGATION OF CONTRACT BREAKAGE COSTS, REDUNDANCY COSTS AND UNRECOVERED COSTS

5.1 The Supplier agrees to use all reasonable endeavours to minimise and mitigate Contract Breakage Costs, Redundancy Costs and Unrecovered Costs by:

- (a) the appropriation of Assets, employees and resources for other purposes;
- (b) at the Buyer's request, assigning any Third Party Contracts and Sub-contracts to the Buyer or a third party acting on behalf of the Buyer; and
- (c) in relation Third Party Contracts and Sub-contract that are not to be assigned to the Buyer or to another third party, terminating those contracts at the earliest possible date without breach or where contractually permitted.

5.2 If Assets, employees and resources can be used by the Supplier for other purposes, then there shall be an equitable reduction in the Contract Breakage Costs, Redundancy Costs and Unrecovered Costs payable by the Buyer or a third party to the Supplier. In the event of any Dispute arising over whether the Supplier can use any Assets, employees and/or resources for other purposes and/or over the amount of the relevant equitable reduction, the Dispute shall be referred to an Expert for determination in accordance with the procedure detailed in Schedule 8.3 (*Dispute Resolution Procedure*).

6. COMPENSATION PAYMENT

6.1 The Compensation Payment payable pursuant to Clause 34.3(b) (*Payments by the Buyer*) shall be an amount equal to the total forecast Charges over the Shortfall Period (as stated in the Financial Model) multiplied by the Anticipated Contract Life Profit Margin.

6.2 For the purposes of Paragraph 6.1, the "**Shortfall Period**" means:

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- (a) where the Buyer terminates this Contract pursuant to Clause 33.1(a) (*Termination by the Buyer*), a number of days equal to the number of days by which the notice given (or deemed given pursuant to Paragraph 2.1(a) of Part D of Schedule 7.1 (*Charges and Invoicing*)) falls short of three hundred and sixty-five (365) days; or
- (b) where the Supplier terminates this Contract pursuant to Clause 33.3(a) (*Termination by the Supplier*), a number of days equal to the number of days by which the period from (and including) the date of the non-payment by the Buyer to (and including) the Termination Date falls short of 365 days,

but in each case subject to the limit set out in Paragraph 6.3.

6.3 The Compensation Payment shall be no greater than the lower of:

- (a) the relevant limit set out in Attachment 7.2 (Maximum Payments on Termination) of the Order Form; and
- (b) 120% of the estimate for the Compensation Payment set out in the relevant Termination Estimate.

7. FULL AND FINAL SETTLEMENT

Any Termination Payment and/or Compensation Payment paid under this Schedule shall be in full and final settlement of any claim, demand and/or proceedings of the Supplier in relation to any termination by the Buyer pursuant to Clause 33.1(a) (*Termination by the Buyer*) or termination by the Supplier pursuant to Clause 33.3(a) (*Termination by the Supplier*) (as applicable), and the Supplier shall be excluded from all other rights and remedies it would otherwise have been entitled to in respect of any such termination.

8. INVOICING FOR THE PAYMENTS ON TERMINATION

All sums due under this Schedule shall be payable by the Buyer to the Supplier in accordance with the payment terms set out in Schedule 7.1 (*Charges and Invoicing*).

9. SET OFF

The Buyer shall be entitled to set off any outstanding liabilities of the Supplier against any amounts that are payable by it pursuant to this Schedule.

10. NO DOUBLE RECOVERY

- 10.1 If any amount payable under this Schedule (in whole or in part) relates to or arises from any Transferring Assets then, to the extent that the Buyer makes any payments pursuant to Schedule 8.5 (*Exit Management*) in respect of such Transferring Assets, such payments shall be deducted from the amount payable pursuant to this Schedule.
- 10.2 The value of the Termination Payment and/or the Compensation Payment shall be reduced or extinguished to the extent that the Supplier has already received the Charges or the financial benefit of any other rights or remedy given under this Contract so that there is no double counting in calculating the relevant payment.

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10.3 Any payments that are due in respect of the Transferring Assets shall be calculated in accordance with the provisions of the Exit Plan.

11. ESTIMATE OF TERMINATION PAYMENT AND COMPENSATION PAYMENT

11.1 The Buyer may issue a Request for Estimate at any time during the Term provided that no more than 2 Requests for Estimate may be issued in any 6 month period.

11.2 The Supplier shall within 20 Working Days of receiving the Request for Estimate (or such other timescale agreed between the Parties), provide an accurate written estimate of the Termination Payment and the Compensation Payment that would be payable by the Buyer based on a postulated Termination Date specified in the Request for Estimate (such estimate being the “**Termination Estimate**”). The Termination Estimate shall:

- (a) be based on the relevant amounts set out in the Financial Model;
- (b) include:
 - (i) details of the mechanism by which the Termination Payment is calculated;
 - (ii) full particulars of the estimated Contract Breakage Costs in respect of each Sub-contract or Third Party Contract and appropriate supporting documentation; and
 - (iii) such information as the Buyer may reasonably require; and
- (c) state the period for which that Termination Estimate remains valid, which shall be not less than 20 Working Days.

11.3 The Supplier acknowledges that issue of a Request for Estimate shall not be construed in any way as to represent an intention by the Buyer to terminate this Contract.

11.4 If the Buyer issues a Termination Notice to the Supplier within the stated period for which a Termination Estimate remains valid, the Supplier shall use the same mechanism to calculate the Termination Payment as was detailed in the Termination Estimate unless otherwise agreed in writing between the Supplier and the Buyer.

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ANNEX 1: MAXIMUM PAYMENTS ON TERMINATION

Refer to Order Form Attachment 7.2 (Maximum Payments on Termination)

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SCHEDULE 7.3**BENCHMARKING****1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

“Benchmarked Service”	a Service that the Buyer elects to include in a Benchmark Review under Paragraph 2.3;
“Benchmarker”	the independent third party appointed under Paragraph 3.1;
“Benchmark Report”	the report produced by the Benchmarker following the Benchmark Review as further described in Paragraph 5;
“Benchmark Review”	a review of one or more of the Services carried out in accordance with Paragraph 4 to determine whether those Services represent Good Value;
“Comparable Service”	in relation to a Benchmark Service, a service that is identical or materially similar to the Benchmark Service (including in terms of scope, specification, volume and quality of performance);
“Comparison Group”	in relation to a Comparable Service, a sample group of organisations providing the Comparable Service identified by the Benchmarker under Paragraph 4.8 which consists of organisations which are either of similar size to the Supplier or which are similarly structured in terms of their business and their service offering so as to be (in the Benchmarker's professional opinion) fair comparators with the Supplier or which, in the professional opinion of the Benchmarker, are best practice organisations and, where there are a reasonable number of such organisations, referencing only those organisations that are carrying on at least a significant part of their business within the United Kingdom;
“Equivalent Data”	Services in relation to a Comparable Service, data derived from an analysis of the Comparable Service provided by the Comparison Group as adjusted in accordance with Paragraphs 4.8(a) and 4.9 provided that the Benchmarker shall not use any such data that relates to a period which ended more than 36 months prior to the date of the appointment of the Benchmarker;

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“Good Value”

in relation to a Benchmarked Service, that:

- (a) having taken into account the Performance Indicators and Target Service Levels, the value for money of the Charges attributable to that Benchmarked Service is at least as good as the value for money of the Upper Quartile; and
- (b) any Performance Indicators and Target Service Levels applicable to that Benchmarked Service are, having taken into account the Charges, equal to or better than the median service levels for the Comparable Service using Equivalent Services Data; and

“Upper Quartile”

the top 25% of instances of provision of a Comparable Service by members of the Comparison Group ranked by best value for money to the recipients of that Comparable Service.

2. FREQUENCY, PURPOSE AND SCOPE OF BENCHMARK REVIEW

- 2.1 The Buyer may, by written notice to the Supplier, require a Benchmark Review of any or all of the Services in order to establish whether a Benchmarked Service is, and/or the Benchmarked Services as a whole are, Good Value.
- 2.2 The Buyer shall not be entitled to carry out a Benchmark Review of any Services during the 12 month period from the Operational Service Commencement Date for those Services, nor at intervals of less than 12 months after any previous Benchmark Review relating to the same Services.
- 2.3 The Services that are to be the Benchmarked Services shall be identified by the Buyer in the notice given under Paragraph 2.1.

3. APPOINTMENT OF BENCHMARKER

- 3.1 The Buyer shall appoint as the Benchmarkers to carry out the Benchmark Review either an organisation on the list of organisations set out in Attachment 7.3 (Approved Benchmarkers) of the Order Form or such other organisation as may be agreed in writing between the Parties.
- 3.2 The Buyer shall, at the written request of the Supplier, require the Benchmarkers to enter into a confidentiality agreement with the Supplier in, or substantially in, the form set out in Annex 2.
- 3.3 The costs and expenses of the Benchmarkers and the Benchmark Review shall be shared equally between both Parties provided that each Party shall bear its own internal costs of the Benchmark Review. The Benchmarkers shall not be compensated on a contingency fee or incentive basis.
- 3.4 The Buyer shall be entitled to pay the Benchmarkers' costs and expenses in full and to recover the Supplier's share from the Supplier.

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4. BENCHMARK REVIEW

- 4.1 The Buyer shall require the Benchmarker to produce, and to send to each Party for approval, a draft plan for the Benchmark Review within 10 Working Days after the date of the appointment of the Benchmarker, or such longer period as the Benchmarker shall reasonably request in all the circumstances. The plan must include:
- (a) a proposed timetable for the Benchmark Review;
 - (b) a description of the information that the Benchmarker requires each Party to provide;
 - (c) a description of the benchmarking methodology to be used;
 - (d) a description that clearly illustrates that the benchmarking methodology to be used is capable of fulfilling the benchmarking objectives under Paragraph 2.1;
 - (e) an estimate of the resources required from each Party to underpin the delivery of the plan;
 - (f) a description of how the Benchmarker will scope and identify the Comparison Group;
 - (g) details of any entities which the Benchmarker proposes to include within the Comparison Group; and
 - (h) if in the Benchmarker's professional opinion there are no Comparable Services or the number of entities carrying out Comparable Services is insufficient to create a Comparison Group, a detailed approach for meeting the relevant benchmarking objective(s) under Paragraph 2.1 using a proxy for the Comparison Services and/or Comparison Group as applicable.
- 4.2 The Parties acknowledge that the selection and or use of proxies for the Comparison Group (both in terms of number and identity of entities) and Comparable Services shall be a matter for the Benchmarker's professional judgment.
- 4.3 Each Party shall give notice in writing to the Benchmarker and to the other Party within 10 Working Days after receiving the draft plan either approving the draft plan or suggesting amendments to that plan which must be reasonable. Where a Party suggests amendments to the draft plan pursuant to this Paragraph 4.3, the Benchmarker shall, if it believes the amendments are reasonable, produce an amended draft plan. Paragraph 4.1 and this Paragraph 4.3 shall apply to any amended draft plan.
- 4.4 Failure by a Party to give notice under Paragraph 4.3 shall be treated as approval of the draft plan by that Party. If the Parties fail to approve the draft plan within 30 Working Days of its first being sent to them pursuant to Paragraph 4.1 then the Benchmarker shall prescribe the plan.
- 4.5 Once the plan is approved by both Parties or prescribed by the Benchmarker, the Benchmarker shall carry out the Benchmark Review in accordance with the plan. Each Party shall procure that all the information described in the plan, together with any additional information reasonably required by the Benchmarker is provided to the

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Benchmarker without undue delay. If the Supplier fails to provide any information requested from it by the Benchmarker and described in the plan, such failure shall constitute a material Default for the purposes of Clause 27.1(c) (*Rectification Plan Process*).

- 4.6 Each Party shall co-operate fully with the Benchmarker, including by providing access to records, technical documentation, premises, equipment, systems and personnel at times reasonably requested by the Benchmarker, provided that the Benchmarker shall be instructed to minimise any disruption to the Services.
- 4.7 Either Party may provide additional material to the Benchmarker to assist the Benchmarker in conducting the Benchmark Review.
- 4.8 Once it has received the information it requires, the Benchmarker shall:
- (a) finalise the sample of entities constituting the Comparison Group and collect data relating to Comparable Services. The final selection of the Comparison Group (both in terms of number and identity of entities) and of the Comparable Services shall be a matter for the Benchmarker's professional judgment;
 - (b) derive the Equivalent Services Data by applying the adjustment factors listed in Paragraph 4.9 and from an analysis of the Comparable Services;
 - (c) derive the relative value for money of the charges payable for the Comparable Services using the Equivalent Services Data and from that derive the Upper Quartile;
 - (d) derive the median service levels relating to the Comparable Services using the Equivalent Services Data;
 - (e) compare the value for money of the Charges attributable to the Benchmarked Services (having regard in particular to the applicable Performance Indicators and Target Service Levels) to the value for money of the Upper Quartile;
 - (f) compare the Performance Indicators and Target Service Levels attributable to the Benchmarked Services (having regard to the Charges and Service Credits) with the median service levels using the Equivalent Services Data; and
 - (g) determine whether or not each Benchmarked Service is and/or the Benchmarked Services as a whole are, Good Value.
- 4.9 The Benchmarker shall have regard to the following matters when performing a comparative assessment of a Benchmarked Service and a Comparable Service in order to derive Equivalent Services Data:
- (a) the contractual and business environment under which the Services are being provided (including the scope, scale, complexity and geographical spread of the Services);
 - (b) any front-end investment and development costs of the Supplier;
 - (c) the Supplier's risk profile including the financial, performance or liability risks associated with the provision of the Services as a whole;

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- (d) the extent of the Supplier's management and contract governance responsibilities;
- (e) any other reasonable factors demonstrated by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier's pricing to appear non-competitive (such as erroneous costing, non-sustainable behaviour including excessive consumption of energy or over-aggressive pricing).

5. BENCHMARK REPORT

5.1 The Benchmarker shall be required to prepare a Benchmark Report and deliver it simultaneously to both Parties, at the time specified in the plan approved under Paragraph 4, setting out its findings. The Benchmark Report shall:

- (a) include a finding as to whether or not each Benchmarked Service is and/or whether the Benchmarked Services as a whole are, Good Value;
- (b) include other findings (if any) regarding the quality and competitiveness or otherwise of those Services;
- (c) if any Benchmarked Service is not Good Value, or the Benchmarked Services as a whole are not Good Value, specify the changes that would be required to the Charges, Performance Indicators and/or Target Performance Levels, that would be required to make that Benchmarked Service or those Benchmarked Services as a whole Good Value; and
- (d) illustrate the method used for any normalisation of the Equivalent Services Data

5.2 The Benchmarker shall act as an expert and not as an arbitrator.

5.3 If the Benchmark Report states that any Benchmarked Service is not Good Value or that the Benchmarked Services as a whole are not Good Value, then the Supplier shall (subject to Paragraphs 5.5 and 5.6) implement the changes set out in the Benchmark Report as soon as reasonably practicable within timescales agreed with the Buyer but in any event within no more than 3 months. Any associated changes to the Charges shall take effect only from the same date and shall not be retrospective.

5.4 The Supplier acknowledges and agrees that Benchmark Reviews shall not result in any increase to the Charges, disapplication of the Performance Indicators or any reduction in the Target Performance Levels.

5.5 The Supplier shall be entitled to reject any Benchmark Report if the Supplier reasonably considers that the Benchmarker has not followed the procedure for the related Benchmark Review as set out in this Schedule in any material respect.

5.6 The Supplier shall not be obliged to implement any Benchmark Report to the extent this would cause the Supplier to provide the Services at a loss (as determined, by reference to the Financial Model), or to the extent the Supplier cannot technically implement the recommended changes.

5.7 In the event of any Dispute arising over whether the Benchmarker has followed the procedure for the related Benchmark Review under Paragraph 5.5 and/or any matter referred to in Paragraph 5.6, the Dispute shall be referred to Expert Determination. For

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the avoidance of doubt in the event of a Dispute between the Parties, the Buyer shall continue to pay the Charges to the Supplier in accordance with the terms of this Contract and the Performance Indicators and Target Performance Levels shall remain unchanged pending the conclusion of the Expert Determination.

5.8 On conclusion of the Expert Determination:

- (a) if the Expert determines that all or any part of the Benchmark Report recommendations regarding any reduction in the Charges shall be implemented by the Supplier, the Supplier shall immediately repay to the Buyer the difference between the Charges paid by the Buyer up to and including the date of the Expert's determination and the date upon which the recommended reduction in Charges should have originally taken effect pursuant to Paragraph 5.3 together with interest thereon at the applicable rate under the Late Payment Of Commercial Debts (Interest) Act 1998; and
- (b) if the Expert determines that all or any part of the Benchmark Report recommendations regarding any changes to the Performance Indicators and/or Target Performance Levels shall be implemented by the Supplier:
 - (i) the Supplier shall immediately implement the relevant changes;
 - (ii) the Supplier shall immediately pay an amount equal to any Service Credits which would have accrued up to and including the date of the Expert's determination if the relevant changes had taken effect on the date determined pursuant to Paragraph 5.3 together with interest thereon at the applicable rate under the Late Payment Of Commercial Debts (Interest) Act 1998; and
 - (iii) the relevant changes shall thereafter be subject to the Change Control Procedure for the purposes of formalising and documenting the relevant change or amendment for the purposes of this Contract.

5.9 Any failure by the Supplier to implement the changes as set out in the Benchmark Report in accordance with the relevant timescales determined in accordance with Paragraph 5.3 (unless the provisions of Paragraph 5.6 and/or Paragraph 5.7 apply) or in accordance with Paragraph 5.8 shall, without prejudice to any other rights or remedies of the Buyer, constitute a Supplier Termination Event.

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ANNEX 1: APPROVED BENCHMARKERS

Refer to Order Form Attachment 7.3 (Approved Benchmarkers)

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ANNEX 2: CONFIDENTIALITY CONTRACT**CONFIDENTIALITY AGREEMENT****THIS AGREEMENT** is made on [date]**BETWEEN:**

- (1) [insert name] of [insert address] (the “**Supplier**”); and
- (2) [insert name] of [insert address] (the “**Benchmark**” and together with the Supplier, the “**Parties**”).

WHEREAS:

- (A) [insert name of Buyer] (the “**Buyer**”) and the Supplier are party to a contract dated [insert date] (the “**Contract**”) for the provision by the Supplier of [insert brief description of services] to the Buyer.
- (B) The Benchmark is to receive Confidential Information from the Supplier for the purpose of carrying out a benchmarking review for the Buyer of one or more of such services pursuant to the terms of the Contract (the “**Permitted Purpose**”).

IT IS AGREED as follows:**1. Interpretation**

- 1.1 In this Contract, unless the context otherwise requires:

“Confidential Information” means:

- (a) Information, including all personal data within the meaning of the Data Protection Act 2018, and however it is conveyed, provided by the Supplier to the Benchmark pursuant to this Contract that relates to:
 - (i) the Supplier; or
 - (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Supplier;
- (b) other Information provided by the Supplier pursuant to this Contract to the Benchmark that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Benchmark’s attention or into the Benchmark’s possession in connection with the Permitted Purpose;
- (c) discussions, negotiations, and correspondence between the Supplier or any of its directors, officers, employees, consultants or professional advisers and the

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Benchmarker or any of its directors, officers, employees, consultants and professional advisers in connection with the Permitted Purpose and all matters arising therefrom; and

(d) Information derived from any of the above,

but not including any Information that:

(e) was in the possession of the Benchmarker without obligation of confidentiality prior to its disclosure by the Supplier;

(f) the Benchmarker obtained on a non-confidential basis from a third party who is not, to the Benchmarker's knowledge or belief, bound by a confidentiality agreement with the Supplier or otherwise prohibited from disclosing the information to the Benchmarker;

(g) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Contract or breach of a duty of confidentiality; or

(h) was independently developed without access to the Confidential Information;

“Information” means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

“Permitted Purpose” has the meaning given to that expression in recital (B) to this Contract.

1.2 In this Contract:

- (a) a reference to any gender includes a reference to other genders;
- (b) the singular includes the plural and vice versa;
- (c) the words “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;
- (d) references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Contract) and any prior or subsequent subordinate legislation made under it;
- (e) headings are included for ease of reference only and shall not affect the interpretation or construction of this Contract; and
- (f) references to Clauses are to clauses of this Contract.

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2. Confidentiality Obligations

2.1 In consideration of the Supplier providing Confidential Information to the Benchmark, the Benchmark shall:

- (a) treat all Confidential Information as secret and confidential;
- (b) have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);
- (c) not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Supplier or, if relevant, other owner or except as expressly set out in this Contract;
- (d) not transfer any of the Confidential Information outside the United Kingdom;
- (e) not use or exploit any of the Confidential Information for any purpose whatsoever other than the Permitted Purpose;
- (f) immediately notify the Supplier in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- (g) once the Permitted Purpose has been fulfilled:
 - (i) destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;
 - (ii) ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Benchmark) from any computer, word processor, voicemail system or any other device; and
 - (iii) make no further use of any Confidential Information.

3. Permitted Disclosures

3.1 The Benchmark may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:

- (a) reasonably need to receive the Confidential Information in connection with the Permitted Purpose; and
- (b) have been informed by the Benchmark of the confidential nature of the Confidential Information; and
- (c) have agreed to terms similar to those in this Contract.

3.2 The Benchmark shall be entitled to disclose Confidential Information to the Buyer for the Permitted Purpose and to any Expert appointed in relation to a Dispute as referred to in paragraph 5.7 of Schedule 7.3 (*Benchmarking*) to the Contract.

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- 3.3 The Benchmarker shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Benchmarker.
- 3.4 Before making a disclosure pursuant to Clause 3.3, the Benchmarker shall, if the circumstances permit:
- (a) notify the Supplier in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and
 - (b) ask the court or other public body to treat the Confidential Information as confidential.

4. General

- 4.1 The Benchmarker acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Supplier shall remain with and be vested in the Supplier.
- 4.2 This Contract does not include, expressly or by implication, any representations, warranties or other obligations:
- (a) to grant the Benchmarker any licence or rights other than as may be expressly stated in this Contract;
 - (b) to require the Supplier to disclose, continue disclosing or update any Confidential Information; or
 - (c) as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of this Contract.
- 4.3 The rights, powers and remedies provided in this Contract are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 4.4 Without prejudice to any other rights or remedies that the Supplier may have, the Benchmarker acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Benchmarker of any of the provisions of this Contract. Accordingly, the Benchmarker acknowledges that the Supplier shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Contract and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.
- 4.5 The maximum liability of the Benchmarker to the Supplier for any breach of this Contract shall be limited to ten million pounds (£10,000,000).
- 4.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Contract.

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- 4.7 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Contract.
- 4.8 This Contract may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Contract, but all the counterparts shall together constitute but one and the same instrument.

5. Notices

- 5.1 Any notice to be given under this Contract (each a “**Notice**”) shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 5.2.

5.2 Any Notice:

- (a) if to be given to the Supplier shall be sent to:

[Address]

Attention: [Contact name and/or position, e.g. “The Finance Director”]

- (b) if to be given to the Benchmarking shall be sent to:

[Name of Organisation]

[Address]

Attention: []

6. Governing law

- 6.1 This Contract shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Contract whether contractual or non-contractual, shall be governed by and determined in accordance with English law.
- 6.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Contract.

IN WITNESS of the above this Contract has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

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For and on behalf of [*name of Supplier*]

Signature: _____

Date:

Name:

Position:

For and on behalf of [*name of Benchmark*er]

Signature: _____

Date:

Name:

Position:

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SCHEDULE 7.4**FINANCIAL DISTRESS****1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

"Applicable Financial Indicators"		means the financial indicators from Paragraph 1 of Part A of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form which are to apply to the Monitored Suppliers as set out in Paragraph 2 of Part A of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form;
"Board"		means the Supplier's board of directors;
"Board Confirmation"		means written confirmation from the Board in accordance with Paragraph 8 of this Schedule;
"Credit Rating Level"		a credit rating level as specified in Part C of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form;
"Credit Threshold"	Rating	the minimum Credit Rating Level for each entity in the FDE Group as set out in Part C of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form;
"FDE Group"		means the Supplier, Key Sub-contractors;
"Financial Indicators"		in respect of the Supplier, Key Sub-contractors and the Guarantor, means each of the financial indicators set out at Paragraph 1 of Part A of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form; and in respect of each Monitored Supplier, means those Applicable Financial Indicators;
"Financial Thresholds"	Target	means the target thresholds for each of the Financial Indicators set out at Paragraph 1 of Part A of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form;
"Monitored Suppliers"		means those entities specified at Paragraph 2 of Part A of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form;
"Rating Agencies"		the rating agencies listed in Part B of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form.

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2. WARRANTIES AND DUTY TO NOTIFY

- 2.1 The Supplier warrants and represents to the Buyer for the benefit of the Buyer that as at the Effective Date:
- (a) the long term credit ratings issued for each entity in the FDE Group by each of the Rating Agencies are as set out in Part B of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form; and
 - (b) the financial position or, as appropriate, the financial performance of each of the Supplier, Guarantor and Key Sub-contractors satisfies the Financial Target Thresholds.
- 2.2 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing if there is any downgrade in the credit rating issued by any Rating Agency for any entity in the FDE Group (and in any event within 5 Working Days of the occurrence of the downgrade).
- 2.3 The Supplier shall:
- (a) regularly monitor the credit ratings of each entity in the FDE Group with the Rating Agencies;
 - (b) monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds at least at the frequency set out for each in Paragraph 1 of Part A of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the Accounting Reference Date; and
 - (c) promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event (and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event).
- 2.4 For the purposes of determining whether a Financial Distress Event has occurred pursuant to the provisions of Paragraphs 3.1(a), and for the purposes of determining relief under Paragraph 7.1, the credit rating of an FDE Group entity shall be deemed to have dropped below the applicable Credit Rating Threshold if:
- (a) any of the Rating Agencies have given a Credit Rating Level for that entity which is below the applicable Credit Rating Threshold; or
 - (b) a Rating Agency that is specified as holding a Credit Rating for an entity as set out at Part C of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form ceases to hold a Credit Rating for that entity.
- 2.5 Each report submitted by the Supplier pursuant to paragraph 2.3(b) shall:
- (a) be a single report with separate sections for each of the FDE Group entities;

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- (b) contain a sufficient level of information to enable the Buyer to verify the calculations that have been made in respect of the Financial Indicators;
- (c) include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
- (d) be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable; and
- (e) include a history of the Financial Indicators reported by the Supplier in graph form to enable the Buyer to easily analyse and assess the trends in financial performance.

3. FINANCIAL DISTRESS EVENTS

3.1 The following shall be Financial Distress Events:

- (a) the credit rating of an FDE Group entity dropping below the applicable Credit Rating Threshold;
- (b) an FDE Group entity issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;
- (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of an FDE Group entity;
- (d) an FDE Group entity committing a material breach of covenant to its lenders;
- (e) a Key Sub-contractor notifying the Buyer that the Supplier has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
- (f) any of the following:
 - (i) commencement of any litigation against an FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
 - (ii) non-payment by an FDE Group entity of any financial indebtedness;
 - (iii) any financial indebtedness of an FDE Group entity becoming due as a result of an event of default;
 - (iv) the cancellation or suspension of any financial indebtedness in respect of an FDE Group entity; or
 - (v) the external auditor of an FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE entity;

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in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Services in accordance with this Contract; and

- (g) any one of the Financial Indicators set out at Part A of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form for any of the FDE Group entities failing to meet the required Financial Target Threshold.

4. CONSEQUENCES OF FINANCIAL DISTRESS EVENTS

- 4.1 Immediately upon notification by the Supplier of a Financial Distress Event (or if the Buyer becomes aware of a Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Buyer shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.
- 4.2 In the event of a late or non-payment of a Key Sub-contractor pursuant to Paragraph 3.1(e), the Buyer shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier 10 Working Days to:
 - (a) rectify such late or non-payment; or
 - (b) demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.
- 4.3 The Supplier shall (and shall procure that any Monitored Supplier, the Guarantor and/or any relevant Key Sub-contractor shall):
 - (a) at the request of the Buyer, meet the Buyer as soon as reasonably practicable (and in any event within 3 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Buyer may permit and notify to the Supplier in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with this Contract; and
 - (b) where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3(a) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with this Contract:
 - (i) submit to the Buyer for its approval, a draft Financial Distress Remediation Plan as soon as reasonably practicable (and in any event, within 10 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Buyer may permit and notify to the Supplier in writing); and
 - (ii) to the extent that it is legally permitted to do so and subject to Paragraph 4.8, provide such information relating to the Supplier, any Monitored Supplier, Key Sub-contractors and/or the Guarantor as the Buyer may reasonably require in order to understand the risk to the Services, which may include forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the Financial Distress Event.

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- 4.4 The Buyer shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Buyer does not approve the draft Financial Distress Remediation Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Remediation Plan, which shall be resubmitted to the Buyer within 5 Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Remediation Plan is approved by the Buyer or referred to the Dispute Resolution Procedure under Paragraph 4.5.
- 4.5 If the Buyer considers that the draft Financial Distress Remediation Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the Supplier's obligations in accordance with the Contract, then it may either agree a further time period for the development and agreement of the Financial Distress Remediation Plan or escalate any issues with the draft Financial Distress Remediation Plan using the Dispute Resolution Procedure.
- 4.6 Following approval of the Financial Distress Remediation Plan by the Buyer, the Supplier shall:
- (a) on a regular basis (which shall not be less than fortnightly):
 - (i) review and make any updates to the Financial Distress Remediation Plan as the Supplier may deem reasonably necessary and/or as may be reasonably requested by the Buyer, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Services in accordance with this Contract; and
 - (ii) provide a written report to the Buyer setting out its progress against the Financial Distress Remediation Plan, the reasons for any changes made to the Financial Distress Remediation Plan by the Supplier and/or the reasons why the Supplier may have decided not to make any changes;
 - (b) where updates are made to the Financial Distress Remediation Plan in accordance with Paragraph 4.6(a), submit an updated Financial Distress Remediation Plan to the Buyer for its approval, and the provisions of Paragraphs 4.4 and 4.5 shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and
 - (c) comply with the Financial Distress Remediation Plan (including any updated Financial Distress Remediation Plan) and ensure that it achieves the financial and performance requirements set out in the Financial Distress Remediation Plan.
- 4.7 Where the Supplier reasonably believes that the relevant Financial Distress Event under Paragraph 4.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Buyer and the Parties may agree that the Supplier shall be relieved of its obligations under Paragraph 4.6.
- 4.8 The Supplier shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at paragraph 4.3(b)(ii) is available when

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required and on request from the Buyer and within reasonable timescales. Such measures may include:

- (a) obtaining in advance written authority from Key Sub-contractors, the Guarantor and/or Monitored Suppliers authorising the disclosure of the information to the Buyer and/or entering into confidentiality agreements which permit disclosure;
- (b) agreeing in advance with the Buyer, Key Sub-contractors, the Guarantor and/or Monitored Suppliers a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the Buyer;
- (c) putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Buyer (which may include making price sensitive information available to Buyer nominated personnel through confidential arrangements, subject to their consent); and
- (d) disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymisation and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

5. FINANCIAL INDICATORS

[Guidance Note: complete the information required in Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form]

5.1 Monitored Suppliers

[Guidance Note: complete the information required in Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form]

6. TERMINATION RIGHTS

The Buyer shall be entitled to terminate this Contract under Clause 33.1(b) (*Termination by the Buyer*) if:

- (a) the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 2.3(c);
- (b) the Parties fail to agree a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraphs 4.3 to 4.5; and/or
- (c) the Supplier fails to comply with the terms of the Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraph 4.6(c).

7. PRIMACY OF CREDIT RATINGS

- 7.1 Without prejudice to the Supplier's obligations and the Buyer's rights and remedies under Paragraph 2, if, following the occurrence of a Financial Distress Event pursuant to any of Paragraphs 3.1(b) to 3.1(g), the Rating Agencies review and report subsequently that the credit ratings for the FDE Group entities do not drop below the

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relevant Credit Rating Thresholds specified for those entities in Part C of Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings) of the Order Form, then:

- (a) the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
- (b) the Buyer shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.3(b)(ii).

8. BOARD CONFIRMATION

- 8.1 If this Contract has been specified as a Critical Service Contract under Paragraph 10.1 of Part 2 to Schedule 8.6 (Service Continuity Plan and Corporate Resolution Planning) then, subject to Paragraph 8.4 of this Schedule, the Supplier shall within one hundred and twenty (120) days after each Accounting Reference Date or within 15 months of the previous Board Confirmation (whichever is the earlier) provide a Board Confirmation to the Buyer in the form set out at Annex 4 of this Schedule, confirming that to the best of the Board's knowledge and belief, it is not aware of and has no knowledge:
 - (a) that a Financial Distress Event has occurred since the later of the Effective Date or the previous Board Confirmation or is subsisting; or
 - (b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event.
- 8.2 The Supplier shall ensure that in its preparation of the Board Confirmation it exercises due care and diligence and has made reasonable enquiry of all relevant Supplier Personnel and other persons as is reasonably necessary to understand and confirm the position.
- 8.3 In respect of the first Board Confirmation to be provided under this Contract, the Supplier shall provide the Board Confirmation within 15 months of the Effective Date if earlier than the timescale for submission set out in Paragraph 8.1 of this Schedule.
- 8.4 Where the Supplier is unable to provide a Board Confirmation in accordance with Paragraphs 8.1 to 8.3 of this Schedule due to the occurrence of a Financial Distress Event or knowledge of subsisting matters which could reasonably be expected to cause a Financial Distress Event, it will be sufficient for the Supplier to submit in place of the Board Confirmation, a statement from the Board of Directors to the Buyer (and where the Supplier is a Strategic Supplier, the Supplier shall send a copy of the statement to the Cabinet Office Markets and Suppliers Team) setting out full details of any Financial Distress Events that have occurred and/or the matters which could reasonably be expected to cause a Financial Distress Event.

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ANNEX 1: RATING AGENCIES AND THEIR STANDARD RATING SYSTEM

Refer to Order Form Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings)

ANNEX 2: Credit Ratings And credit rating thresholds

Refer to Order Form Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings)

ANNEX 3: CALCULATION METHODOLOGY FOR FINANCIAL INDICATORS

Refer to Order Form Attachment 7.4 (Financial Indicators, Rating Agencies and Credit Ratings)

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ANNEX 4: BOARD CONFIRMATION

Supplier Name:

Contract Reference Number:

The Board of Directors acknowledge the requirements set out at paragraph 8 of Schedule 7.4 (*Financial Distress*) and confirm that the Supplier has exercised due care and diligence and made reasonable enquiry of all relevant Supplier Personnel and other persons as is reasonably necessary to enable the Board to prepare this statement.

The Board of Directors confirms, to the best of its knowledge and belief, that as at the date of this Board Confirmation it is not aware of and has no knowledge:

- (a) that a Financial Distress Event has occurred since the later of the previous Board Confirmation and the Effective Date or is subsisting; or
- (b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event

On behalf of the Board of Directors:

Chair

Signed

Date

Director

Signed

Date

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SCHEDULE 7.5: FINANCIAL REPORTS AND AUDIT RIGHTS**1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

“Annual Contract Report”	the annual contract report to be provided by the Supplier to the Buyer pursuant to Paragraph 1 of Part B;
“Audit Agents”	<ul style="list-style-type: none"> (a) the Buyer’s internal and external auditors; (b) the Buyer’s statutory or regulatory auditors; (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; (d) HM Treasury or the Cabinet Office; (e) any party formally appointed by the Buyer to carry out audit or similar review functions; and (f) successors or assigns of any of the above;
“Contract Amendment Report”	the contract amendment report to be provided by the Supplier to the Buyer pursuant to Paragraph 1 of Part B;
“Final Reconciliation Report”	the final reconciliation report to be provided by the Supplier to the Buyer pursuant to Paragraph 1 of Part B;
“Financial Model”	the Contract Inception Report, the latest Annual Contract Report or the latest Contract Amendment Report, whichever has been most recently approved by the Buyer in accordance with Paragraph 2 of Part B;
“Financial Reports”	the Contract Inception Report and the reports listed in the table in Paragraph 1.1 of Part B;
“Financial Representative”	a reasonably skilled and experienced member of the Supplier’s staff who has specific responsibility for preparing, maintaining, facilitating access to, discussing and explaining the Open Book Data and Financial Reports;
“Financial Transparency Objectives”	has the meaning given in Paragraph 1 of Part A;
“Material Change”	<p>a Change which:</p> <ul style="list-style-type: none"> (a) materially changes the profile of the Charges; or

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(b) varies the total Charges payable during the Term (as forecast in the latest Financial Model) by:

(i) 5% or more; or

(ii) £1m or more;

“Onerous Contract” a contract in which the unavoidable costs of meeting the obligations under the contract exceed the economic benefits expected to be received under it, as defined under International Accounting Standard 37;

“Onerous Contract Report” means a report provided by the Supplier pursuant to Paragraph 3 of Part A to this Schedule;

“Open Book Data” complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Term, including details and all assumptions relating to:

(a) the Supplier's Costs broken down against each Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware and software;

(b) operating expenditure relating to the provision of the Services including an analysis showing:

(i) the unit costs and quantity of consumables and bought-in services;

(ii) manpower resources broken down into the number and grade/role of all Supplier Personnel (free of any contingency) together with a list of agreed rates against each manpower grade;

(iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier's Profit Margin; and

(iv) Reimbursable Expenses;

(c) Overheads;

(d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;

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- (e) the Supplier Profit achieved over the Term and on an annual basis;
- (f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;
- (g) an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency; and
- (h) the actual Costs profile for each Service Period.

PART A: FINANCIAL TRANSPARENCY OBJECTIVES AND OPEN BOOK DATA**1. FINANCIAL TRANSPARENCY OBJECTIVES**

The Supplier acknowledges that the provisions of this Schedule are designed (inter alia) to facilitate, and the Supplier shall co-operate with the Buyer in order to achieve, the following objectives:

1.1 Understanding the Charges

- (a) for the Buyer to understand any payment sought from it by the Supplier including an analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Personnel in providing the Services and the Supplier Profit Margin;
- (b) for both Parties to be able to understand the Financial Model and Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;
- (c) to facilitate the use of Guaranteed Maximum Price with Target Cost pricing mechanisms (where relevant as referred to in Schedule 7.1 (Charges and Invoicing));

1.2 Agreeing the impact of Change

- (a) for both Parties to agree the quantitative impact of any Changes that affect ongoing costs and to identify how these could be mitigated and/or reflected in the Supplier's Charges;
- (b) for both Parties to be able to review, address issues with and re-forecast progress in relation to the provision of the Services;

1.3 Continuous improvement

- (a) for the Parties to challenge each other with ideas for efficiency and improvements; and

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- (b) to enable the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices,

(together the “**Financial Transparency Objectives**”).

2. OPEN BOOK DATA

- 2.1 The Supplier acknowledges the importance to the Buyer of the Financial Transparency Objectives and the Buyer’s need for complete transparency in the way in which the Charges are calculated.

- 2.2 During the Term, and for a period of 7 years following the end of the Term, the Supplier shall:

- (a) maintain and retain the Open Book Data; and
- (b) disclose and allow the Buyer and/or the Audit Agents access to the Open Book Data.

3. ONEROUS CONTRACTS

- 3.1 If the Supplier publicly designates the Contract as an Onerous Contract (including where the Supplier has identified the Contract as such in any published accounts or public reports and announcements), the Supplier shall promptly notify the Buyer of the designation and shall prepare and deliver to the Buyer within the timescales agreed by the Parties (an in any event, no later than 2 months following the publication of the designation) a draft Onerous Contract Report which includes the following:

- (a) An initial root cause analysis of the issues and circumstances which may have contributed to the Contract being designated as an Onerous Contract;
- (b) An initial risk analysis and impact assessment on the provision of the Services as a result of the Supplier’s designation of the Contract as an Onerous Contract;
- (c) the measures which the Supplier intends to put in place to minimise and mitigate any adverse impact on the provision on the Services;
- (d) details of any other options which could be put in place to remove the designation of the Contract as an Onerous Contract and/or which could minimise and mitigate any adverse impact on the provision of the Services.

- 3.2 Following receipt of the Onerous Contract Report, the Buyer shall review and comment on the report as soon as reasonably practicable and the Parties shall cooperate in good faith to agree the final form of the report, which shall be submitted to the Programme Board, such final form report to be agreed no later than 1 month following the Buyer’s receipt of the draft Onerous Contract Report.

- 3.3 The Programme Board shall meet within 14 Working Days of the final Onerous Contract Report being agreed by the Parties to discuss the contents of the report; and the Parties shall procure the attendance at the meeting of any key participants where reasonably required (including the Cabinet Office Markets and Suppliers team where the Supplier is a Strategic Supplier; representatives from any Key Sub-

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contractors/Monitored Suppliers; and the project's senior responsible officers (or equivalent) for each Party).

- 3.4 The Supplier acknowledges and agrees that the report is submitted to the Buyer and Programme Board on an information only basis and the Buyer and Programme Board's receipt of and comments in relation to the report shall not be deemed to be an acceptance or rejection of the report nor shall it relieve the Supplier of any liability under this Contract. Any Changes to be agreed by the Parties pursuant to the report shall be subject to the Change Control Procedure.

PART B: FINANCIAL REPORTS**1. PROVISION OF THE FINANCIAL REPORTS**

- 1.1 The Supplier shall provide:

- (a) the Contract Inception Report on or before the Effective Date; and
- (b) during the Term the following financial reports to the Buyer, in the frequency specified below:

Financial Report	When to be provided
Contract Amendment Report	Within 1 month of a Material Change being agreed between the Supplier and the Buyer
Quarterly Contract Report	Within 1 month of the end of each Quarter
Annual Contract Report	Within 1 month of the end of the Contract Year to which that report relates
Final Reconciliation Report	Within 6 months after the end of the Term

- 1.2 The Supplier shall provide to the Buyer the Financial Reports in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Effective Date for the purposes of this Contract. The Buyer shall be entitled to modify the template for any Financial Report by giving written notice to the Supplier, including a copy of the updated template.
- 1.3 A copy of each Financial Report shall be held by both the Buyer and the Supplier. If there is a Dispute regarding a Financial Report, the Buyer's copy of the relevant Financial Report shall be authoritative.
- 1.4 Each Financial Report shall:
- (a) be completed by the Supplier using reasonable skill and care;

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- (b) incorporate and use the same defined terms as are used in this Contract;
 - (c) quote all monetary values in pounds sterling;
 - (d) quote all Costs as exclusive of any VAT; and
 - (e) quote all Costs and Charges based on current prices.
- 1.5 Each Annual Contract Report and the Final Reconciliation Report shall be certified by the Supplier's Chief Financial Officer or Director of Finance (or equivalent as agreed in writing by the Buyer in advance of issue of the relevant Financial Report), acting with express authority, as:
- (a) being accurate and not misleading;
 - (b) having been prepared in conformity with generally accepted accounting principles within the United Kingdom;
 - (c) being a true and fair reflection of the information included within the Supplier's management and statutory accounts; and
 - (d) compliant with the requirements of Paragraph 1.6.
- 1.6 The Supplier shall:
- (a) prepare each Financial Report using the same methodology as that used for the Contract Inception Report;
 - (b) ensure that each Annual Contract Report and each Contract Amendment Report (if any) is a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;
 - (c) the Final Reconciliation Report is a true and fair reflection of the Costs; and
 - (d) not have any other internal financial model in relation to the Services inconsistent with the Financial Model.
- 1.7 During the Term, and for a period of 18 months following the end of the Term, the Supplier shall make available the Financial Representative at reasonable times and on reasonable notice to answer any queries that the Buyer may have on any of the Financial Reports and/or Open Book Data.
- 1.8 If the Supplier becomes aware of the occurrence, or the likelihood of the future occurrence, of an event which will or may have a material effect on the following:
- (a) the Costs incurred (or those forecast to be incurred) by the Supplier; and/or
 - (b) the forecast Charges for the remainder of the Term,
- the Supplier shall, as soon as practicable, notify the Buyer in writing of the event in question detailing the actual or anticipated effect. For the avoidance of doubt, notifications provided in accordance with this Paragraph 1.8 shall not have the effect of amending any provisions of this Contract.

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2. FINANCIAL MODEL

2.1 Following the delivery by the Supplier of each Annual Contract Report and any Contract Amendment Report:

- (a) the Parties shall meet to discuss its contents within 10 Working Days of receipt (or such other period as the Parties shall agree). The Financial Representative shall attend the meeting;
- (b) the Supplier shall make appropriate Supplier Personnel and advisers available to discuss any variations between the relevant Financial Report and the Contract Inception Report or immediately preceding Annual Contract Report or Contract Amendment Report (as the case may be) and to explain such variations (with reference to supporting evidence) to the satisfaction of the Buyer; and
- (c) the Buyer shall either within 10 Working Days of the meeting referred to in Paragraph 2.1(a) notify the Supplier that:
 - (i) the relevant Financial Report contains errors or omissions or that further explanations or supporting information is required, in which event the Supplier shall make any necessary modifications to the Financial Report and/or supply the Buyer with such supporting evidence as is required to address the Buyer's concerns within 10 Working Days of such notification and the Buyer shall following receipt of such amended Financial Report and/or supporting information, approve or reject such Financial Report; or
 - (ii) the Buyer has approved the relevant Financial Report.

2.2 Following approval by the Buyer of the relevant Financial Report in accordance with Paragraph 2.1(c), that version shall become, with effect from the date of such approval, the current approved version of the Financial Model for the purposes of this Contract, a version of which shall be held by both the Buyer and the Supplier. If there is a Dispute regarding a Financial Report, the Buyer's copy of the relevant Financial Report shall be authoritative.

2.3 If the Parties are unable to reach agreement on any Financial Report within 30 Working Days of its receipt by the Buyer, the matter shall be referred for determination in accordance with Schedule 8.3 (Dispute Resolution Procedure).

3. DISCUSSION OF QUARTERLY CONTRACT REPORTS AND FINAL RECONCILIATION REPORT

3.1 Following the delivery by the Supplier of each Quarterly Contract Report, the Parties shall meet to discuss its contents within 10 Working Days of receipt (or such other period as the Parties shall agree). The Financial Representative shall attend the meeting.

3.2 Following the delivery by the Supplier of the Final Reconciliation Report, the Parties shall meet to discuss its contents within 10 Working Days of receipt (or such other period as the Parties shall agree). The Financial Representative shall attend the meeting.

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4. KEY SUB CONTRACTORS

- 4.1 The Supplier shall, if requested by the Buyer, provide (or procure the provision of) a report or reports including the level of information set out in the Financial Reports in relation to the costs and expenses to be incurred by any of its Key Sub-contractors.
- 4.2 Without prejudice to Paragraph 1.1 of Part C, the Supplier shall:
- (a) be responsible for auditing the financial models/reports of its Key Sub-contractors and for any associated costs and expenses incurred or forecast to be incurred; and
 - (b) on written request by the Buyer, provide the Buyer or procure that the Buyer is provided with:
 - (i) full copies of audit reports for the Key Sub-contractors. The Buyer shall be entitled to rely on such audit reports; and
 - (ii) further explanation of, and supporting information in relation to, any audit reports provided.

PART C: AUDIT RIGHTS**1. AUDIT RIGHTS**

- 1.1 The Buyer, acting by itself or through its Audit Agents, shall have the right during the Term and for a period of 18 months thereafter, to assess compliance by the Supplier and/or its Key Sub-contractors of the Supplier's obligations under this Contract, including for the following purposes:
- (a) to verify the integrity and content of any Financial Report;
 - (b) to verify the accuracy of the Charges and any other amounts payable by the Buyer under this Contract (and proposed or actual variations to such Charges and payments);
 - (c) to verify the Costs (including the amounts paid to all Sub contractors and any third party suppliers);
 - (d) to verify the Certificate of Costs and/or the Open Book Data;
 - (e) to verify the Supplier's and each Key Sub-contractor's compliance with this Contract and applicable Law;
 - (f) to identify or investigate actual or suspected fraud, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
 - (g) to identify or investigate any circumstances which may impact upon the financial stability of the Supplier, the Guarantor and/or any Key Sub-contractors or their ability to perform the Services;

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- (h) to obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
 - (i) to review any books of account and the internal contract management accounts kept by the Supplier in connection with this Contract;
 - (j) to carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;
 - (k) 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 Buyer has used its resources;
 - (l) to verify the accuracy and completeness of any Management Information delivered or required by this Contract;
 - (m) to review any Performance Monitoring Reports and/or other records relating to the Supplier's performance of the Services and to verify that these reflect the Supplier's own internal reports and records;
 - (n) to inspect the IT Environment (or any part of it) and the wider service delivery environment (or any part of it);
 - (o) to review the accuracy and completeness of the Registers;
 - (p) to review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
 - (q) to review the Supplier's quality management systems (including all relevant Quality Plans and any quality manuals and procedures);
 - (r) to review the Supplier's compliance with the Standards;
 - (s) to inspect the Buyer Assets, including the Buyer's IPRs, equipment and facilities, for the purposes of ensuring that the Buyer Assets are secure and that any register of assets is up to date; and/or
 - (t) to review the integrity, confidentiality and security of the Buyer Data.
- 1.2 Except where an audit is imposed on the Buyer by a regulatory body or where the Buyer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Buyer may not conduct an audit of the Supplier or of the same Key Sub-contractor more than twice in any Contract Year.
- 1.3 Nothing in this Contract shall prevent or restrict the rights of the Comptroller and/or Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Supplier and/or any of the Key Sub-contractors for the purposes of and pursuant to applicable Law.

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2. CONDUCT OF AUDITS

- 2.1 The Buyer shall during each audit comply with those security, sites, systems and facilities operating procedures of the Supplier that the Buyer deems reasonable and use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.
- 2.2 Subject to the Buyer's obligations of confidentiality, the Supplier shall on demand provide the Buyer and the Audit Agents with all reasonable co-operation and assistance (and shall procure such co-operation and assistance from its Sub-contractors) in relation to each audit, including:
- (a) all information requested by the Buyer within the permitted scope of the audit;
 - (b) reasonable access to any Sites and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - (c) access to the Supplier System; and
 - (d) access to Supplier Personnel.
- 2.3 The Supplier shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Supplier's performance of the Services against the applicable Performance Indicators at a level of detail sufficient to verify compliance with the Performance Indicators.
- 2.4 The Buyer shall endeavour to (but is not obliged to) provide at least 15 Working Days' notice of its intention to conduct an audit.
- 2.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Paragraph 2, unless the audit identifies a material Default by the Supplier in which case the Supplier shall reimburse the Buyer for all the Buyer's reasonable costs incurred in connection with the audit.

3. USE OF SUPPLIER'S INTERNAL AUDIT TEAM

- 3.1 As an alternative to the Buyer's right pursuant to Paragraph 1.1 to exercise an audit either itself or through its Audit Agents, the Buyer may require in writing that an audit is undertaken by the Supplier's own internal audit function for any of the purposes set out in Paragraph 1.1.
- 3.2 Following the receipt of a request from the Buyer under Paragraph 3.1 above, the Supplier shall procure that the relevant audit is undertaken as soon as reasonably practicable and that the Buyer has unfettered access to:
- (a) the resultant audit reports; and
 - (b) all relevant members of the Supplier's internal audit team for the purpose of understanding such audit reports.

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4. RESPONSE TO AUDITS

4.1 If an audit undertaken pursuant to Paragraphs 1 or 3 identifies that:

- (a) the Supplier has committed a Default, the Buyer may (without prejudice to any rights and remedies the Buyer may have) require the Supplier to correct such Default as soon as reasonably practicable and, if such Default constitutes a Notifiable Default, to comply with the Rectification Plan Process;
- (b) there is an error in a Financial Report, the Supplier shall promptly rectify the error;
- (c) the Buyer has overpaid any Charges, the Supplier shall pay to the Buyer:
 - (i) the amount overpaid;
 - (ii) interest on the amount overpaid at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the date of overpayment by the Buyer up to the date of repayment by the Supplier; and
 - (iii) the reasonable costs incurred by the Buyer in undertaking the audit,the Buyer may exercise its right to deduct such amount from the Charges if it prefers; and
- (d) the Buyer has underpaid any Charges, the Supplier shall not be entitled to increase the Charges paid or payable by the Buyer.

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WSCHEDULE 7.6: ANTICIPATED SAVINGS

Refer to Order Form Attachment 7.6 (Anticipated Savings)

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SCHEDULE 8.1: GOVERNANCE**1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

“Board Member”	the initial persons appointed by the Buyer and Supplier to the Boards as set out in Attachment 8.1 (Representation and Structure of Boards) of the Order Form and any replacements from time to time agreed by the Parties in accordance with Paragraph 3.3;
“Boards”	the Service Management Board, Programme Board, Change Management Board, Technical Board and Risk Management Board and “Board” shall mean any of them;
“Change Management Board”	the body described in Paragraph 6;
“Project Managers”	the individuals appointed as such by the Buyer and the Supplier in accordance with Paragraph 1; and
“Risk Management Board”	the body described in Paragraph 8;
“Service Management Board”	the body described in Paragraph 4; and
“Technical Board”	the body described in Paragraph 7.

2. MANAGEMENT OF THE SERVICES

- 2.1 The Supplier and the Buyer shall each appoint a project manager for the purposes of this Contract through whom the Services shall be managed at a day-to-day.
- 2.2 Both Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.

3. BOARDS**Establishment and structure of the Boards**

- 3.1 The Boards shall be established by the Buyer for the purposes of this Contract on which both the Supplier and the Buyer shall be represented.
- 3.2 In relation to each Board, the:
- (a) Buyer Board Members;

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- (b) Supplier Board Members;
- (c) frequency that the Board shall meet (unless otherwise agreed between the Parties);
- (d) location of the Board's meetings; and
- (e) planned start date by which the Board shall be established,

shall be as set out in Attachment 8.1 (Representation and Structure of Boards) of the Order Form.

- 3.3 In the event that either Party wishes to replace any of its appointed Board Members, that Party shall notify the other in writing of the proposed change for agreement by the other Party (such agreement not to be unreasonably withheld or delayed). Notwithstanding the foregoing it is intended that each Buyer Board Member has at all times a counterpart Supplier Board Member of equivalent seniority and expertise.

Board meetings

- 3.4 Each Party shall ensure that its Board Members shall make all reasonable efforts to attend Board meetings at which that Board Member's attendance is required. If any Board Member is not able to attend a Board meeting, that person shall use all reasonable endeavours to ensure that:
- (a) a delegate attends the relevant Board meeting in his/her place who (wherever possible) is properly briefed and prepared; and
 - (b) that he/she is debriefed by such delegate after the Board Meeting.
- 3.5 A chairperson shall be appointed by the Buyer for each Board as identified in Attachment 8.1 (Representation and Structure of Boards) of the Order Form. The chairperson shall be responsible for:
- (a) scheduling Board meetings;
 - (b) setting the agenda for Board meetings and circulating to all attendees in advance of such meeting;
 - (c) chairing the Board meetings;
 - (d) monitoring the progress of any follow up tasks and activities agreed to be carried out following Board meetings;
 - (e) ensuring that minutes for Board meetings are recorded and disseminated electronically to the appropriate persons and to all Board meeting participants within seven Working Days after the Board meeting; and
 - (f) facilitating the process or procedure by which any decision agreed at any Board meeting is given effect in the appropriate manner.
- 3.6 Board meetings shall be quorate as long as at least two representatives from each Party are present.

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- 3.7 The Parties shall ensure, as far as reasonably practicable, that all Boards shall as soon as reasonably practicable resolve the issues and achieve the objectives placed before them. Each Party shall endeavour to ensure that Board Members are empowered to make relevant decisions or have access to empowered individuals for decisions to be made to achieve this.

4. ROLE OF THE SERVICE MANAGEMENT BOARD

The Service Management Board shall be responsible for the executive management of the Services and shall:

- 4.1 be accountable to the Programme Board for comprehensive oversight of the Services and for the senior management of the operational relationship between the Parties;
- 4.2 report to the Programme Board on significant issues requiring decision and resolution by the Programme Board and on progress against the high level Implementation Plan;
- 4.3 receive reports from the Project Managers on matters such as issues relating to delivery of existing Services and performance against Performance Indicators, progress against the Implementation Plan and possible future developments;
- 4.4 review and report to the Programme Board on service management, co-ordination of individual projects and any integration issues;
- 4.5 deal with the prioritisation of resources and the appointment of Project Managers on behalf of the Parties;
- 4.6 consider and resolve Disputes (including Disputes as to the cause of a Delay or the performance of the Services) in the first instance and if necessary escalate the Dispute to the Programme Board; and
- 4.7 develop operational/supplier relationship and develop and propose the relationship development strategy and ensure the implementation of the same.

5. ROLE OF THE PROGRAMME BOARD

- 5.1 The Programme Board shall:

- (a) provide senior level guidance, leadership and strategy for the overall delivery of the Services;
- (b) be the point of escalation from the Change Management Board, the Technical Board and the Service Management Board; and
- (c) carry out the specific obligations attributed to it in Paragraph 5.2.

- 5.2 The Programme Board shall:

- (a) ensure that this Contract is operated throughout the Term in a manner which optimises the value for money and operational benefit derived by the Buyer and the commercial benefit derived by the Supplier;

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- (b) receive and review reports from the Service Management Board and review reports on technology, service and other developments that offer potential for improving the benefit that either Party is receiving, in particular value for money;
- (c) determine business strategy and provide guidance on policy matters which may impact on the implementation of the Services or on any Optional Services;
- (d) authorise the commissioning and initiation of, and assess opportunities for, Optional Services; and
- (e) provide guidance and authorisation to the Change Management Board on relevant Changes.

6. ROLE OF THE CHANGE MANAGEMENT BOARD

6.1 The Change Management Board shall assess the impact and approve or reject all Change Requests. Changes which will have a significant impact on the Services shall be escalated to the Programme Board.

6.2 The Change Management Board shall:

- (a) analyse and record the impact of all Changes, specifically whether the proposed Change:
 - (i) has an impact on other areas or aspects of this Contract and/or other documentation relating to the Services;
 - (ii) has an impact on the ability of the Buyer to meet its agreed business needs within agreed time-scales;
 - (iii) will raise any risks or issues relating to the proposed Change; and
 - (iv) will provide value for money in consideration of any changes to the Financial Model, future Charges and/or Performance Indicators and Target Performance Levels;
- (b) provide recommendations, seek guidance and authorisation from the Programme Board as required; and
- (c) approve or reject (close) all proposed Changes.

7. ROLE OF THE TECHNICAL BOARD

7.1 The Technical Board shall be accountable to the Programme Board for oversight of the technology used in the Supplier Solution and ensuring that technological choices are made to maximise the long term value of the Supplier Solution as a business asset of the Buyer.

7.2 The Technical Board shall:

- (a) ensure compliance with the Standards;
- (b) grant dispensations for variations from such compliance where appropriate;

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- (c) assure the coherence and consistency of the systems architecture for the Supplier Solution;
- (d) monitor developments in new technology and reporting on their potential benefit to the Services;
- (e) provide advice, guidance and information on technical issues; and
- (f) assure that the technical architecture of the Supplier Solution is aligned to the Service Requirements and has sufficient flexibility to cope with future requirements of the Buyer.

8. ROLE OF THE RISK MANAGEMENT BOARD

8.1 The Risk Management Board shall identify and manage risks relating to the performance of the Services.

8.2 The Risk Management Board shall:

- (a) provide assurance to the Programme Board that risks are being effectively managed across the Services, including reporting the 'top 5' risks to the Programme Board on a monthly basis;
- (b) identify the risks to be reported to the Programme Board via the regular risk reports;
- (c) subject to the Change Control Procedure, accept or reject new risks proposed for inclusion in the Risk Register;
- (d) ratify or refuse requests to close risks on the Risk Register; and
- (e) identify risks relating to or arising out of the performance of the Services and provisional owners of these risks.

9. CONTRACT MANAGEMENT MECHANISMS

9.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.

9.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:

- (a) the identification and management of risks;
- (b) the identification and management of issues; and
- (c) monitoring and controlling project plans.

9.3 The Risk Register shall be updated by the Supplier and submitted for review by the Risk Management Board.

10. ANNUAL REVIEW

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- 10.1 An annual review meeting shall be held throughout the Term on a date to be agreed between the Parties.
- 10.2 The meetings shall be attended by the Account Manager of the Supplier and the Contract Manager of the Buyer and any other persons considered by the Buyer necessary for the review.

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ANNEX 1: REPRESENTATION AND STRUCTURE OF BOARDS

Refer to Order Form Attachment 8.1 (Representation and Structure of Boards)

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SCHEDULE 8.2: CHANGE CONTROL PROCEDURE**1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

“Buyer Change Manager”	the person appointed to that position by the Buyer from time to time and notified in writing to the Supplier or, if no person is notified, the Buyer Representative;
“Change Request”	a written request for a Contract Change which shall be substantially in the form of Annex 1;
“Change Communication”	any Change Request, Impact Assessment, Change Authorisation Note or other communication sent or required to be sent pursuant to this Schedule;
“Fast-track Change”	any Contract Change which the Parties agree to expedite in accordance with Paragraph 8;
“Impact Assessment”	an assessment of a Change Request in accordance with Paragraph 5;
“Impact Assessment Estimate”	has the meaning given in Paragraph 4.3;
“Receiving Party”	the Party which receives a proposed Contract Change; and
“Supplier Change Manager”	the person appointed to that position by the Supplier from time to time and notified in writing to the Buyer or, if no person is notified, the Supplier Representative.

2. GENERAL PRINCIPLES OF CHANGE CONTROL PROCEDURE

- 2.1 This Schedule sets out the procedure for dealing with Changes.
- 2.2 Operational Changes shall be processed in accordance with Paragraph 9. If either Party is in doubt about whether a change falls within the definition of an Operational Change, then it must be processed as a Contract Change.
- 2.3 The Parties shall deal with Contract Change as follows:
- (a) either Party may request a Contract Change which they shall initiate by issuing a Change Request in accordance with Paragraph 4;
 - (b) unless this Contract otherwise requires, the Supplier shall assess and document the potential impact of a proposed Contract Change in accordance with Paragraph 5 before the Contract Change can be either approved or implemented;

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- (c) the Buyer shall have the right to request amendments to a Change Request, approve it or reject it in the manner set out in Paragraph 6;
 - (d) the Supplier shall have the right to reject a Change Request solely in the manner set out in Paragraph 7;
 - (e) save as otherwise provided in this Contract, no proposed Contract Change shall be implemented by the Supplier until a Change Authorisation Note has been signed and issued by the Buyer in accordance with Paragraph 6.2; and
 - (f) if a proposed Contract Change is a Fast-track Change, it shall be processed in accordance with Paragraph 8.
- 2.4 To the extent that any Contract Change requires testing and/or a programme for implementation, then the Parties shall follow the procedures set out in Schedule 6.2 (*Testing Procedures*), and, where appropriate, the Change Authorisation Note relating to such a Contract Change shall specify Milestones and/or a Key Milestone and Milestone Date(s) in respect of such Contract Change for the purposes of such procedures.
- 2.5 Until a Change Authorisation Note has been signed and issued by the Buyer in accordance with Paragraph 6.2, then:
 - (a) unless the Buyer expressly agrees (or requires) otherwise in writing, the Supplier shall continue to supply the Services in accordance with the existing terms of this Contract as if the proposed Contract Change did not apply; and
 - (b) any discussions, negotiations or other communications which may take place between the Buyer and the Supplier in connection with any proposed Contract Change, including the submission of any Change Communications, shall be without prejudice to each Party's other rights under this Contract.
- 2.6 The Supplier shall:
 - (a) within 10 Working Days of the Buyer's signature and issue of a Change Authorisation Note, deliver to the Buyer a copy of this Contract updated to reflect all Contract Changes agreed in the relevant Change Authorisation Note and annotated with a reference to the Change Authorisation Note pursuant to which the relevant Contract Changes were agreed; and
 - (b) thereafter provide to the Buyer such further copies of the updated Contract as the Buyer may from time to time request.
- 3. COSTS**
- 3.1 Subject to Paragraph 3.4:
- 3.2 the costs of preparing each Change Request shall be borne by the Party making the Change Request; and
 - (a) the costs incurred by the Supplier in undertaking an Impact Assessment shall be borne by the Party making the Change Request provided that the Buyer shall not be required to pay any such costs if:

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- (i) such costs are below £[REDACTED]
- (ii) the Supplier is able to undertake the Impact Assessment by using resources already deployed in the provision of the Services; or
- (iii) such costs exceed those in the accepted Impact Assessment Estimate.

3.3 The cost of any Contract Change shall be calculated and charged in accordance with the principles and day rates or day costs (as applicable) set out in Attachment 7.1 (*Charges*) of the Order Form. The Supplier shall be entitled to increase the Charges only if it can demonstrate in the Impact Assessment that the proposed Contract Change requires additional resources and, in any event, any change to the Charges resulting from a Contract Change (whether the change will cause an increase or a decrease in the Charges) will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services as amended by the Contract Change.

3.4 Both Parties' costs incurred in respect of any use of this Change Control Procedure as a result of any error or Default by the Supplier shall be paid for by the Supplier.

4. CHANGE REQUEST

4.1 Either Party may issue a Change Request to the other Party at any time during the Term. A Change Request shall be substantially in the form of Annex 1 and state whether the Party issuing the Change Request considers the proposed Contract Change to be a Fast-track Change.

4.2 If the Supplier issues the Change Request, then it shall also provide an Impact Assessment to the Buyer as soon as is reasonably practicable but in any event within 10 Working Days of the date of issuing the Change Request.

4.3 If the Buyer issues the Change Request, then the Supplier shall provide as soon as reasonably practical and in any event within ten (10) Working Days of the date of receiving the Change Request an estimate ("**Impact Assessment Estimate**") of the cost of preparing an Impact Assessment and the timetable for preparing it. The timetable shall provide for the completed Impact Assessment to be received by the Buyer within ten (10) Working Days of acceptance of the Impact Assessment Estimate or within any longer time period agreed by the Buyer.

4.4 If the Buyer accepts an Impact Assessment Estimate then following receipt of notice of such acceptance the Supplier shall provide the completed Impact Assessment to the Buyer as soon as is reasonably practicable and in any event within the period agreed in the Impact Assessment Estimate. If the Supplier requires any clarification in relation to the Change Request before it can deliver the Impact Assessment, then it shall promptly make a request for clarification to the Buyer and provided that sufficient information is received by the Buyer to fully understand:

- (a) The nature of the request for clarification; and
- (b) The reasonable justification for the request;

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the time period to complete the Impact Assessment shall be extended by the time taken by the Buyer to provide that clarification. The Buyer shall respond to the request for clarification as soon as is reasonably practicable.

5. IMPACT ASSESSMENT

5.1 Each Impact Assessment shall be completed in good faith and shall include:

- (a) details of the proposed Contract Change including the reason for the Contract Change; and
- (b) details of the impact of the proposed Contract Change on the Services, the Optional Services (if any) and the Supplier's ability to meet its other obligations under this Contract;
- (c) any variation to the terms of this Contract that will be required as a result of that impact, including changes to:
 - (i) the Services Description, the Performance Indicators and/or the Target Performance Levels;
 - (ii) the format of Buyer Data, as set out in the Services Description;
 - (iii) the Milestones, Implementation Plan and any other timetable previously agreed by the Parties;
 - (iv) other services provided by third party contractors to the Buyer, including any changes required by the proposed Contract Change to the Buyer's IT infrastructure;
- (d) details of the cost of implementing the proposed Contract Change;
- (e) details of the ongoing costs required by the proposed Contract Change 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;
- (f) a timetable for the implementation, together with any proposals for the testing of the Contract Change;
- (g) details of how the proposed Contract Change will ensure compliance with any applicable Change in Law; and
- (h) such other information as the Buyer may reasonably request in (or in response to) the Change Request.

5.2 If the Contract Change involves the processing or transfer of any Personal Data outside the European Economic Area, the preparation of the Impact Assessment shall also be subject to Clause 23 (*Protection of Personal Data*).

5.3 Subject to the provisions of Paragraph 5.4, the Buyer shall review the Impact Assessment and respond to the Supplier in accordance with Paragraph 6 within 15 Working Days of receiving the Impact Assessment, it.

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- 5.4 If the Buyer is the Receiving Party and the Buyer reasonably considers that it requires further information regarding the proposed Contract Change so that it may properly evaluate the Change Request and the Impact Assessment, then within 5 Working Days of receiving the Impact Assessment, 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 Buyer within 10 Working Days of receiving such notification. At the Buyer's discretion, the Parties may repeat the process described in this Paragraph 5.4 until the Buyer is satisfied that it has sufficient information to properly evaluate the Change Request and Impact Assessment.
- 5.5 The calculation of costs for the purposes of Paragraphs 5.1(d) and 5.1(e) shall:
- (a) be based on the Financial Model;
 - (b) facilitate the Financial Transparency Objectives;
 - (c) include estimated volumes of each type of resource to be employed and the applicable rate card;
 - (d) include full disclosure of any assumptions underlying such Impact Assessment;
 - (e) include evidence of the cost of any assets required for the Change; and
 - (f) include details of any new Sub-contracts necessary to accomplish the Change.

6. BUYER'S RIGHT OF APPROVAL

- 6.1 Within 15 Working Days of receiving the Impact Assessment from the Supplier or within 10 Working Days of receiving the further information that it may request pursuant to Paragraph 5.4, the Buyer shall evaluate the Change Request and the Impact Assessment and shall do one of the following:
- (a) approve the proposed Contract Change, in which case the Parties shall follow the procedure set out in Paragraph 6.2;
 - (b) in its absolute discretion reject the Contract Change, in which case it shall notify the Supplier of the rejection. The Buyer shall not reject any proposed Contract Change to the extent that the Contract Change is necessary for the Supplier or the Services to comply with any Changes in Law. If the Buyer does reject a Contract Change, then it shall explain its reasons in writing to the Supplier as soon as is reasonably practicable following such rejection; or
 - (c) in the event that it reasonably believes that a Change Request or Impact Assessment contains errors or omissions, require the Supplier to modify the relevant document accordingly, in which event the Supplier shall make such modifications within 5 Working Days of such request. Subject to Paragraph 5.4, on receiving the modified Change Request and/or Impact Assessment, the Buyer shall approve or reject the proposed Contract Change within 10 Working Days.
- 6.2 If the Buyer approves the proposed Contract Change pursuant to Paragraph 6.1 and it has not been rejected by the Supplier in accordance with Paragraph 7, then it shall inform the Supplier and the Supplier shall prepare two copies of a Change

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Authorisation Note which it shall sign and deliver to the Buyer for its signature. Following receipt by the Buyer of the Change Authorisation Note, it shall sign both copies and return one copy to the Supplier. On the Buyer's signature the Change Authorisation Note shall constitute (or, where the Buyer has agreed to or required the implementation of a Change prior to signature of a Change Authorisation Note, shall constitute confirmation of) a binding variation to this Contract.

- 6.3 If the Buyer does not sign the Change Authorisation Note within 10 Working Days, then the Supplier shall have the right to notify the Buyer and if the Buyer does not sign the Change Authorisation Note within 5 Working Days of such notification, then the Supplier may refer the matter to the Expedited Dispute Timetable pursuant to the Dispute Resolution Procedure.

7. SUPPLIER'S RIGHT OF APPROVAL

- 7.1 Following an Impact Assessment, if:

- (a) the Supplier reasonably believes that any proposed Contract Change which is requested by the Buyer would:
 - (i) materially and adversely affect the risks to the health and safety of any person; and/or
 - (ii) require the Services to be performed in a way that infringes any Law; and/or
- (b) the Supplier demonstrates to the Buyer's reasonable satisfaction that the proposed Contract Change is technically impossible to implement and neither the Supplier Solution nor the Services Description state that the Supplier does have the technical capacity and flexibility required to implement the proposed Contract Change,

- 7.2 then the Supplier shall be entitled to reject the proposed Contract Change and shall notify the Buyer of its reasons for doing so within 5 Working Days after the date on which it is obliged to deliver the Impact Assessment pursuant to Paragraph 4.3.

8. FAST-TRACK CHANGES

- 8.1 The Parties acknowledge that to ensure operational efficiency there may be circumstances where it is desirable to expedite the processes set out above.

- 8.2 If:

- (a) the total number of Contract Changes in relation to which this Fast-track Change procedure has been applied does not exceed 4 in any 12 month period; and
- (b) both Parties agree the value of the proposed Contract Change over the remaining Term and any period for which Termination Services may be required does not exceed [REDACTED] and the proposed Contract Change is not significant (as determined by the Buyer acting reasonably),

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then the Parties shall confirm to each other in writing that they shall use the process set out in Paragraphs 4, 5, 6 and 7 but with reduced timescales, such that any period of 15 Working Days is reduced to 5 Working Days, any period of 10 Working Days is reduced to 2 Working Days and any period of 5 Working Days is reduced to 1 Working Day.

- 8.3 The Parties may agree in writing to revise the parameters set out in Paragraph 8.2 from time to time or that the Fast-track Change procedure shall be used in relation to a particular Contract Change notwithstanding that the total number of Contract Changes to which such procedure is applied will then exceed 4 in a 12 month period.

9. OPERATIONAL CHANGE PROCEDURE

- 9.1 Any Operational Changes identified by the Supplier to improve operational efficiency of the Services may be implemented by the Supplier without following the Change Control Procedure for proposed Contract Changes provided they do not:

- (a) have an impact on the business of the Buyer;
- (b) require a change to this Contract;
- (c) have a direct impact on use of the Services; or
- (d) involve the Buyer in paying any additional Charges or other costs.

- 9.2 The Buyer may request an Operational Change by submitting a written request for Operational Change (“**RFOC**”) to the Supplier Representative.

- 9.3 The RFOC shall include the following details:

- (a) the proposed Operational Change; and
- (b) the time-scale for completion of the Operational Change.

- 9.4 The Supplier shall inform the Buyer of any impact on the Services that may arise from the proposed Operational Change.

- 9.5 The Supplier shall complete the Operational Change by the timescale specified for completion of the Operational Change in the RFOC, and shall promptly notify the Buyer when the Operational Change is completed.

10. COMMUNICATIONS

For any Change Communication to be valid under this Schedule, it must be sent to either the Buyer Change Manager or the Supplier Change Manager, as applicable. The provisions of Clause 44 (*Notices*) shall apply to a Change Communication as if it were a notice.

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ANNEX 1: CHANGE REQUEST FORM

CR NO.:	TITLE:	TYPE OF CHANGE:
CONTRACT:		REQUIRED BY DATE:
ACTION:	NAME:	DATE:
RAISED BY:		
AREA(S) IMPACTED (<i>OPTIONAL FIELD</i>):		
ASSIGNED FOR IMPACT ASSESSMENT BY:		
ASSIGNED FOR IMPACT ASSESSMENT TO:		
SUPPLIER REFERENCE NO.:		
FULL DESCRIPTION OF REQUESTED CONTRACT CHANGE (INCLUDING PROPOSED CHANGES TO THE WORDING OF THE CONTRACT):		
DETAILS OF ANY PROPOSED ALTERNATIVE SCENARIOS:		
REASONS FOR AND BENEFITS AND DISADVANTAGES OF REQUESTED CONTRACT CHANGE:		
SIGNATURE OF REQUESTING CHANGE OWNER:		
DATE OF REQUEST:		

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ANNEX 2: CHANGE AUTHORISATION NOTE

CR NO.:	TITLE:	DATE RAISED:
CONTRACT:	TYPE OF CHANGE:	REQUIRED BY DATE:
[KEY MILESTONE DATE: <i>[if any]</i>]		
DETAILED DESCRIPTION OF CONTRACT CHANGE FOR WHICH IMPACT ASSESSMENT IS BEING PREPARED AND WORDING OF RELATED CHANGES TO THE CONTRACT:		
PROPOSED ADJUSTMENT TO THE CHARGES RESULTING FROM THE CONTRACT CHANGE:		
DETAILS OF PROPOSED ONE-OFF ADDITIONAL CHARGES AND MEANS FOR DETERMINING THESE (E.G. FIXED PRICE BASIS):		
SIGNED ON BEHALF OF THE BUYER:		SIGNED ON BEHALF OF THE SUPPLIER:
Signature:_____		Signature:_____
Name:_____		Name:_____
Position:_____		Position:_____
Date:_____		Date:_____

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SCHEDULE 8.3: DISPUTE RESOLUTION PROCEDURE**1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

“CEDR”	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;
“Counter Notice”	has the meaning given in Paragraph 7.2;
“Expert”	in relation to a Dispute, a person appointed in accordance with Paragraph 6.2 to act as an expert in relation to that Dispute;
“Expert Determination”	determination by an Expert in accordance with Paragraph 6;
“Mediation Notice”	has the meaning given in Paragraph 4.2;
“Mediator”	the independent third party appointed in accordance with Paragraph 5.2 to mediate a Dispute;
“Multi-Party Dispute”	a Dispute which involves the Parties and one or more Related Third Parties;
“Multi-Party Dispute Representatives”	has the meaning given in Paragraph 9.6;
“Multi-Party Dispute Resolution Board”	has the meaning given in Paragraph 9.6;
“Related Third Party”	a party to: (a) another contract with the Buyer or the Supplier which is relevant to this Contract; or (b) a Sub-contract; and
“Supplier Request”	a notice served by the Supplier requesting that the Dispute be treated as a Multi-Party Dispute, setting out its grounds for that request and specifying each Related Third Party that it believes should be involved in the Multi-Dispute Resolution Procedure in respect of that Dispute.

2. DISPUTE NOTICES

2.1 If a Dispute arises then:

- (a) the Buyer Representative and the Supplier Representative shall attempt in good faith to resolve the Dispute; and

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- (b) if such attempts are not successful within a reasonable period, not being longer than 20 Working Days, either Party may issue to the other a Dispute Notice.
- 2.2 A Dispute Notice:
 - (a) shall set out:
 - (i) the material particulars of the Dispute;
 - (ii) the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and
 - (iii) if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable, the reason why; and
 - (b) may specify in accordance with the requirements of Paragraphs 9.2 and 9.3 that the Party issuing the Dispute Notice has determined (in the case of the Buyer) or considers (in the case of the Supplier) that the Dispute is a Multi-Party Dispute, in which case Paragraph 2.3 shall apply.
- 2.3 If a Dispute Notice specifies that the Dispute has been determined or is considered to be a Multi-Party Dispute pursuant to Paragraph 2.2(b), then:
 - (a) if it is served by the Buyer it shall be treated as a Multi-Party Procedure Initiation Notice; and
 - (b) if it is served by the Supplier it shall be treated as a Supplier Request,and in each case the provisions of Paragraph 9 shall apply.
- 2.4 Subject to Paragraphs 2.5 and 3.2 and so long as the Buyer has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, following the issue of a Dispute Notice the Parties shall seek to resolve the Dispute:
 - (a) first by commercial negotiation (as prescribed in Paragraph 4);
 - (b) then, if either Party serves a Mediation Notice, by mediation (as prescribed in Paragraph 5); and
 - (c) lastly by recourse to arbitration (as prescribed in Paragraph 7) or litigation (in accordance with Clause 46 (Governing Law and Jurisdiction)).
- 2.5 Specific issues shall be referred to Expert Determination (as prescribed in Paragraph 6) where specified under the provisions of this Contract and may also be referred to Expert Determination where otherwise appropriate as specified in Paragraph 6.1.
- 2.6 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Contract regardless of the nature of the Dispute and notwithstanding any issue of a Dispute Notice or a Multi-Party Procedure Initiation Notice or proceedings under Paragraph 8 (*Urgent Relief*).

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3. EXPEDITED DISPUTE TIMETABLE

- 3.1 In exceptional circumstances where the use of the times in this Schedule would be unreasonable, including (by way of example) where one Party would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use the Expedited Dispute Timetable within 5 Working Days of the issue of a Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Buyer.
- 3.2 If the Expedited Dispute Timetable is to be used pursuant to the provisions of Paragraph 3.1 or is otherwise specified under the provisions of this Contract, then the following periods of time shall apply in lieu of the time periods specified in the applicable Paragraphs:
- (a) in Paragraph 4.2(c), 10 Working Days;
 - (b) in Paragraph 5.2, 10 Working Days;
 - (c) in Paragraph 6.2, 5 Working Days; and
 - (d) in Paragraph 7.2, 10 Working Days.
- 3.3 If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. If the Parties fail to agree within 2 Working Days after the deadline has passed, the Buyer may set a revised deadline provided that it is no less than 5 Working Days before the end of the period of time specified in the applicable paragraphs (or 2 Working Days in the case of Paragraph 6.2). Any agreed extension shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension. If the Buyer fails to set such a revised deadline then the use of the Expedited Dispute Timetable shall cease and the normal time periods shall apply from that point onwards.

4. COMMERCIAL NEGOTIATION

- 4.1 Following the service of a Dispute Notice, then, so long as the Buyer has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, the Buyer and the Supplier shall make reasonable endeavours to resolve the Dispute as soon as possible by commercial negotiation between the Buyer's commercial director and the Supplier's Director.
- 4.2 If:
- (a) either Party is of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiation, will not result in an appropriate solution;
 - (b) the Parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the conduct of commercial negotiation in accordance with this Paragraph 4; or
 - (c) the Parties have not settled the Dispute in accordance with Paragraph 4.1 within 30 Working Days of service of the Dispute Notice,

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either Party may serve a written notice to proceed to mediation in accordance with Paragraph 5 (a “**Mediation Notice**”).

5. MEDIATION

- 5.1 If a Mediation Notice is served, the Parties shall attempt to resolve the dispute in accordance with the version of CEDR's Model Mediation Procedure which is current at the time the Mediation Notice is served (or such other version as the Parties may agree).
- 5.2 If the Parties are unable to agree on the joint appointment of an independent person to mediate the Dispute within 20 Working Days from (and including) the service of a Mediation Notice then either Party may apply to CEDR to nominate such a person.
- 5.3 If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if both Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.
- 5.4 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties (in accordance with the Change Control Procedure where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.

6. EXPERT DETERMINATION

- 6.1 If a Dispute relates to any aspect of the technology underlying the provision of the Services or otherwise relates to a technical matter of an IT, accounting or financing nature and the Dispute has not been resolved by commercial negotiation in accordance with Paragraph 4 or, if applicable, mediation in accordance with Paragraph 5, then either Party may by written notice to the other request (agreement to which request shall not be unreasonably withheld or delayed) that the Dispute be referred to an expert for determination.
- 6.2 The expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within 10 Working Days of the relevant request made pursuant to Paragraph 6.1, or if the person appointed is unable or unwilling to act, the expert shall be appointed:
- (a) if the Dispute relates to any aspect of the technology underlying the provision of the Services or a matter of an IT technical nature, on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society);
 - (b) if the Dispute relates to a matter of a financial technical nature, on the instructions of the President of the Institute of Chartered Accountants of England and Wales; or
 - (c) if the Dispute relates to a matter of a technical nature not falling within Paragraphs 6.2(a) or 6.2(b), on the instructions of the president (or equivalent) of:
 - (i) an appropriate body agreed between the Parties; or

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- (ii) if the Parties do not reach agreement on the relevant body within 15 Working Days of the relevant request made pursuant to Paragraph 6.1, such body as may be specified by the President of the Law Society on application by either Party.

6.3 The Expert shall act on the following basis:

- (a) he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;
- (b) the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
- (c) the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within 30 Working Days of his appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;
- (d) any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within 20 Working Days of the Expert's determination being notified to the Parties;
- (e) the process shall be conducted in private and shall be confidential; and
- (f) the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

7. ARBITRATION

7.1 Subject to compliance with its obligations under Paragraph 4.1 and to the provisions of Paragraph 6, the Buyer may at any time before court proceedings are commenced refer the Dispute to arbitration in accordance with the provisions of Paragraph 7.5.

7.2 Before the Supplier commences court proceedings or arbitration, it shall serve written notice on the Buyer of its intentions and the Buyer shall have 15 Working Days following receipt of such notice to serve a reply (a **"Counter Notice"**) on the Supplier requiring the Dispute to be referred to and resolved by arbitration in accordance with Paragraph 7.5 or be subject to the exclusive jurisdiction of the courts of England and Wales. The Supplier shall not commence any court proceedings or arbitration until the expiry of such 15 Working Day period.

7.3 If the Buyer serves a Counter Notice, then:

- (a) if the Counter Notice requires the Dispute to be referred to arbitration, the provisions of Paragraph 7.5 shall apply; or
- (b) if the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts of England and Wales, the Dispute shall be so referred to those courts and the Supplier shall not commence arbitration proceedings.

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- 7.4 If the Buyer does not serve a Counter Notice within the 15 Working Day period referred to in Paragraph 7.2, the Supplier may either commence arbitration proceedings in accordance with Paragraph 7.5 or commence court proceedings in the Courts of England and Wales which shall (in those circumstances) have exclusive jurisdiction.
- 7.5 The Parties hereby confirm that if any arbitration proceedings are commenced pursuant to Paragraphs 7.1 to 7.4:
- (a) the Dispute shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (“**LCIA**”) (subject to Paragraphs 7.5(e), (f) and (g));
 - (b) the arbitration shall be administered by the LCIA;
 - (c) the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
 - (d) if the Parties fail to agree the appointment of the arbitrator within 10 Working Days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
 - (e) the chair of the arbitral tribunal shall be British;
 - (f) the arbitration proceedings shall take place in London and in the English language; and
 - (g) the seat of the arbitration shall be London.

8. URGENT RELIEF

Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:

- 8.1 for interim or interlocutory remedies in relation to this Contract or infringement by the other Party of that Party’s Intellectual Property Rights; and/or
- 8.2 where compliance with Paragraph 2.1 and/or referring the Dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

9. MULTI-PARTY DISPUTES

- 9.1 All Multi-Party Disputes shall be resolved in accordance with the procedure set out in this Paragraph 9 (the “**Multi-Party Dispute Resolution Procedure**”).
- 9.2 If at any time following the issue of a Dispute Notice, the Buyer reasonably considers that the matters giving rise to the Dispute involve one or more Related Third Parties, then the Buyer shall be entitled to determine that the Dispute is a Multi-Party Dispute and to serve a notice on the Supplier which sets out the Buyer’s determination that the Dispute is a Multi-Party

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Dispute and specifies the Related Third Parties which are to be involved in the Multi-Party Dispute Resolution Procedure, such notice a “Multi-Party Procedure Initiation Notice”.

- 9.3 If following the issue of a Dispute Notice but before the Dispute has been referred to Expert Determination or to arbitration in accordance with Paragraph 7, the Supplier has reasonable grounds to believe that the matters giving rise to the Dispute have been contributed to by one or more Related Third Parties, the Supplier may serve a Supplier Request on the Buyer.
- 9.4 The Buyer shall (acting reasonably) consider each Supplier Request and shall determine within 5 Working Days whether the Dispute is:
- (a) a Multi-Party Dispute, in which case the Buyer shall serve a Multi-Party Procedure Initiation Notice on the Supplier; or
 - (b) not a Multi-Party Dispute, in which case the Buyer shall serve written notice of such determination upon the Supplier and the Dispute shall be treated in accordance with Paragraphs 3 to 8.
- 9.5 If the Buyer has determined, following a Supplier Request, that a Dispute is not a Multi-Party Dispute, the Supplier may not serve another Supplier Request with reference to the same Dispute.
- 9.6 Following service of a Multi-Party Procedure Initiation Notice a Multi-Party Dispute shall be dealt with by a board (in relation to such Multi-Party Dispute, the **“Multi-Party Dispute Resolution Board”**) comprising representatives from the following parties to the Multi-Party Dispute, each of whom shall be of a suitable level of seniority to finalise any agreement with the other parties to settle the Multi-Party Dispute:
- (a) the Buyer;
 - (b) the Supplier;
 - (c) each Related Third Party involved in the Multi-Party Dispute; and
 - (d) any other representatives of any of the Parties and/or any Related Third Parties whom the Buyer considers necessary,
- (together **“Multi-Party Dispute Representatives”**).
- 9.7 The Parties agree that the Multi-Party Dispute Resolution Board shall seek to resolve the relevant Multi-Party Dispute in accordance with the following principles and procedures:
- (a) the Parties shall procure that their Multi-Party Dispute Representatives attend, and shall use their best endeavours to procure that the Multi-Party Dispute Representatives of each Related Third Party attend, all meetings of the Multi-Party Dispute Resolution Board in respect of the Multi-Party Dispute;
 - (b) the Multi-Party Dispute Resolution Board shall first meet within 10 Working Days of service of the relevant Multi-Party Procedure Initiation Notice at such time and place as the Parties may agree or, if the Parties do not reach agreement on the time and place within 5 Working Days of service of the relevant Multi-Party Procedure Initiation

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Notice, at the time and place specified by the Buyer, provided such place is at a neutral location within England and that the meeting is to take place between 9.00am and 5.00pm on a Working Day; and

- (c) in seeking to resolve or settle any Multi-Party Dispute, the members of the Multi-Party Dispute Resolution Board shall have regard to the principle that a Multi-Party Dispute should be determined based on the contractual rights and obligations between the Parties and the Related Third Parties and that any apportionment of costs should reflect the separate components of the Multi-Party Dispute.

9.8 If a Multi-Party Dispute is not resolved between the Parties and all Related Third Parties within 25 Working Days of the issue of the Multi-Party Procedure Initiation Notice (or such longer period as the Parties may agree in writing), then:

- (a) either Party may serve a Mediation Notice in respect of the Multi-Party Dispute in which case Paragraph 5 shall apply;
- (b) either Party may request that the Multi-Party Dispute is referred to an expert in which case Paragraph 6 shall apply; and/or
- (c) subject to Paragraph 9.9, Paragraph 7 shall apply to the Multi-Party Dispute,

and in each case references to the “Supplier” or the “Parties” in such provisions shall include a reference to all Related Third Parties.

9.9 If a Multi-Party Dispute is referred to arbitration in accordance with Paragraph 7 or a Dispute becomes a Multi-Party Dispute during the course of arbitration proceedings and either Party is unable to compel a Related Third Party to submit to such arbitration proceedings, the Buyer or the Supplier may discontinue such arbitration proceedings and instead initiate court proceedings. The costs of any such discontinued arbitration proceedings shall be borne by the Party which is in a direct contractual relationship with the Related Third Party or, where the Related Third Party is a Sub Contractor, by the Supplier.

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SCHEDULE 8.4: REPORTS AND RECORDS PROVISIONS**1. TRANSPARENCY REPORTS**

- 1.1 Within three (3) months of the Effective Date the Supplier shall provide to the Buyer for its approval (such approval not to be unreasonably withheld or delayed) draft reports in accordance with Part A of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form (once approved, the **“Transparency Reports”**).
- 1.2 If the Buyer rejects any draft Transparency Report, the Supplier shall submit a revised version of the relevant report for further approval by the Buyer within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included.
- 1.3 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in Part A of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form.
- 1.4 Any disagreement in connection with the preparation and/or approval of Transparency Reports, other than under paragraph 1.2 above in relation to the contents of a Transparency Report, shall be treated as a Dispute.
- 1.5 The requirements for Transparency Reports are in addition to any other reporting requirements in this Contract.

2. OTHER REPORTS

The Buyer may require any or all of the following reports:

- 2.1 delay reports;
- 2.2 reports relating to Testing and tests carried out under Schedule 2.4 (Security Management) and Schedule 8.6 (Service Continuity Plan and Corporate Resolution Planning);
- 2.3 reports which the Supplier is required to supply as part of the Management Information;
- 2.4 annual reports on the Insurances;
- 2.5 security reports; and
- 2.6 Force Majeure Event reports.

3. RECORDS

- 3.1 The Supplier shall retain and maintain all the records (including superseded records) referred to in Paragraph 1 and Annex 2 (together **“Records”**):
 - (a) in accordance with the requirements of The National Archives and Good Industry Practice;

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- (b) in chronological order;
 - (c) in a form that is capable of audit; and
 - (d) at its own expense.
- 3.2 The Supplier shall make the Records available for inspection to the Buyer on request, subject to the Buyer giving reasonable notice.
- 3.3 Where Records are retained in electronic form, the original metadata shall be preserved together with all subsequent metadata in a format reasonably accessible to the Buyer.
- 3.4 The Supplier shall, during the Term and a period of at least 7 years following the expiry or termination of this Contract, maintain or cause to be maintained complete and accurate documents and records in relation to the provision of the Services including but not limited to all Records.
- 3.5 Records that contain financial information shall be retained and maintained in safe storage by the Supplier for a period of at least 7 years after the expiry or termination of this Contract.
- 3.6 Without prejudice to the foregoing, the Supplier shall provide the Buyer:
 - (a) as soon as they are available, and in any event within 60 Working Days after the end of the first 6 months of each financial year of the Supplier during the Term, a copy, certified as a true copy by an authorised representative of the Supplier, of its un-audited interim accounts and, if applicable, of consolidated un-audited interim accounts of the Supplier and its Affiliates which would (if the Supplier were listed on the London Stock Exchange (whether or not it is)) be required to be sent to shareholders as at the end of and for each such 6 month period; and
 - (b) as soon as they shall have been sent to its shareholders in order to be laid before an annual general meeting of the Supplier, but not later than 130 Working Days after the end of each accounting reference period of the Supplier part or all of which falls during the Term, the Supplier's audited accounts and if applicable, of the consolidated audited accounts of the Supplier and its Affiliates in respect of that period together with copies of all related directors' and auditors' reports and all other notices/circulars to shareholders.
- 4. VIRTUAL LIBRARY**
- 4.1 The Supplier shall, no later than eight (8) weeks prior to the Operational Services Commencement Date and without charge to the Buyer, create a Virtual Library on which the Supplier shall (subject to any applicable legislation governing the use or processing of personal data) make information about this Contract available in in accordance with the requirements outlined in this Schedule.
- 4.2 The Supplier shall ensure that the Virtual Library is:
 - (a) capable of holding and allowing access to the information described in Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual

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Library) of the Order Form and includes full and accurate file details of all uploaded items including date and time of upload, version number and the name of the uploader;

- (b) structured so that each document uploaded has a unique identifier which is automatically assigned;
 - (c) readily accessible by the Buyer at all times in full via a user-friendly, password protected interface to such nominated users as are notified to the Supplier by the Buyer from time to time,
 - (d) structured so as to allow nominated users to download either specific documents or the complete Virtual Library (to the extent it has Access Permission) in bulk and store and view the content offline (on a regular and automated basis);
 - (e) structured and maintained in accordance with the security requirements as set out in this Contract including those set out in Schedule 2.4 (Security Management);
 - (f) created and based on open standards in Schedule 2.3 (Standards); and
 - (g) backed up on a secure off-site system.
- 4.3 For the avoidance of doubt, the Virtual Library (excluding any Software used to host it) shall form a database which constitute Project Specific IPR which shall be assigned to the Buyer pursuant to Clause 17.1 (Project Specific IPR) of this Contract.
- 4.4 The Supplier shall upload complete and accurate information specified in Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form by the Initial Upload Date (except where prior to the launch of the Virtual Library in which case the date at which the Virtual Library is made available in accordance with Paragraph 4.1) onto Virtual Library in the format specified.
- 4.5 Upon any document being uploaded to the Virtual Library, and where the Buyer has been granted Access Permission to that document, the Supplier shall email on the same date as the upload, a copy of the document to the nominated Buyer email address at:
- []
- 4.6 Except for notices under Clause 44.4 or items covered by Clause 44.6, where the Supplier is under an obligation to provide information to the Buyer in a provision under this Contract, then the Supplier's upload of that information onto the Virtual Library shall satisfy the Supplier's obligation to provide the Buyer with that information provided that the Buyer has access in accordance with this Paragraph 4 and the uploaded information meets the requirements more particularly specified in the relevant provision.
- 4.7 Except to the extent that the requirements provide for earlier and more regular Buyer access to up-to-date information, Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form shall not take precedence

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over any other obligation to provide information in this Contract and the Supplier shall refer to the applicable clause for further details as to the requirement.

- 4.8 The Supplier shall provide each specified person (as set out in column 6 of the table at Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form) access to view and download the specified information in the Virtual Library in Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form subject upon the occurrence of the event specified in the column marked Access Permission in Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form.
- 4.9 Where Access Permission is not listed (in column 6 of the table at Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form) as being subject to the occurrence of a certain event the Supplier shall grant access to the person and information specified (in column 6 of the table at Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form) from the Initial Upload Date.
- 4.10 Where Access Permission is specified as being granted to the Buyer's Third Party Auditor (prior to the Buyer being granted access) it shall:
- (a) be entitled to access, view and download information specified in Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form subject to it entering into a confidentiality agreement with the Supplier to keep the contents confidential (except to the extent disclosure of the confidential information is required under paragraph 4.10(b) of this Schedule); and
 - (b) report to the Buyer (at its request) as to the completeness and accuracy of the information but not the substance of the information.
- 4.11 The Supplier shall ensure that the Virtual Library retains in an accessible form all historic or superseded records of the information specified in Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form. In order to maintain the integrity of the historic archive of the information and documentation and for the purposes of maintaining a clear audit trail, the Supplier shall not delete or overwrite any information that has been stored in the Virtual Library, except for the purposes of maintenance (provided no information is lost during maintenance) or to enable the Supplier to comply with Data Protection Legislation.
- 4.12 The Supplier warrants that the information uploaded to the Virtual Library is accurate, complete, up-to-date and in accordance with this Contract at the date of upload.
- 4.13 Where the Supplier becomes aware that any of the information provided on the Virtual Library is materially inaccurate, incomplete or out of date (other than in respect of historic versions of documents) the Supplier shall provide an update to the information within fourteen (14) days unless already due to be updated beforehand due to an Update Requirement specified in Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form.
- 4.14 In the event of a conflict between any requirement in this Contract (excluding Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library)

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of the Order Form) for the Supplier to provide information to the Buyer and the requirements set out in Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) of the Order Form, the requirement elsewhere in this Contract shall prevail.

- 4.15 The Supplier shall ensure that all approved users of the Virtual Library are alerted by email each time that information in the Virtual Library is uploaded or updated as it occurs.
- 4.16 No later than one (1) Month prior to the Operational Services Commencement Date, the Supplier shall provide training manuals to the Buyer relating to the use of the Virtual Library.
- 4.17 On request by the Buyer the Supplier shall provide the Buyer's nominated users with a reasonable level of training and ongoing support to enable them to make use of the Virtual Library.
- 4.18 For the avoidance of doubt, the cost of any redactions, access restrictions or compliance with the Data Protection Legislation in respect of the information hosted on the Virtual Library shall be at the Supplier's own cost and expense.

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ANNEX 1: TRANSPARENCY REPORTS

Reder to Order Form Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library)

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ANNEX 2: RECORDS TO BE KEPT BY THE SUPPLIER

The records to be kept by the Supplier are:

1. This contract, its schedules and all amendments to such documents.
2. All other documents which this contract expressly requires to be prepared.
3. Records relating to the appointment and succession of the supplier representative and each member of the key personnel.
4. Notices, reports and other documentation submitted by any expert.
5. All operation and maintenance manuals prepared by the supplier for the purpose of maintaining the provision of the services and the underlying it environment and supplier equipment.
6. Documents prepared by the supplier or received by the supplier from a third party relating to a force majeure event.
7. All formal notices, reports or submissions made by the supplier to the buyer representative in connection with the provision of the services.
8. All certificates, licences, registrations or warranties in each case obtained by the supplier in relation to the provision of the services.
9. Documents prepared by the supplier in support of claims for the charges.
10. Documents submitted by the supplier pursuant to the change control procedure.
11. Documents submitted by the supplier pursuant to invocation by it or the buyer of the dispute resolution procedure.
12. Documents evidencing any change in ownership or any interest in any or all of the shares in the supplier and/or the guarantor, where such change may cause a change of control; and including documents detailing the identity of the persons changing such ownership or interest.
13. Invoices and records related to vat sought to be recovered by the supplier.
14. Financial records, including audited and un-audited accounts of the guarantor and the supplier.
15. Records required to be retained by the supplier by law, including in relation to health and safety matters and health and safety files and all consents.
16. All documents relating to the insurances to be maintained under this contract and any claims made in respect of them.
17. All journals and audit trail data referred to in schedule 2.4 (security management plan).
18. All other records, notices or certificates required to be produced and/or maintained by the supplier pursuant to this contract.

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ANNEX 3: RECORDS TO UPLOAD TO VIRTUAL LIBRARY

Refer to Order Form Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library)

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ANNEX 4: SUPPLY CHAIN TRANSPARENCY INFORMATION TEMPLATE

	Financial Year 20[REDACTED]			
	Under this Contract		Supplier as a whole	
	£	%	£	%
Estimated total contract revenue (£) to be received in this Financial Year	£[REDACTED]	100%	£[REDACTED]	100%
Total value of Sub-contracted revenues (£) in this Financial Year	£[REDACTED]	[REDACTED]	£[REDACTED]	[REDACTED]
Total value of Sub-contracted revenues to SMEs (£) in this Financial Year	£[REDACTED]	[REDACTED]	£[REDACTED]	[REDACTED]
Total value of Sub-contracted revenues to VCSEs (£) in this Financial Year	£[REDACTED]	[REDACTED]	£[REDACTED]	[REDACTED]

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SCHEDULE 8.5: EXIT MANAGEMENT**1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

“Application Programming Interface” or “API”	Means a piece of software that facilitates access to the Supplier’s application(s) to provide access to business functionality and/or Buyer Data to support any relevant Termination Services which conforms to the Government Digital Service API technical and data standards set online at: https://www.gov.uk/guidance/gds-api-technical-and-data-standards
“Emergency Exit”	any termination of this Contract which is a: <ul style="list-style-type: none">(a) termination of the whole or part of this Contract in accordance with Clause 33 (Termination Rights), except where the period of notice given under that Clause is greater than or equal to 6 months;(b) termination of the provision of the Services for any reason prior to the expiry of any period of notice of termination served pursuant to Clause 33 (Termination Rights); or(c) wrongful termination or repudiation of this Contract by either Party;
“Ethical Wall Contract”	an ethical wall agreement in a form similar to the draft ethical wall agreement set out at Annex 2;
“Exclusive Assets”	those Assets used by the Supplier or a Key Sub-contractor which are used exclusively in the provision of the Services;
“Exit Information”	has the meaning given in Paragraph 3.1;
“Exit Manager”	the person appointed by each Party pursuant to Paragraph 2.3 for managing the Parties' respective obligations under this Schedule;
“Net Book Value”	the net book value of the relevant Asset(s) calculated in accordance with the depreciation policy of the Supplier set out in the letter in the agreed form from the Supplier to the Buyer of the same date as this Contract;
“Non-Exclusive Assets”	those Assets (if any) which are used by the Supplier or a Key Sub contractor in connection with the Services but which are also used by the Supplier or

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	Key Sub contractor for other purposes of material value;
“Ordinary Exit”	any termination of the whole or any part of this Contract which occurs: <ul style="list-style-type: none">(a) pursuant to Clause 33 (Termination Rights) where the period of notice given by the Party serving notice to terminate pursuant to such Clause is greater than or equal to 6 months; or(b) as a result of the expiry of the Initial Term or any Extension Period;
“Registers”	the register and configuration database referred to in Paragraphs 2.1(a) and 2.1(b);
“Transferable Assets”	those of the Exclusive Assets which are capable of legal transfer to the Buyer; and
“Transferable Contracts”	the Sub-contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to perform the Services or the Replacement Services, including in relation to licences all relevant Documentation; and
“Transferring Contracts”	has the meaning given in Paragraph 7.2(b).

2. OBLIGATIONS DURING THE TERM TO FACILITATE EXIT

2.1 During the Term, the Supplier shall:

- (a) create and maintain a register of all:
 - (i) Assets, detailing their:
 - (A) make, model and asset number;
 - (B) ownership and status as either Exclusive Assets or Non-Exclusive Assets;
 - (C) Net Book Value;
 - (D) condition and physical location; and
 - (E) use (including technical specifications); and
 - (ii) Sub-contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and

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equipment rental and lease agreements) required for the performance of the Services;

- (b) create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Services, which shall contain sufficient detail to permit the Buyer and/or Replacement Supplier to understand how the Supplier provides the Services and to enable the smooth transition of the Services with the minimum of disruption;
 - (c) agree the format of the Registers with the Buyer as part of the process of agreeing the Exit Plan; and
 - (d) at all times keep the Registers up to date, in particular in the event that Assets, Sub-contracts or other relevant agreements are added to or removed from the Services.
- 2.2 The Supplier shall procure that all Exclusive Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the Services under this Contract.
- 2.3 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Schedule and provide written notification of such appointment to the other Party within 3 months of the Effective Date. The Supplier's Exit Manager shall be responsible for ensuring that the Supplier and its employees, agents and Sub-contractors comply with this Schedule. The Supplier shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are reasonably necessary to enable the Supplier to comply with the requirements set out in this Schedule. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Contract and all matters connected with this Schedule and each Party's compliance with it.

3. OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES

- 3.1 On reasonable notice at any point during the Term, the Supplier shall provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence:
- (a) details of the Service(s);
 - (b) a copy of the Registers, updated by the Supplier up to the date of delivery of such Registers;
 - (c) an inventory of Buyer Data in the Supplier's possession or control;
 - (d) details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;
 - (e) a list of on-going and/or threatened disputes in relation to the provision of the Services;

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- (f) to the extent permitted by applicable Law, all information relating to Transferring Supplier Employees required to be provided by the Supplier under this Contract; and
 - (g) such other material and information as the Buyer shall reasonably require, (together, the “**Exit Information**”).
- 3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information to an actual or prospective Replacement Supplier or any third party whom the Buyer is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Buyer may not under this Paragraph 3.2 disclose any Supplier's Confidential Information which is information relating to the Supplier's or its Sub-contractors' prices or costs).
- 3.3 The Supplier shall:
 - (a) notify the Buyer within 5 Working Days of any material change to the Exit Information which may adversely impact upon the potential transfer and/or continuance of any Services and shall consult with the Buyer regarding such proposed material changes; and
 - (b) provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within 10 Working Days of a request in writing from the Buyer.
- 3.4 The Supplier may charge the Buyer for its reasonable additional costs to the extent the Buyer requests more than 4 updates in any 6 month period.
- 3.5 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Supplier shall be such as would be reasonably necessary to enable a third party to:
 - (a) prepare an informed offer for those Services; and
 - (b) not be disadvantaged in any subsequent procurement process compared to the Supplier (if the Supplier is invited to participate).
- 4. OBLIGATION TO ENTER INTO AN ETHICAL WALL AGREEMENT ON RE-TENDERING OF SERVICES**
- 4.1 The Buyer may require the Supplier to enter into the Ethical Wall Contract at any point during a re-tendering or contemplated re-tendering of the Services or any part of the Services.
- 4.2 If required to enter into the Ethical Wall Contract, the Supplier will return a signed copy of the Ethical Wall Contract within 10 Working Days of receipt. The Supplier's costs of entering into the Ethical Wall Contract will be borne solely by the Supplier.
- 5. EXIT PLAN**
- 5.1 The Supplier shall, within 3 months after the Effective Date, deliver to the Buyer an Exit Plan which:

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- (a) sets out the Supplier's proposed methodology for achieving an orderly transition of the relevant Services from the Supplier to the Buyer and/or its Replacement Supplier on the Partial Termination, expiry or termination of this Contract;
 - (b) complies with the requirements set out in Paragraph 5.2; and
 - (c) is otherwise reasonably satisfactory to the Buyer.
- 5.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within 20 Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 5.3 The Exit Plan shall set out, as a minimum:
 - (a) how the Exit Information is obtained;
 - (b) separate mechanisms for dealing with Ordinary Exit and Emergency Exit, the provisions relating to Emergency Exit being prepared on the assumption that the Supplier may be unable to provide the full level of assistance which is required by the provisions relating to Ordinary Exit, and in the case of Emergency Exit, provision for the supply by the Supplier of all such reasonable assistance as the Buyer shall require to enable the Buyer or its sub-contractors to provide the Services;
 - (c) a mechanism for dealing with Partial Termination on the assumption that the Supplier will continue to provide the remaining Services under this Contract;
 - (d) the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit;
 - (e) the management structure to be employed during the Termination Assistance Period;
 - (f) a detailed description of both the transfer and cessation processes, including a timetable, applicable in the case of an Ordinary Exit and an Emergency Exit;
 - (g) how the Services will transfer to the Replacement Supplier and/or the Buyer, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Buyer's technology components from any technology components operated by the Supplier or its Sub-contractors (where applicable);
 - (h) the scope of the Termination Services that may be required for the benefit of the Buyer (including such of the services set out in Annex 1 as are applicable);
 - (i) a timetable and critical issues for providing the Termination Services;
 - (j) any charges that would be payable for the provision of the Termination Services (calculated in accordance with the methodology that would apply if such Services were being treated as a Contract Change), together with a capped estimate of such charges;

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- (k) how the Termination Services would be provided (if required) during the Termination Assistance Period;
 - (l) procedures to deal with requests made by the Buyer and/or a Replacement Supplier for Staffing Information pursuant to Schedule 9.1 (Staff Transfer); and
 - (m) how each of the issues set out in this Schedule will be addressed to facilitate the transition of the Services from the Supplier to the Replacement Supplier and/or the Buyer with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period.
- 5.4 The Parties acknowledge that the migration of the Services from the Supplier to the Buyer and/or its Replacement Supplier may be phased, such that certain of the Services are handed over before others.
- 5.5 The Supplier shall review and (if appropriate) update the Exit Plan on a basis consistent with the principles set out in this Schedule in the first month of each Contract Year (commencing with the second Contract Year) and if requested by the Buyer following the occurrence of a Financial Distress Event, within 14 days of such request, to reflect any changes in the Services that have occurred since the Exit Plan was last agreed. Following such update the Supplier shall submit the revised Exit Plan to the Buyer for review. Within 20 Working Days following submission of the revised Exit Plan, the Parties shall meet and use reasonable endeavours to agree the contents of the revised Exit Plan. If the Parties are unable to agree the contents of the revised Exit Plan within that 20 Working Day period, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

Finalisation of the Exit Plan

- 5.6 Within 20 Working Days after service of a Termination Notice by either Party or 6 months prior to the expiry of this Contract, the Supplier will submit for the Buyer's approval the Exit Plan in a final form that could be implemented immediately. The final form of the Exit Plan shall be prepared on a basis consistent with the principles set out in this Schedule and shall reflect any changes in the Services that have occurred since the Exit Plan was last agreed.
- 5.7 The Parties will meet and use their respective reasonable endeavours to agree the contents of the final form of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within 20 Working Days following its delivery to the Buyer then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure. Until the agreement of the final form of the Exit Plan, the Supplier shall provide the Termination Services in accordance with the principles set out in this Schedule and the last approved version of the Exit Plan (insofar as relevant).

6. TERMINATION SERVICES**Notification of Requirements for Termination Services**

- 6.1 The Buyer shall be entitled to require the provision of Termination Services at any time during the Term by giving written notice to the Supplier (a **"Termination Assistance Notice"**) at least 4 months prior to the date of termination or expiry of this Contract or as soon as reasonably practicable (but in any event, not later than 1 month) following

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the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

- (a) the date from which Termination Services are required;
- (b) the nature of the Termination Services required; and
- (c) the period during which it is anticipated that Termination Services will be required, which shall continue no longer than 24 months after the date that the Supplier ceases to provide the terminated Services.

6.2 The Buyer shall have:

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

Termination Assistance Period

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

- (a) continue to provide the Services (as applicable) and, if required by the Buyer pursuant to Paragraph 6.1, provide the Termination Services;
- (b) in addition to providing the Services and the Termination Services, provide to the Buyer any reasonable assistance requested by the Buyer to allow the Services to continue without interruption following the Partial Termination, termination or expiry of this Contract and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Buyer and/or its Replacement Supplier;
- (c) use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in Paragraph 6.3(b) without additional costs to the Buyer;
- (d) provide the Services and the Termination Services at no detriment to the Target Performance Levels, save to the extent that the Parties agree otherwise in accordance with Paragraph 6.5; and
- (e) at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer.

6.4 Without prejudice to the Supplier's obligations under Paragraph 6.3(c), if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.3(b) without additional costs to the Buyer, any additional

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costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Services or the Exit Plan shall be subject to the Change Control Procedure.

- 6.5 If the Supplier demonstrates to the Buyer's reasonable satisfaction that transition of the Services and provision of the Termination Services during the Termination Assistance Period will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Target Performance Level(s), the Parties shall vary the relevant Target Performance Level(s) and/or the applicable Service Credits to take account of such adverse effect.

Termination Obligations

- 6.6 The Supplier shall comply with all of its obligations contained in the Exit Plan in respect of any Partial Termination or termination.

- 6.7 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule) in respect of the Services that have been terminated, the Supplier shall:

- (a) cease to use the Buyer Data;
- (b) provide the Buyer and/or the Replacement Supplier with a complete and uncorrupted version of the Buyer Data in electronic form (or such other format as reasonably required by the Buyer);
- (c) erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period all Buyer Data and promptly certify to the Buyer that it has completed such deletion;
- (d) return to the Buyer such of the following as is in the Supplier's possession or control:
 - (i) all copies of the Buyer Software and any other software licensed by the Buyer to the Supplier under this Contract;
 - (ii) all materials created by the Supplier under this Contract in which the IPRs are owned by the Buyer;
 - (iii) any parts of the IT Environment and any other equipment which belongs to the Buyer; and
 - (iv) any items that have been on-charged to the Buyer, such as consumables;
- (e) vacate any Buyer Premises unless access is required to continue to deliver the Services;

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- (f) provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to 12 months after the Partial Termination, expiry or termination of this Contract to:
 - (i) such information relating to the Services as remains in the possession or control of the Supplier; and
 - (ii) such members of the Supplier Personnel as have been involved in the design, development and provision of the Services and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to requests for access under this Paragraph 6.7(f)(ii).
- 6.8 Upon Partial Termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Services or for statutory compliance purposes.
- 6.9 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the terminated Services shall be terminated with effect from the end of the Termination Assistance Period.
- 7. ASSETS, SUB-CONTRACTS AND SOFTWARE**
- 7.1 Following notice of termination or Partial Termination of this Contract and during the Termination Assistance Period, the Supplier shall not, in respect of the terminated Services, without the Buyer's prior written consent:
 - (a) terminate, enter into or vary any Sub contract except to the extent that such change does not or will not affect the provision of Services or the Charges;
 - (b) (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Assets or acquire any new Assets; or
 - (c) terminate, enter into or vary any licence for software in connection with the Services.
- 7.2 Within 20 Working Days of receipt of the up-to-date Registers provided by the Supplier pursuant to Paragraph 6.3(e), the Buyer shall provide written notice to the Supplier setting out:
 - (a) which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier in respect of the terminated Services ("**Transferring Assets**");
 - (i) which, if any, of:

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- (ii) the Exclusive Assets that are not Transferable Assets; and
- (iii) the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and

- (b) which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the **“Transferring Contracts”**),

in order for the Buyer and/or its Replacement Supplier to provide the Services from the expiry of the Termination Assistance Period. Where requested by the Buyer and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts the Buyer and/or its Replacement Supplier requires to provide the Services or Replacement Services.

7.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or its nominated Replacement Supplier for a consideration equal to their Net Book Value, except where:

- (a) a Termination Payment is payable by the Buyer to the Supplier, in which case, payment for such Assets shall be included within the Termination Payment; or
- (b) the cost of the Transferring Asset has been partially or fully paid for through the Charges at the time of expiry or termination of this Contract, in which case the Buyer shall pay the Supplier the Net Book Value of the Transferring Asset less the amount already paid through the Charges.

7.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) on payment for the same.

7.5 Where the Supplier is notified in accordance with Paragraph 7.2(b) that the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:

- (a) procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Buyer) for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
- (b) procure a suitable alternative to such assets and the Buyer or the Replacement Supplier shall bear the reasonable proven costs of procuring the same.

7.6 The Supplier shall as soon as reasonably practicable assign or procure the novation to the Buyer and/or the Replacement Supplier of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.

7.7 The Buyer shall:

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- (a) accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
 - (b) once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 7.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until such time as the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has been effected.
- 7.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 7.6 both:
- (a) in relation to any matters arising prior to the date of assignment or novation of such Sub contract; and
 - (b) in relation to any matters arising after the date of assignment or novation of such Sub-contract where the loss, liability or cost arises as a result of the Supplier's failure to comply with Clauses 16 (Intellectual Property Rights) and/or Clause 17 (Transfer and Licences Granted by the Supplier).

8. SUPPLIER PERSONNEL

- 8.1 The Buyer and Supplier agree and acknowledge that in the event of the Supplier ceasing to provide the Services or part of them for any reason, Schedule 9.1 (Staff Transfer) shall apply.
- 8.2 The Supplier shall not take any step (expressly or implicitly or directly or indirectly by itself or through any other person) to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Buyer and/or the Replacement Supplier.
- 8.3 During the Termination Assistance Period, the Supplier shall give the Buyer and/or the Replacement Supplier reasonable access to the Supplier's personnel to present the case for transferring their employment to the Buyer and/or the Replacement Supplier.
- 8.4 The Supplier shall immediately notify the Buyer or, at the direction of the Buyer, the Replacement Supplier of any period of notice given by the Supplier or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.
- 8.5 The Supplier shall not for a period of 12 months from the date of transfer re-employ or re-engage or entice any employees, suppliers or Sub-contractors whose employment or engagement is transferred to the Buyer and/or the Replacement Supplier, except that this paragraph shall not apply where the employee, supplier or Sub-contractor applies in response to a public advertisement of a vacancy.

9. CHARGES

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- 9.1 During the Termination Assistance Period (or for such shorter period as the Buyer may require the Supplier to provide the Termination Services), the Buyer shall pay the Charges to the Supplier in respect of the Termination Services in accordance with the rates set out in the Exit Plan (but shall not be required to pay costs in excess of the estimate set out in the Exit Plan). If the scope or timing of the Termination Services is changed and this results in a change to the costs of such Termination Services, the estimate may be varied in accordance with the Change Control Procedure.
- 9.2 Where the Buyer requests an extension to the Termination Services beyond the Termination Assistance Period in accordance with Paragraph 6.2:
- (a) where more than 6 months' notice is provided, the same rate as set out in the Exit Plan (or the Charges when not stated in the Exit Plan) shall be payable; and
 - (b) where less than 6 months' notice is provided, no more than 1.2 times the rate as set out in the Exit Plan (or the Charges when not stated in the Exit Plan) shall be payable.
- 9.3 For the purpose of calculating the costs of providing the Termination Services for inclusion in the Exit Plan or, if no Exit Plan has been agreed, the costs of providing Termination Services shall be determined in accordance with the Change Control Procedure.
- 9.4 Except as otherwise expressly specified in this Contract, the Supplier shall not make any charges for the services provided by the Supplier pursuant to, and the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with, this Schedule including the preparation and implementation of the Exit Plan and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

10. APPORTIONMENTS

- 10.1 All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and the Supplier and/or the Replacement Supplier and the Supplier (as applicable) as follows:
- (a) the amounts shall be annualised and divided by 365 to reach a daily rate;
 - (b) the Buyer shall be responsible for (or shall procure that the Replacement Supplier shall be responsible for) or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
 - (c) the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.
- 10.2 Each Party shall pay (and/or the Buyer shall procure that the Replacement Supplier shall pay) any monies due under Paragraph 10.1 as soon as reasonably practicable.

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ANNEX 1: SCOPE OF THE TERMINATION SERVICES

1. The Termination Services to be provided by the Supplier shall include such of the following services as the Buyer may specify:
 - (a) ceasing all non-critical Software changes (except where agreed in writing with the Buyer);
 - (b) notifying the Sub-contractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
 - (c) providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Buyer and/or the Replacement Supplier after the end of the Termination Assistance Period;
 - (d) delivering to the Buyer the existing systems support profiles, monitoring or system logs, problem tracking/resolution documentation and status reports all relating to the 12 month period immediately prior to the commencement of the Termination Services;
 - (e) providing details of work volumes and staffing requirements over the 12 month period immediately prior to the commencement of the Termination Services;
 - (f) with respect to work in progress as at the end of the Termination Assistance Period, documenting the current status and stabilising for continuity during transition;
 - (g) providing the Buyer with any problem logs which have not previously been provided to the Buyer;
 - (h) providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Services and re writing and implementing these during and for a period of 12 months after the Termination Assistance Period;
 - (i) providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Services and re-writing and implementing these such that they are appropriate for the continuation of the Services after the Termination Assistance Period;
 - (j) reviewing all Software libraries used in connection with the Services and providing details of these to the Buyer and/or the Replacement Supplier;
 - (k) providing assistance and expertise as necessary to support the Buyer and/or the Replacement Supplier develop the migration plan for business operations and Buyer Data to the Replacement Supplier, which may include migration approach, testing of plans, contingency options, and handling of historic or archived Buyer Data;

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- (l) provide all necessary support, equipment, tools, and Software such as data migration services and/or Automated Programming Interfaces, in order to enable and support the execution of the migration plan by the Buyer and/or Replacement Supplier;
- (m) making available to the Buyer and/or the Replacement Supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff as are nominated by the Buyer (acting reasonably) at the time of termination or expiry;
- (n) assisting in establishing naming conventions for any new production site;
- (o) analysing and providing information about capacity and performance requirements, processor requirements and bandwidth requirements, and known planned requirements for capacity growth across these areas;
- (p) generating a computer listing of the Source Code of [insert details of relevant Software] in a form and on media reasonably requested by the Buyer;
- (q) agreeing with the Buyer a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
- (r) delivering copies of the production databases (with content listings) to the Buyer's and/or the Replacement Supplier's operations staff (on appropriate media) as reasonably requested by the Buyer;
- (s) assisting with the loading, testing and implementation of the production databases;
- (t) assisting in the execution of a parallel operation until the effective date of expiry or termination of this Contract;
- (u) in respect of the maintenance and support of the Supplier System, providing historical performance data for the previous [insert time period];
- (v) assisting in the execution of a parallel operation of the maintenance and support of the Supplier System until the end of the Termination Assistance Period or as otherwise specified by the Buyer (provided that these Services shall end on a date no later than the end of the Termination Assistance Period);
- (w) providing an information pack listing and describing the Services for use by the Buyer in the procurement of the Replacement Services;
- (x) answering all reasonable questions from the Buyer and/or the Replacement Supplier regarding the Services;
- (y) agreeing with the Buyer and/or the Replacement Supplier a plan for the migration of the Buyer Data to the Buyer and/or the Replacement Supplier;
- (z) providing access to the Buyer and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding 6 months afterwards for the purpose of the smooth transfer of the Services to the Buyer and/or the Replacement Supplier;

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- (i) to information and documentation relating to the Transferring Services that is in the possession or control of the Supplier or its Sub-contractors (and the Supplier agrees and shall procure that its Sub-contractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
 - (ii) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Personnel who have been involved in the provision or management of the Services and who are still employed or engaged by the Supplier or its Sub-contractors; and
- (aa) knowledge transfer services, including:
 - (i) transferring all training material and providing appropriate training to those Buyer and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Services;
 - (ii) providing for transfer to the Buyer and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Services which may, as appropriate, include information, records and documents; and
 - (iii) providing the Supplier and/or the Replacement Supplier with access to such members of the Supplier's or its Sub-contractors' personnel as have been involved in the design, development, provision or management of the Services and who are still employed or engaged by the Supplier or its Sub contractors.
- 2. The Supplier shall:
 - (a) provide a documented plan relating to the training matters referred to in Paragraph 1(k) for agreement by the Buyer at the time of termination or expiry of this Contract;
 - (b) co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1(o), providing skills and expertise of a suitable standard; and
 - (c) fully co-operate in the execution of the Buyer Database migration plan agreed pursuant to Paragraph 1(w), providing skills and expertise of a reasonably acceptable standard.
- 3. To facilitate the transfer of knowledge from the Supplier to the Buyer and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services, the change management process and other standards and procedures to the operations personnel of the Buyer and/or the Replacement Supplier.
- 4. The information which the Supplier shall provide to the Buyer and/or the Replacement Supplier pursuant to Paragraph 1(y) shall include:
 - (a) copies of up-to-date procedures and operations manuals;
 - (b) product information;

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- (c) agreements with third party suppliers of goods and services which are to be transferred to the Buyer and/or the Replacement Supplier;
 - (d) key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Buyer pursuant to this Schedule;
 - (e) information regarding any unresolved faults in progress at the commencement of the Termination Assistance Period as well as those expected to be in progress at the end of the Termination Assistance Period;
 - (f) details of physical and logical security processes and tools which will be available to the Buyer; and
 - (g) any relevant interface information.
5. During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and Suppliers) of the Replacement Supplier and/or the Buyer access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:
- (a) any such agent or personnel (including employees, consultants and suppliers) having access to any Sites pursuant to this Paragraph 5 shall:
 - (i) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and
 - (ii) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Buyer deems reasonable; and
 - (b) the Buyer and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

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ANNEX 2: DRAFT ETHICAL WALL AGREEMENT

[THE AUTHORITY]

and

[THE COUNTERPARTY]

ETHICAL WALL AGREEMENT

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This Contract is dated [] 20[]

Between

- (1) **[INSERT NAME OF BUYER]** (the "**Buyer**") [acting on behalf of the Crown] of [insert Buyer's address]; and
- (2) **[NAME OF COUNTERPARTY]** a [company]/[limited liability partnership] registered in England and Wales under registered number [insert registered number] whose registered office is at [insert Counterparty's registered address] (the "**Counterparty**").

BACKGROUND

- A The Buyer is obliged to ensure transparency, fairness, non-discrimination and equal treatment in relation to its procurement process pursuant to the Public Contracts Regulations 2015 (as amended) (the **PCR**). The purpose of this document ("**Contract**") is to define the protocols to be followed to prevent, identify and remedy any conflict of interest (whether actual, potential or perceived) in the context of the Procurement.
- B The Buyer is conducting a procurement exercise for the [supply/purchase] of [insert details of project/goods/services] (the "**Purpose**").
- C The Buyer has an obligation to deal with conflicts of interest as set out in Regulation 24 (1) of the PCR. The concept of conflict of interest is wide. In the PCR it is described as covering at least *"any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure"* (Regulation 24(2)). *"Staff members"* refers to staff members of the Buyer or of a procurement service provider acting on behalf of the Buyer who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure. *"Procurement service provider"* refers to a public or private body which offers ancillary purchasing activities on the market.
- D Pursuant to Regulation 41 of the PCR, the Buyer is under an obligation to ensure that competition is not distorted by the participation of any bidder. Accordingly, the Buyer has identified that a potential distortion of competition could arise as a consequence of a bidder wishing to submit a Tender for this procurement, where it has also performed services for the Buyer under existing contractual arrangements or as a subcontractor under those same arrangements.
- E The parties wish to enter into this Contract to ensure that a set of management processes, barriers and disciplines are put in place to ensure that conflicts of interest do not arise, and that the Counterparty does not obtain an unfair competitive advantage over Other Bidders.

IT IS AGREED:**1. DEFINITIONS AND INTERPRETATION**

- 1.1 The following words and expressions shall have the following meanings in this agreement and its recitals:

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“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;

“Contract” means this ethical walls agreement duly executed by the Parties;

“Bid Team” means any Counterparty, Affiliate, connected to the preparation of an ITT Response;

“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;

“Conflicted Personnel” means any Counterparty, Affiliate, staff or agents of the Counterparty or an Affiliate who, because of the Counterparty’s relationship with the Buyer under any Contract have or have had access to information which creates or may create a conflict of interest;

“Contract” means the [contract for [] dated [] between the Buyer and the Counterparty and/or an Affiliate;

"Control" means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and **"Controls"** and **"Controlled"** shall be interpreted accordingly;

"Effective Date" means the date of this Contract as set out above;

“Invitation to Tender” or **“ITT”** means an invitation to submit tenders issued by the Buyer as part of an ITT Process;

“ITT Process” means, with regard to the Purpose, the relevant procedure provided for in the PCR which the Buyer has elected to use to select a contractor, together with all relevant information, correspondence and/or documents issued by the Buyer as part of that procurement exercise, all information, correspondence and/or documents issued by the bidders in response together with any resulting contract;

“ITT Response” means the tender submitted or to be submitted by the Counterparty or an Affiliate [(or, where relevant, by an Other Bidder)] in response to an ITT;

“Other Affiliate” any person who is a subsidiary, subsidiary undertaking or holding company of any Other Bidder;

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“Other Bidder” means any other bidder or potential bidder that is not the Counterparty or any Affiliate that has or is taking part in the ITT Process;

“Parties” means the Buyer and the Counterparty;

“Professional Advisor” means a supplier, subcontractor, advisor or consultant engaged by the Counterparty under the auspices of compiling its ITT Response;

“Purpose” has the meaning given to it in recital B to this Contract;

“Representative” refers to a person's officers, directors, employees, advisers and agents and, where the context admits, providers or potential providers of finance to the Counterparty or any Affiliate in connection with the ITT Process and the representatives of such providers or potential providers of finance; and

“Third Party” means any person who is not a Party and includes Other Affiliates and Other Bidders.

- 1.2 Reference to the disclosure of information includes any communication or making available information and includes both direct and indirect disclosure.
- 1.3 Reference to the disclosure of information, or provision of access, by or to the Buyer or the Counterparty includes disclosure, or provision of access, by or to the representatives of the Buyer or Representatives of the Counterparty (as the case may be).
- 1.4 Reference to persons includes legal and natural persons.
- 1.5 Reference to any enactment is to that enactment as amended, supplemented, re-enacted or replaced from time to time.
- 1.6 Reference to clauses and recitals is to clauses of and recitals to this Contract.
- 1.7 Reference to any gender includes any other.
- 1.8 Reference to writing includes email.
- 1.9 The terms “associate”, “holding company”, “subsidiary”, “subsidiary undertaking” and “wholly owned subsidiary” have the meanings attributed to them in the Companies Act 2006, except that for the purposes of section 1159(1)(a) of that Act, the words ‘holds a majority of the voting rights’ shall be changed to ‘holds 30% or more of the voting rights’, and other expressions shall be construed accordingly.
- 1.10 The words “include” and “including” are to be construed without limitation.
- 1.11 The singular includes the plural and vice versa.
- 1.12 The headings contained in this Contract shall not affect its construction or interpretation.

2. ETHICAL WALLS

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2.1 In consideration of the sum of £1 payable by the Buyer to the Counterparty, receipt of which is hereby acknowledged, the Counterparty:

- (a) shall take all appropriate steps to ensure that neither the Counterparty nor its Affiliates and/or Representatives are in a position where, in the reasonable opinion of the Buyer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Counterparty or its Affiliates or Representatives and the duties owed to the Buyer under the Contract or pursuant to an open and transparent ITT Process;
- (b) acknowledges and agrees that a conflict of interest may arise in situations where the Counterparty or an Affiliate intends to take part in the ITT Process and, because of the Counterparty's relationship with the Buyer under any Contract, the Counterparty, its Affiliates and/or Representatives have or have had access to information which could provide the Counterparty and/or its Affiliates with an advantage and render unfair an otherwise genuine and open competitive ITT Process; and
- (c) where there is or is likely to be a conflict of interest or the perception of a conflict of interest of any kind in relation to the ITT Process, shall comply with Clause 2.2.

2.2 The Counterparty shall:

- (a) Not assign any of the Conflicted Personnel to the Bid Team at any time;
- (b) Provide to the Buyer a complete and up to date list of the Conflicted Personnel and the Bid Team and reissue such list upon any change to it;
- (c) Ensure that by no act or omission by itself, its staff, agents and/or Affiliates results in information of any kind or in any format and however so stored:
 - (i) about the Contract, its performance, operation and all matters connected or ancillary to it becoming available to the Bid Team; and/or
 - (ii) which would or could in the opinion of the Buyer confer an unfair advantage on the Counterparty in relation to its participation in the ITT Process becoming available to the Bid Team;
- (d) Ensure that by no act or omission by itself, its staff, agents and/or Affiliates and in particular the Bid Team results in information of any kind or in any format and however so stored about the ITT Process, its operation and all matters connected or ancillary to it becoming available to the Conflicted Personnel;
- (e) Ensure that confidentiality agreements which flow down the Counterparty's obligations in this Contract are entered into as necessary between the Buyer and the Counterparty, its Affiliates, its staff, agents, any Conflicted Personnel, and between any other parties necessary in a form to be prescribed by the Buyer;
- (f) physically separate the Conflicted Personnel and the Bid Team, either in separate buildings or in areas with restricted access;

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- (g) provide regular training to its staff, agents and its Affiliates to ensure it is complying with this Contract;
- (h) monitor Conflicted Personnel movements within restricted areas (both physical and electronic online areas) to ensure it is complying with this Contract ensure adherence to the ethical wall arrangements;
- (i) ensure that the Conflicted Personnel and the Bid Team are line managed and report independently of each other; and
- (j) comply with any other action as the Buyer, acting reasonably, may direct.

2.3 In addition to the obligations set out in Clause 2.1(a) and 2.1(c), the Counterparty shall:

- (a) notify the Buyer immediately of all perceived, potential and/or actual conflicts of interest that arise;
- (b) submit in writing to the Buyer full details of the nature of the conflict including (without limitation) full details of the risk assessments undertaken, the impact or potential impact of the conflict, the measures and arrangements that have been established and/or are due to be established to eliminate the conflict and the Counterparty's plans to prevent future conflicts of interests from arising; and
- (c) seek the Buyer's approval thereto,

which the Buyer shall have the right to grant, grant conditionally or deny (if the Buyer denies its approval the Counterparty shall repeat the process set out in clause 2.3 until such time as the Buyer grants approval or the Counterparty withdraws from the ITT Process).

2.4 Any breach of Clause 2.1, Clause 2.2 or Clause 2.3 shall entitle the Buyer to exclude the Counterparty or any Affiliate or Representative from the ITT Process, and the Buyer may, in addition to the right to exclude, take such other steps as it deems necessary where, in the reasonable opinion of the Buyer there has been a breach of Clause 2.1, Clause 2.2 or Clause 2.3.

2.5 The Counterparty will provide, on demand, any and all information in relation to its adherence with its obligations set out under Clauses 2.1 and 2.2 as reasonably requested by the Buyer.

2.6 The Buyer reserves the right to require the Counterparty to demonstrate the measures put in place by the Counterparty under Clauses 2.1(c) and 2.2.

2.7 The Counterparty acknowledges that any provision of information or demonstration of measures, in accordance with Clauses 2.5 and 2.6, does not constitute acceptance by the Buyer of the adequacy of such measures and does not discharge the Counterparty of its obligations or liability under this Contract.

2.8 The actions of the Buyer pursuant to Clause 2.4 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Buyer.

2.9 In no event shall the Buyer be liable for any bid costs incurred by:

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- (a) the Counterparty or any Affiliate or Representative; or
- (b) any Other Bidder, Other Affiliate or Other Representative,

as a result of any breach by the Counterparty, Affiliate or Representative of this Contract, including, without limitation, where the Counterparty or any Affiliate or Representative, or any Other Bidder, Other Affiliate or Other Representative are excluded from the ITT Process.

2.10 The Counterparty acknowledges and agrees that:

- (a) neither damages nor specific performance are adequate remedies in the event of its breach of the obligations in clause 2; and
- (b) in the event of such breach by the Counterparty of any of its obligations in clause 2 which cannot be effectively remedied the Buyer shall have the right to terminate this Contract and the Counterparty's participation in the ITT Process.

3. SOLE RESPONSIBILITY

It is the sole responsibility of the Counterparty to comply with the terms of this Contract. No approval by the Buyer of any procedures, agreements or arrangements provided by the Counterparty or any Affiliate or Representative to the Buyer shall discharge the Counterparty's obligations.

4. WAIVER AND INVALIDITY

- 4.1 No failure or delay by any Party in exercising any right, power or privilege under this Contract or by law shall constitute a waiver of that or any other right, power or privilege, nor shall it restrict the further exercise of that or any other right, power or privilege. No single or partial exercise of such right, power or privilege shall prevent or restrict the further exercise of that or any other right, power or privilege.
- 4.2 If any provision of this Contract is prohibited or unenforceable in any jurisdiction in relation to any Party, such prohibition or unenforceability will not invalidate the remaining provisions of this Contract or affect the validity or enforceability of the provisions of this Contract in relation to any other Party or any other jurisdiction.

5. ASSIGNMENT AND NOVATION

- 5.1 Subject to clause 5.2 the Parties 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 Contract without the prior written consent of the Buyer.
- 5.2 The Buyer may assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Contract and/or any associated licences to:
 - (a) any Central Government Body; or
 - (b) to a body other than a Central Government Body (including any private sector body) which performs any of the functions that previously had been performed by the Buyer; and

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- (c) the Counterparty shall, at the Buyer's request, enter into a novation agreement in such form as the Buyer may reasonably specify in order to enable the Buyer to exercise its rights pursuant to this Clause 5.

- 5.3 A change in the legal status of the Buyer such that it ceases to be a Central Government Body shall not affect the validity of this Contract and this Contract shall be binding on any successor body to the Buyer.

6. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a Party to this Contract has no right under the Contract (Rights of Third Parties) Act 1999 (as amended, updated or replaced from time to time) to enforce any term of this Contract but this does not affect any right remedy of any person which exists or is available otherwise than pursuant to that Act.

7. TRANSPARENCY

The parties acknowledge and agree that the Buyer is under a legal duty pursuant to the PCR to run transparent and fair procurement processes. Accordingly, the Buyer may disclose the contents of this Contract to potential bidders in the ITT Process, for the purposes of transparency and in order to evidence that a fair procurement process has been followed.

8. NOTICES

- 8.1 Any notices sent under this Contract must be in writing.
- 8.2 The following table sets out the method by which notices may be served under this Contract and the respective deemed time and proof of service:

Manner of Delivery	Deemed time of service	Proof of service
Email	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™ 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	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt.

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	occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm).	
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- 8.3 Notices shall be sent to the addresses set out below or at such other address as the relevant party may give notice to the other party for the purpose of service of notices under this Contract:

	Counterparty	Buyer
Contact		
Address		
Email		

- 8.4 This Clause 8 does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.

9. WAIVER AND CUMULATIVE REMEDIES

- 9.1 The rights and remedies under this Contract may be waived only by notice 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 Contract or by law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 9.2 Unless otherwise provided in this Contract, rights and remedies under this Contract are cumulative and do not exclude any rights or remedies provided by law, in equity or otherwise.

10. TERM

Each party's obligations under this Contract shall continue in full force and effect for period of [] years from the Effective Date.

11. GOVERNING LAW AND JURISDICTION

- 11.1 This Contract 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 and Wales.
- 11.2 The Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Contract or its subject matter or formation.

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Signed by the Buyer	Name:
	Signature:
	Position in Buyer:
Signed by the Counterparty	Name:
	Signature:
	Position in Counterparty:

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SCHEDULE 8.6: SERVICE CONTINUITY PLAN AND CORPORATE RESOLUTION PLANNING**Part 1: Service Continuity Plan****1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

“Business Continuity Plan”	has the meaning given in Paragraph 2.2(a)(ii);
“Business Continuity Services”	has the meaning given in Paragraph 4.2(b);
“Department”	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none"> (a) Government Department; or (b) Non-Ministerial Department.
“Disaster”	the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part of the Services will be unavailable or which is reasonably anticipated will mean that the Services or a material part of the Services will be unavailable;
“Disaster Recovery Plan”	has the meaning given in Paragraph 2.2(a)(iii);
“Disaster Recovery Services”	the services embodied in the processes and procedures for restoring the Services following the occurrence of a Disaster;
“Disaster Recovery System”	the system identified by the Supplier in the Supplier Solution which shall be used for the purpose of delivering the Disaster Recovery Services;
“Insolvency Continuity Plan”	has the meaning given in Paragraph 2.2(a)(iv).
“Related Service Provider”	any person who provides services to the Buyer in relation to this Contract from time to time, which persons include as at the Effective Date [insert details];

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“Review Report”	has the meaning given in Paragraphs 7.2(a) to 7.2(c);
“Service Continuity Plan”	means the plan prepared pursuant to Paragraph 2 of this Schedule which incorporates the Business Continuity Plan, Disaster Recovery Plan and the Insolvency Continuity Plan;

2. SERVICE CONTINUITY PLAN

2.1 Within 40 Working Days from the Effective Date the Supplier shall prepare and deliver to the Buyer for the Buyer’s written approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

- (a) ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services (including where caused by an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member); and
- (b) the recovery of the Services in the event of a Disaster.

2.2 The Service Continuity Plan shall:

- (a) be divided into four parts:
 - (i) Part A which shall set out general principles applicable to the Service Continuity Plan;
 - (ii) Part B which shall relate to business continuity (the **“Business Continuity Plan”**);
 - (iii) Part C which shall relate to disaster recovery (the **“Disaster Recovery Plan”**);
 - (iv) Part D which shall relate to an Insolvency Event of the Supplier, any Key Sub-contractors and/or any Supplier Group member (the **“Insolvency Continuity Plan”**); and
- (b) unless otherwise required by the Buyer in writing, be based upon and be consistent with the provisions of Paragraphs 3, 4, 5 and 6.

2.3 Following receipt of the draft Service Continuity Plan from the Supplier, the Buyer shall:

- (a) review and comment on the draft Service Continuity Plan as soon as reasonably practicable; and
- (b) notify the Supplier in writing that it approves or rejects the draft Service Continuity Plan no later than 20 Working Days after the date on which the draft Service Continuity Plan is first delivered to the Buyer.

2.4 If the Buyer rejects the draft Service Continuity Plan:

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- (a) the Buyer shall inform the Supplier in writing of its reasons for its rejection; and
- (b) the Supplier shall then revise the draft Service Continuity Plan (taking reasonable account of the Buyer's comments) and shall re-submit a revised draft Service Continuity Plan to the Buyer for the Buyer's approval within 20 Working Days of the date of the Buyer's notice of rejection. The provisions of Paragraph 2.3 and this Paragraph 2.4 shall apply again to any resubmitted draft Service Continuity Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3. SERVICE CONTINUITY PLAN: PART A – GENERAL PRINCIPLES AND REQUIREMENTS

3.1 Part A of the Service Continuity Plan shall:

- (a) set out how the business continuity, disaster recovery and insolvency continuity elements of the plan link to each other;
- (b) provide details of how the invocation of any element of the Service Continuity Plan may impact upon the operation of the Services and any services provided to the Buyer by a Related Service Provider;
- (c) contain an obligation upon the Supplier to liaise with the Buyer and (at the Buyer's request) any Related Service Provider with respect to issues concerning business continuity, disaster recovery and insolvency continuity where applicable;
- (d) detail how the Service Continuity Plan links and interoperates with any overarching and/or connected disaster recovery, business continuity and/or insolvency continuity plan of the Buyer and any of its other Related Service Providers in each case as notified to the Supplier by the Buyer from time to time;
- (e) contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Buyer;
- (f) contain a risk analysis, including:
 - (i) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
 - (ii) identification of any single points of failure within the Services and processes for managing the risks arising therefrom;
 - (iii) identification of risks arising from the interaction of the Services with the services provided by a Related Service Provider;
 - (iv) identification of risks arising from an Insolvency Event of the Supplier, any Key Sub-contractors and/or Supplier Group member; and

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- (v) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
- (g) provide for documentation of processes, including business processes, and procedures;
- (h) set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-contractors) and for the Buyer;
- (i) identify the procedures for reverting to “normal service”;
- (j) set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;
- (k) identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the Service Continuity Plan; and
- (l) provide for the provision of technical advice and assistance to key contacts at the Buyer as notified by the Buyer from time to time to inform decisions in support of the Buyer’s business continuity plans.

3.2 The Service Continuity Plan shall be designed so as to ensure that:

- (a) the Services are provided in accordance with this Contract at all times during and after the invocation of the Service Continuity Plan;
- (b) the adverse impact of any Disaster; service failure; an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member; or disruption on the operations of the Buyer, is minimal as far as reasonably possible;
- (c) it complies with the relevant provisions of ISO/IEC 22301 and all other industry standards from time to time in force; and
- (d) there is a process for the management of disaster recovery testing detailed in the Service Continuity Plan.

3.3 The Service Continuity Plan shall be upgradeable and sufficiently flexible to support any changes to the Services, to the business processes facilitated by and the business operations supported by the Services, and/or changes to the Supplier Group structure.

3.4 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

SERVICE CONTINUITY PLAN: PART B - BUSINESS CONTINUITY

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4. PRINCIPLES AND CONTENTS

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Buyer expressly states otherwise in writing:
- (a) the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the Services; and
 - (b) the steps to be taken by the Supplier upon resumption of the Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
- (a) address the various possible levels of failures of or disruptions to the Services;
 - (b) set out the services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such services and steps, the “**Business Continuity Services**”);
 - (c) specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators in respect of other Services during any period of invocation of the Business Continuity Plan; and
 - (d) clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

SERVICE CONTINUITY PLAN: PART C – DISASTER RECOVERY**5. PRINCIPLES AND CONTENTS**

- 5.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 5.3 The Disaster Recovery Plan shall include the following:
- (a) the technical design and build specification of the Disaster Recovery System;
 - (b) details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:

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- (i) data centre and disaster recovery site audits;
 - (ii) backup methodology and details of the Supplier's approach to data back-up and data verification;
 - (iii) identification of all potential disaster scenarios;
 - (iv) risk analysis;
 - (v) documentation of processes and procedures;
 - (vi) hardware configuration details;
 - (vii) network planning including details of all relevant data networks and communication links;
 - (viii) invocation rules;
 - (ix) Service recovery procedures; and
 - (x) steps to be taken upon resumption of the Services to address any prevailing effect of the failure or disruption of the Services;
- (c) any applicable Performance Indicators with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the Performance Indicators in respect of other Services during any period of invocation of the Disaster Recovery Plan;
- (d) details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- (e) access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
- (f) testing and management arrangements.

SERVICE CONTINUITY PLAN: PART D – INSOLVENCY CONTINUITY PLAN**6. PRINCIPLES AND CONTENTS**

- 6.1 The Insolvency Continuity Plan shall be designed by the Supplier to permit continuity of the business operations of the Buyer supported by the Services through continued provision of the Services following an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member with, as far as reasonably possible, minimal adverse impact.
- 6.2 The Insolvency Continuity Plan shall include the following:
- (a) communication strategies which are designed to minimise the potential disruption to the provision of the Services, including key contact details in

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respect of the supply chain and key contact details for operational and contract Supplier Personnel, Key Sub-contractor personnel and Supplier Group member personnel;

- (b) identification, explanation, assessment and an impact analysis of risks in respect of dependencies between the Supplier, Key Sub-contractors and Supplier Group members where failure of those dependencies could reasonably have an adverse impact on the Services;
- (c) plans to manage and mitigate identified risks;
- (d) details of the roles and responsibilities of the Supplier, Key Sub-contractors and/or Supplier Group members to minimise and mitigate the effects of an Insolvency Event of such persons on the Services;
- (e) details of the recovery team to be put in place by the Supplier (which may include representatives of the Supplier, Key Sub-contractors and Supplier Group members); and
- (f) sufficient detail to enable an appointed insolvency practitioner to invoke the plan in the event of an Insolvency Event of the Supplier.

7. REVIEW AND AMENDMENT OF THE SERVICE CONTINUITY PLAN

7.1 The Supplier shall review and update the Service Continuity Plan (and the risk analysis on which it is based):

- (a) on a regular basis and as a minimum once every 6 months;
- (b) within three calendar months of the Service Continuity Plan (or any part) having been invoked pursuant to Paragraph 9;
- (c) within 14 days of a Financial Distress Event;
- (d) within 30 days of a Corporate Change Event; and
- (e) where the Buyer requests any additional reviews (over and above those provided for in Paragraphs 7.1(a) to 7.1(d)) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.

7.2 Each review of the Service Continuity Plan pursuant to Paragraph 7.1 shall be a review of the procedures and methodologies set out in the Service Continuity Plan and shall assess their suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the Service Continuity Plan or the last review of the Service Continuity Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking

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place in the foreseeable future) which may increase the likelihood of the need to invoke the Service Continuity Plan. The review shall be completed by the Supplier within the period required by the Service Continuity Plan or, if no such period is required, within such period as the Buyer shall reasonably require. The Supplier shall, within 20 Working Days of the conclusion of each such review of the Service Continuity Plan, provide to the Buyer a report (a “**Review Report**”) setting out:

- (a) the findings of the review;
- (b) any changes in the risk profile associated with the Services; and
- (c) the Supplier's proposals (the “**Supplier's Proposals**”) for addressing any changes in the risk profile and its proposals for amendments to the Service Continuity Plan following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any services or systems provided by a third party.

7.3 Following receipt of the Review Report and the Supplier's Proposals, the Buyer shall:

- (a) review and comment on the Review Report and the Supplier's Proposals as soon as reasonably practicable; and
- (b) notify the Supplier in writing that it approves or rejects the Review Report and the Supplier's Proposals no later than 20 Working Days after the date on which they are first delivered to the Buyer.

7.4 If the Buyer rejects the Review Report and/or the Supplier's Proposals:

- (a) the Buyer shall inform the Supplier in writing of its reasons for its rejection; and
- (b) the Supplier shall then revise the Review Report and/or the Supplier's Proposals as the case may be (taking reasonable account of the Buyer's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Supplier's Proposals to the Buyer for the Buyer's approval within 20 Working Days of the date of the Buyer's notice of rejection. The provisions of Paragraph 7.3 and this Paragraph 7.4 shall apply again to any resubmitted Review Report and Supplier's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

7.5 The Supplier shall as soon as is reasonably practicable after receiving the Buyer's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

8. TESTING OF THE SERVICE CONTINUITY PLAN

8.1 The Supplier shall test the Service Continuity Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to Paragraph 8.2, the Buyer may require the Supplier to conduct additional tests of some or all aspects of the Service

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Continuity Plan at any time where the Buyer considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the Service Continuity Plan.

- 8.2 If the Buyer requires an additional test of the Service Continuity Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the Service Continuity Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the Service Continuity Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 8.3 The Supplier shall undertake and manage testing of the Service Continuity Plan in full consultation with the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer in this regard. Each test shall be carried out under the supervision of the Buyer or its nominee.
- 8.4 The Supplier shall ensure that any use by it or any Sub-contractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 8.5 The Supplier shall, within 20 Working Days of the conclusion of each test, provide to the Buyer a report setting out:
- (a) the outcome of the test;
 - (b) any failures in the Service Continuity Plan (including the Service Continuity Plan's procedures) revealed by the test; and
 - (c) the Supplier's proposals for remedying any such failures.
- 8.6 Following each test, the Supplier shall take all measures requested by the Buyer, (including requests for the re-testing of the Service Continuity Plan) to remedy any failures in the Service Continuity Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Buyer, by the date reasonably required by the Buyer and set out in such notice.
- 8.7 For the avoidance of doubt, the carrying out of a test of the Service Continuity Plan (including a test of the Service Continuity Plan's procedures) shall not relieve the Supplier of any of its obligations under this Contract.
- 8.8 The Supplier shall also perform a test of the Service Continuity Plan in the event of any major reconfiguration of the Services or as otherwise reasonably requested by the Buyer.

9. INVOCATION OF THE SERVICE CONTINUITY PLAN

- 9.1 In the event of a loss of any critical part of the Service or a Disaster, the Supplier shall immediately invoke the business continuity and disaster recovery provisions in the Service Continuity Plan, including any linked elements in other parts of the Service Continuity Plan, and shall inform the Buyer promptly of such invocation. In all other

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instances the Supplier shall invoke the business continuity and disaster recovery plan elements only with the prior consent of the Buyer.

9.2 The Insolvency Continuity Plan element of the Service Continuity Plans, including any linked elements in other parts of the Service Continuity Plan, shall be invoked by the Supplier:

- (a) where an Insolvency Event of a Key Sub-contractor and/or Supplier Group member (other than the Supplier) could reasonably be expected to adversely affect delivery of the Services; and/or
- (b) where there is an Insolvency Event of the Supplier and the insolvency arrangements enable the Supplier to invoke the plan.

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Part 2: Corporate Resolution Planning**10. SERVICE STATUS AND SUPPLIER STATUS**

- 10.1 This Contract **is not** a Critical Service Contract.
- 10.2 The Supplier shall notify the Buyer in writing within 5 Working Days of the Effective Date and throughout the Term within 120 days after each Accounting Reference Date as to whether or not it is a Public Sector Dependent Supplier.

11. PROVISION OF CORPORATE RESOLUTION PLANNING INFORMATION

- 11.1 Paragraphs 11 to 13 of this Part 2 shall apply if this Contract has been specified as a Critical Service Contract under Paragraph 10.1 of this Part 2 or the Supplier is or becomes a Public Sector Dependent Supplier.
- 11.2 Subject to Paragraphs 11.6, 11.10 and 11.11 of this Part 2:
- (a) where this Contract is a Critical Service Contract, the Supplier shall provide the Relevant Buyer or Relevant Authorities with the CRP Information within 60 days of the Effective Date; and
 - (b) except where it has already been provided in accordance with Paragraph 11.2(a) of this Part 2, where the Supplier is a Public Sector Dependent Supplier, it shall provide the Relevant Buyer or Relevant Authorities with the CRP Information within 60 days of the date of the Relevant Buyer's or Relevant Authorities' request.
- 11.3 The Supplier shall ensure that the CRP Information provided pursuant to Paragraphs 11.2, 11.8 and 11.9 of this Part 2:
- (a) is full, comprehensive, accurate and up to date;
 - (b) is split into two parts:
 - (i) Group Structure Information and Resolution Commentary;
 - (ii) UK Public Service / CNI Contract Information
 - (c) and is structured and presented in accordance with the requirements and explanatory notes set out at Annex I of the latest published version of the Resolution Planning Guidance published by the Cabinet Office Government Commercial Function and available at <https://www.gov.uk/government/publications/the-outsourcing-playbook> and contains the level of detail required (adapted as necessary to the Supplier's circumstances);
 - (d) incorporates any additional commentary, supporting documents and evidence which would reasonably be required by the Relevant Buyer or Relevant Authorities to understand and consider the information for approval;
 - (e) provides a clear description and explanation of the Supplier Group members that have agreements for goods, services or works provision in respect of UK

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Public Sector Business and/or Critical National Infrastructure and the nature of those agreements; and

- (f) complies with the requirements set out at Annex 1 (*Group Structure Information and Resolution Commentary*) and Annex 2 (*UK Public Sector / CNI Contract Information*) respectively.

11.4 Following receipt by the Relevant Buyer or Relevant Authorities of the CRP Information pursuant to Paragraphs 11.2, 11.8 and 11.9 of this Part 2, the Buyer shall procure that the Relevant Buyer or Relevant Authorities discuss in good faith the contents of the CRP Information with the Supplier and no later than 60 days after the date on which the CRP Information was delivered by the Supplier either provide an Assurance to the Supplier that Relevant Buyer or Relevant Authorities approve the CRP Information or that Relevant Buyer or Relevant Authorities reject the CRP Information.

11.5 If the Relevant Buyer or Relevant Authorities reject the CRP Information:

- (a) the Buyer shall (and shall procure that the Cabinet Office Markets and Suppliers Team shall) inform the Supplier in writing of its reasons for its rejection; and
- (b) the Supplier shall revise the CRP Information, taking reasonable account of the Relevant Buyer's or Relevant Authorities' comments, and shall re-submit the CRP Information to the Relevant Buyer or Relevant Authorities for approval within 30 days of the date of the Relevant Buyer's or Relevant Authorities' rejection. The provisions of paragraph 11.3 to 11.5 of this Part 2 shall apply again to any resubmitted CRP Information provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

11.6 Where the Supplier or a member of the Supplier Group has already provided CRP Information to a Department or the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely to the Cabinet Office Markets and Suppliers Team) and has received an Assurance of its CRP Information from that Department and the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely from the Cabinet Office Markets and Suppliers Team), then provided that the Assurance remains Valid on the date by which the CRP Information would otherwise be required, the Supplier shall not be required to provide the CRP Information under Paragraph 11.2 if it provides a copy of the Valid Assurance to the Relevant Buyer or Relevant Authorities on or before the date on which the CRP Information would otherwise have been required.

11.7 An Assurance shall be deemed Valid for the purposes of Paragraph 11.6 of this Part 2 if:

- (a) the Assurance is within the validity period stated in the Assurance (or, if no validity period is stated, no more than 12 months has elapsed since it was issued and no more than 18 months has elapsed since the Accounting Reference Date on which the CRP Information was based); and
- (b) no Corporate Change Events or Financial Distress Events (or events which would be deemed to be Corporate Change Events or Financial Distress Events

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if this Contract had then been in force) have occurred since the date of issue of the Assurance.

11.8 If this Contract is a Critical Service Contract, the Supplier shall provide an updated version of the CRP Information (or, in the case of Paragraph 11.8(c) of this Part 2 its initial CRP Information) to the Relevant Buyer or Relevant Authorities:

- (a) within 14 days of the occurrence of a Financial Distress Event (along with any additional highly confidential information no longer exempted from disclosure under Paragraph 11.11 of this Part 2) unless the Supplier is relieved of the consequences of the Financial Distress Event under Paragraph 7.1 of Schedule 7.4 (*Financial Distress*);
- (b) within 30 days of a Corporate Change Event unless not required pursuant to Paragraph 11.10;
- (c) within 30 days of the date that:
 - (i) the credit rating(s) of each of the Supplier and its Parent Undertakings fail to meet any of the criteria specified in Paragraph 11.10; or
 - (ii) none of the credit rating agencies specified at Paragraph 11.10 hold a public credit rating for the Supplier or any of its Parent Undertakings; and
- (d) in any event, within 6 months after each Accounting Reference Date or within 15 months of the date of the previous Assurance received from the Relevant Buyer (whichever is the earlier), unless:
 - (i) updated CRP Information has been provided under any of Paragraphs 11.8(a) 11.8(b) or 11.8(c) since the most recent Accounting Reference Date (being no more than 12 months previously) within the timescales that would ordinarily be required for the provision of that information under this Paragraph 11.8(d); or
 - (ii) unless not required pursuant to Paragraph 11.10.

11.9 Where the Supplier is a Public Sector Dependent Supplier and this Contract is not a Critical Service Contract, then on the occurrence of any of the events specified in Paragraphs 11.8(a) to (d) of this Part 2, the Supplier shall provide at the request of the Relevant Buyer or Relevant Authorities and within the applicable timescales for each event as set out in Paragraph 11.8 (or such longer timescales as may be notified to the Supplier by the Buyer), the CRP Information to the Relevant Buyer or Relevant Authorities.

11.10 Where the Supplier or a Parent Undertaking of the Supplier has a credit rating of either:

- (a) Aa3 or better from Moody's;
- (b) AA- or better from Standard and Poors;
- (c) AA- or better from Fitch;

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the Supplier will not be required to provide any CRP Information unless or until either (i) a Financial Distress Event occurs (unless the Supplier is relieved of the consequences of the Financial Distress Event under Paragraph 7.1 of Schedule 7.4 (*Financial Distress*)) or (ii) the Supplier and its Parent Undertakings cease to fulfil the criteria set out in this Paragraph 11.10, in which cases the Supplier shall provide the updated version of the CRP Information in accordance with paragraph 11.8.

- 11.11 Subject to Paragraph 13, where the Supplier demonstrates to the reasonable satisfaction of the Relevant Buyer or Relevant Authorities that a particular item of CRP Information is highly confidential, the Supplier may, having orally disclosed and discussed that information with the Relevant Buyer or Relevant Authorities, redact or omit that information from the CRP Information provided that if a Financial Distress Event occurs, this exemption shall no longer apply and the Supplier shall promptly provide the relevant information to the Relevant Buyer or Relevant Authorities to the extent required under Paragraph 11.8.

12. TERMINATION RIGHTS

- 12.1 The Buyer shall be entitled to terminate this Contract under Clause 33.1(b) (*Termination by the Buyer*) if the Supplier is required to provide CRP Information under Paragraph 11 of this Part 2 and either:
- (a) the Supplier fails to provide the CRP Information within 4 months of the Effective Date if this is a Critical Service Contract or otherwise within 4 months of the Relevant Buyer's or Relevant Authorities' request; or
 - (b) the Supplier fails to obtain an Assurance from the Relevant Buyer or Relevant Authorities within 4 months of the date that it was first required to provide the CRP Information under this Contract.

13. CONFIDENTIALITY AND USAGE OF CRP INFORMATION

- 13.1 The Buyer agrees to keep the CRP Information confidential and use it only to understand the implications of an Insolvency Event of the Supplier and/or Supplier Group members on its UK Public Sector Business and/or services in respect of CNI and to enable contingency planning to maintain service continuity for end users and protect CNI in such eventuality.
- 13.2 Where the Relevant Buyer is the Cabinet Office Markets and Suppliers Team, at the Supplier's request, the Buyer shall use reasonable endeavours to procure that the Cabinet Office enters into a confidentiality and usage agreement with the Supplier containing terms no less stringent than those placed on the Buyer under paragraph 13.1 of this Part 2 and Clause 21.
- 13.3 The Supplier shall use reasonable endeavours to obtain consent from any third party which has restricted the disclosure of the CRP Information to enable disclosure of that information to the Relevant Buyer or Relevant Authorities pursuant to Paragraph 11 of this Part 2 subject, where necessary, to the Relevant Buyer or Relevant Authorities entering into an appropriate confidentiality agreement in the form required by the third party.
- 13.4 Where the Supplier is unable to procure consent pursuant to Paragraph 13.3 of this Part 2, the Supplier shall use all reasonable endeavours to disclose the CRP

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Information to the fullest extent possible by limiting the amount of information it withholds including by:

- (a) redacting only those parts of the information which are subject to such obligations of confidentiality;
- (b) providing the information in a form that does not breach its obligations of confidentiality including (where possible) by:
 - (i) summarising the information;
 - (ii) grouping the information;
 - (iii) anonymising the information; and
 - (iv) presenting the information in general terms

- 13.5 The Supplier shall provide the Relevant Buyer or Relevant Authorities with contact details of any third party which has not provided consent to disclose CRP Information where that third party is also a public sector body and where the Supplier is legally permitted to do so.

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ANNEX 1: GROUP STRUCTURE INFORMATION AND RESOLUTION COMMENTARY**1. THE SUPPLIER SHALL:**

- 1.1 provide sufficient information to allow the Relevant Buyer to understand the implications on the Supplier Group's UK Public Sector Business and CNI contracts listed pursuant to Annex 2 if the Supplier or another member of the Supplier Group is subject to an Insolvency Event.
- 1.2 ensure that the information is presented so as to provide a simple, effective and easily understood overview of the Supplier Group; and
- 1.3 provide full details of the importance of each member of the Supplier Group to the Supplier Group's UK Public Sector Business and CNI contracts listed pursuant to Annex 2 and the dependencies between each.

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ANNEX 2: UK PUBLIC SECTOR / CNI CONTRACT INFORMATION

1. The supplier shall:
 - 1.1 provide details of all agreements held by members of the Supplier Group where those agreements are for goods, services or works provision and:
 - (a) are with any UK public sector bodies including: central Government departments and their arms-length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police fire and rescue, education bodies and the devolved administrations;
 - (b) are with any private sector entities where the end recipient of the service, goods or works provision is any of the bodies set out in paragraph 1.1(a) of this Annex 2 and where the member of the Supplier Group is acting as a key sub-contractor under the agreement with the end recipient; or
 - (c) involve or could reasonably be considered to involve CNI;
 - 1.2 provide the Relevant Buyer with a copy of the latest version of each underlying contract worth more than £5m per contract year and their related key sub-contracts, which shall be included as embedded documents within the CRP Information or via a directly accessible link.

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SCHEDULE 8.7: CONDUCT OF CLAIMS**1. INDEMNITIES**

- 1.1 This Schedule shall apply to the conduct, by a Party from whom an indemnity is sought under this Contract (the “**Indemnifier**”), of claims made by a third person against a party having (or claiming to have) the benefit of the indemnity (the “**Beneficiary**”).
- 1.2 If the Beneficiary receives any notice of any claim for which it appears that the Beneficiary is, or may become, entitled to indemnification under this Contract (a “**Claim**”), the Beneficiary shall give notice in writing to the Indemnifier as soon as reasonably practicable and in any event within 10 Working Days of receipt of the same.
- 1.3 Subject to Paragraph 2, on the giving of a notice by the Beneficiary, where it appears that the Beneficiary is or may be entitled to indemnification from the Indemnifier in respect of all (but not part only) of the liability arising out of the Claim, the Indemnifier shall (subject to providing the Beneficiary 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 Beneficiary at the Indemnifier’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 Indemnifier does elect to conduct the Claim, the Beneficiary shall give the Indemnifier all reasonable cooperation, access and assistance for the purposes of such Claim and, subject to Paragraph 2.2, the Beneficiary shall not make any admission which could be prejudicial to the defence or settlement of the Claim without the prior written consent of the Indemnifier.
- 1.4 With respect to any Claim conducted by the Indemnifier pursuant to Paragraph 1.3:
- (a) the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the Claim;
 - (b) the Indemnifier shall not bring the name of the Beneficiary into disrepute;
 - (c) the Indemnifier shall not pay or settle such Claim without the prior written consent of the Beneficiary, such consent not to be unreasonably withheld or delayed; and
 - (d) the Indemnifier shall conduct the Claim with all due diligence.
- 1.5 The Beneficiary 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 Contract if:
- (a) the Indemnifier is not entitled to take conduct of the Claim in accordance with Paragraph 1.3;
 - (b) the Indemnifier fails to notify the Beneficiary in writing of its intention to take conduct of the relevant Claim within 10 Working Days of the notice from the Beneficiary or if the Indemnifier notifies the Beneficiary in writing that it does not intend to take conduct of the Claim; or

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- (c) the Indemnifier fails to comply in any material respect with the provisions of Paragraph 1.4.

2. SENSITIVE CLAIMS

- 2.1 With respect to any Claim which the Beneficiary, acting reasonably, considers is likely to have an adverse impact on the general public's perception of the Beneficiary (a "**Sensitive Claim**"), the Indemnifier shall be entitled to take conduct of any defence, dispute, compromise or appeal of the Sensitive Claim only with the Beneficiary's prior written consent. If the Beneficiary withholds such consent and elects to conduct the defence, dispute, compromise or appeal of the Sensitive Claim itself, it shall conduct the Sensitive Claim with all due diligence and if it fails to do so, the Indemnifier shall only be liable to indemnify the Beneficiary in respect of that amount which would have been recoverable by the Beneficiary had it conducted the Sensitive Claim with all due diligence.
- 2.2 The Beneficiary shall be free at any time to give written notice to the Indemnifier that it is retaining or taking over (as the case may be) the conduct of any Claim, to which Paragraph 1.3 applies if, in the reasonable opinion of the Beneficiary, the Claim is, or has become, a Sensitive Claim.

3. RECOVERY OF SUMS

If the Indemnifier pays to the Beneficiary an amount in respect of an indemnity and the Beneficiary subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the Claim, the Beneficiary shall forthwith repay to the Indemnifier whichever is the lesser of:

- 3.1 an amount equal to the sum recovered (or the value of the discount, credit, saving, relief, other benefit or amount otherwise obtained) less any out-of-pocket costs and expenses properly incurred by the Beneficiary in recovering or obtaining the same; and
- 3.2 the amount paid to the Beneficiary by the Indemnifier in respect of the Claim under the relevant indemnity.

4. MITIGATION

Each of the Buyer and the Supplier shall at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Schedule.

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SCHEDULE 9.1: STAFF TRANSFER**1. DEFINITIONS**

1.1 In this Schedule, the following definitions shall apply:

“Former Supplier”		a supplier supplying services to the Buyer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);
“New Fair Deal”		the revised Fair Deal position set out in the HM Treasury guidance: <i>“Fair Deal for staff pensions: staff transfer from central government”</i> issued in October 2013 including: <ul style="list-style-type: none"> (i) any amendments to that document immediately prior to the Relevant Transfer Date; (ii) any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer;
“Notified Sub-contractor”		a Sub-contractor identified in Attachment 9.1 (List of Notified Sub-Contractors) of the Order Form to whom Transferring Buyer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
“Old Fair Deal”		HM Treasury Guidance <i>“Staff Transfers from Central Government: A Fair Deal for Staff Pensions”</i> issued in June 1999 including the supplementary guidance <i>“Fair Deal for Staff pensions: Procurement of Bulk Transfer Contracts and Related Issues”</i> issued in June 2004;
“Replacement contractor”	Sub-	a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
“Relevant Transfer”		a transfer of employment to which the Employment Regulations applies;
“Relevant Transfer Date”		in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part D and its Annexes, where the Supplier or a Sub-contractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Sub-contractor), references to the Relevant Transfer

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Date shall become references to the Operational Service Commencement Date;

“Service Transfer”	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-contractor to a Replacement Supplier or a Replacement Sub-contractor;
“Service Transfer Date”	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
“Staffing Information”	in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, all information required in Annex 2 (Table of Staffing Information) in the format specified and with the identities of Data Subjects anonymised where possible. The Buyer may acting reasonably make changes to the format or information requested in Annex 2 from time to time.
“Statutory Schemes”	means the CSPS, NHSPS or LGPS as defined in the Annexes to Part D of this Schedule;
“Supplier's Final Supplier Personnel List”	a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Service Transfer Date;
“Supplier's Provisional Supplier Personnel List”	a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
“Transferring Employees”	Buyer those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date;
“Transferring Supplier Employees”	Former in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and
“Transferring Employees”	Supplier those employees of the Supplier and/or the Supplier's Sub-contractors to whom the Employment Regulations will apply on the Service Transfer Date.

2. INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking

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or warranty to the Buyer, Former Supplier, Replacement Supplier or Replacement Sub-contractor, as the case may be.

PART A: TRANSFERRING BUYER EMPLOYEES AT COMMENCEMENT OF SERVICES**1. RELEVANT TRANSFERS**

1.1 The Buyer and the Supplier agree that:

- (a) the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Buyer Employees; and
- (b) as a result of the operation of the Employment Regulations, the contracts of employment between the Buyer and the Transferring Buyer Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Notified Sub-contractor and each such Transferring Buyer Employee.

1.2 The Buyer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Buyer; and (ii) the Supplier and/or any Notified Sub-contractor (as appropriate).

2. BUYER INDEMNITIES

2.1 Subject to Paragraph 2.2, the Buyer shall indemnify the Supplier and any Notified Sub-contractor against any Employee Liabilities arising from or as a result of:

- (a) any act or omission by the Buyer in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee occurring before the Relevant Transfer Date;
- (b) the breach or non-observance by the Buyer before the Relevant Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Buyer Employees; and/or
 - (ii) any custom or practice in respect of any Transferring Buyer Employees which the Buyer is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing the Transferring Buyer Employees arising from or connected with any failure by the

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Buyer to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;

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

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

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

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

- (b) shall apply only where the notification referred to in Paragraph 2.3(a) is made by the Supplier and/or any Notified Sub-contractor (as appropriate) to the Buyer within 6 months of the Effective Date.

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

3. SUPPLIER INDEMNITIES AND OBLIGATIONS

3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer against any Employee Liabilities arising from or as a result of:

- (a) any act or omission by the Supplier or any Sub-contractor in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee whether occurring before, on or after the Relevant Transfer Date;
- (b) the breach or non-observance by the Supplier or any Sub-contractor on or after the Relevant Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Buyer Employees; and/or
 - (ii) any custom or practice in respect of any Transferring Buyer Employees which the Supplier or any Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Buyer Employees arising from or connected with any failure by the Supplier or any Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- (d) any proposal by the Supplier or a Sub-contractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Buyer Employees to their material detriment on or after their transfer to the Supplier or the relevant Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Buyer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

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

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contributions and pension contributions and any other sums due under the Admission Contract which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Buyer and the Supplier.

4. INFORMATION

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

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

- 5.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.
- 5.2 The Supplier shall, and shall procure that each Sub-contractor shall, comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Buyer Employee as set down in:
- (a) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;
 - (b) Old Fair Deal; and/or
 - (c) the New Fair Deal.
- 5.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Change Control Procedure.

6. PENSIONS

- 6.1 The Supplier shall, and/or shall procure that each of its Sub-contractors shall, comply with:
- (a) the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and
 - (b) Part D (and its Annexes) to this Staff Transfer Schedule.

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PART B: TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES**1. RELEVANT TRANSFERS**

1.1 The Buyer and the Supplier agree that:

- (a) the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and
- (b) as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or Notified Sub-contractor and each such Transferring Former Supplier Employee.

1.2 The Buyer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Buyer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

2. FORMER SUPPLIER INDEMNITIES

2.1 Subject to Paragraph 2.2, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Notified Sub-contractor against any Employee Liabilities arising from or as a result of:

- (a) any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;
- (b) the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Former Supplier Employees; and/or
 - (ii) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;
- (c) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions;

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- (i) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Sub-contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
 - (d) a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
 - (e) any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Sub-contractor as appropriate may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
 - (f) any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-contractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:
- (a) arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Sub-contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - (b) arising from the failure by the Supplier and/or any Sub-contractor to comply with its obligations under the Employment Regulations.
- 2.3 If any person who is not identified by the Buyer as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by the Buyer as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

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- (a) the Supplier shall, or shall procure that the Notified Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Buyer and, where required by the Buyer, to the Former Supplier; and
 - (b) the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Supplier and/or the Notified Sub-contractor or take such other reasonable steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 2.4 If an offer referred to in Paragraph 2.3(b) is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Buyer, the Supplier shall, or shall procure that the Notified Sub-contractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5 If by the end of the 15 Working Day period specified in Paragraph 2.3(b):
 - (a) no such offer of employment has been made;
 - (b) such offer has been made but not accepted; or
 - (c) the situation has not otherwise been resolved,

the Supplier and/or any Notified Sub-contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6 Subject to the Supplier and/or any Notified Sub-contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, the Buyer shall procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7 The indemnity in Paragraph 2.6:
 - (a) shall not apply to:
 - (i) any claim for:
 - (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

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

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

3. SUPPLIER INDEMNITIES AND OBLIGATIONS

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

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- (e) any statement communicated to or action undertaken by the Supplier or a Sub-contractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer and/or the Former Supplier in writing;
 - (f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Sub-contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
 - (g) a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;
 - (h) any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
 - (i) a failure by the Supplier or any Sub-Contractor to comply with its obligations under Paragraph 2.8 above
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all

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wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Contract which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

4. INFORMATION

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

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

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

- (a) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;
- (b) Old Fair Deal; and/or
- (c) the New Fair Deal.

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

6. PROCUREMENT OBLIGATIONS

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

7. PENSIONS

7.1 The Supplier shall, and shall procure that each Sub-contractor shall, comply with:

- (a) the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and

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(b) Part D (and its Annexes) to this Staff Transfer Schedule.

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PART C: NO TRANSFER OF EMPLOYEES AT COMMENCEMENT OF SERVICES**1. PROCEDURE IN THE EVENT OF TRANSFER**

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

2. INDEMNITIES

- 2.1 Subject to the Supplier and/or the relevant Sub-contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 2.4, the Buyer shall:
- (a) indemnify the Supplier and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Buyer referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the

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Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities; and

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

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3. PROCUREMENT OBLIGATIONS

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

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PART D: PENSIONS**1. DEFINITIONS**

- 1.1 In this Part D and Part E, the following words have the following meanings and they shall supplement Schedule 1: Definitions, and shall be deemed to include the definitions set out in the Annexes to this Part D:

"Actuary" a Fellow of the Institute and Faculty of Actuaries;

"Admission Contract" either or both of the CSPS Admission Contract (as defined in Annex D1: CSPS) or the LGPS Admission Contract) as defined in Annex D3: LGPS), as the context requires;

"Best Direction" **Value** the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);

"Broadly Comparable" (a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and/or

(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,

and **"Broad Comparability"** shall be construed accordingly;

"CSPS" the schemes as defined in Annex D1 to this Part D;

"Direction Letter/Determination" has the meaning in Annex D2 to this Part D;

"Fair Deal Eligible Employees" means each of the CSPS Eligible Employees, the NHSPS Eligible Employees and/or the LGPS Eligible Employees (as applicable) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with paragraph 10 or

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11 of this Part D);

**"Fair
Employees"****Deal** any of:

- (i) Transferring Buyer Employees;
- (ii) Transferring Former Supplier Employees;
and/or
- (iii) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Sub-Contractor, and whose employment is not terminated in accordance with the provisions of paragraphs 2.3 (d) of Parts A or B or paragraph 1.2 (d) of Part C;
- (iv) where the Supplier or a Sub-contractor was the Former Supplier, the employees of the Supplier (or Sub-contractor)
- (v) who at the Relevant Transfer Date are or become entitled to New Fair Deal or Best Value Direction protection in respect of any of the Statutory Schemes or a Broadly Comparable pension scheme provided in accordance with paragraph 10 of this Part D as notified by the Buyer;

"Fund Actuary"

a Fund Actuary as defined in Annex D3 to this Part D;

"LGPS"the scheme as defined in Annex D3 to this Part D;
and**"NHSPS"**

the schemes as defined in Annex D2 to this Part D.

2. PARTICIPATION

- 2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPS, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.
- 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Contract and/or Direction Letter/Determination, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.

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2.3 The Supplier undertakes:

- (a) to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Contract and/or Direction Letter/Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and
- (b) subject to paragraph 5 of Annex D3: LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.

2.4 Where the Supplier is the Former Supplier (or a Sub-contractor is a sub-contractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Sub-contractor) at the Operational Service Commencement Date, this Part D and its Annexes shall be modified accordingly so that the Supplier (or Sub-contractor) shall comply with its requirements from the Operational Service Commencement Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Sub-contractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer.

3. PROVISION OF INFORMATION

3.1 The Supplier undertakes to the Buyer:

- (a) to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible;
- (b) not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed); and
- (c) retain such records as would be necessary to manage the pension aspects in relation to any current or former Fair Deal Eligible Employees arising on expiry or termination of this Contract.

4. INDEMNITIES

4.1 The Supplier shall indemnify and keep indemnified the Buyer, [NHS Pensions,] any Replacement Supplier and/or any Replacement Sub-contractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

- (a) arise out of or in connection with any liability towards all and any Fair Deal Employees in respect of service on or after the Relevant Transfer Date which arises from any breach by the Supplier of this Part D, and/or the CSPA Admission Contract and/or the Direction Letter/Determination and/or the LGPS Admission Contract;

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- (b) relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Supplier or a Sub-contractor on and after the Relevant Transfer Date until the date of termination or expiry of this Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with paragraphs 10 or 11 of this Part D;
- (c) relate to claims by Fair Deal Employees of the Supplier and/or of any Sub-contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:
 - (i) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract;
 - (ii) arise out of the failure of the Supplier and/or any relevant Sub-contractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract; and/or
- (d) arise out of or in connection with the Supplier (or its Sub-contractor) allowing anyone who is not an NHSPS Fair Deal Employee to join or claim membership of the NHSPS at any time during the Term.

4.2 The indemnities in this Part D and its Annexes:

- (a) shall survive termination of this Contract; and
- (b) shall not be affected by the caps on liability contained in Clause 25 (Limitation of Liability).

5. DISPUTES

The Dispute Resolution Procedure will not apply to any dispute (i) between the Buyer and/or the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the Buyer and/or the Supplier be referred to an independent Actuary:

- (a) who will act as an expert and not as an arbitrator;
- (b) whose decision will be final and binding on the Buyer and/or the Supplier; and
- (c) whose expenses shall be borne equally by the Buyer and/or the Supplier unless the independent Actuary shall otherwise direct.

The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

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6. THIRD PARTY RIGHTS

- 6.1 The Parties agree Clause 43 (Third Party Rights) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation in respect of to him or her by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.
- 6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Sub-contractor in his or her own right under section 1(1) of the CRTPA.

7. BREACH

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

8. TRANSFER TO ANOTHER EMPLOYER/ SUB- CONTRACTORS

- 8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Eligible Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of employment), the Supplier shall or shall procure that any relevant Sub-contractor shall:
- (a) notify the Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangements for participation with the relevant Statutory Scheme(s);
 - (b) consult with about, and inform those Fair Deal Eligible Employees of, the pension provisions relating to that transfer; and
 - (c) procure that the employer to which the Fair Deal Eligible Employees are transferred (the "New Employer") complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Eligible Employees so transferred to the New Employer.

9. PENSION ISSUES ON EXPIRY OR TERMINATION

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

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- 9.2 The Supplier shall (and shall procure that any of its Sub-contractors shall) prior to the termination of this Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier and/or NHS Pension and/or CSPS and/or the relevant Administering Buyer and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

10. BROADLY COMPARABLE PENSION SCHEME ON RELEVANT TRANSFER DATE

- 10.1 If the terms of any of paragraphs 4 of Annex D2: NHSPS or 3.1 of Annex D3: LGPS applies, the Supplier must (and must, where relevant, procure that each of its Sub-contractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.

- 10.2 Such Broadly Comparable pension scheme must be:

- (a) established by the Relevant Transfer Date;
- (b) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
- (c) capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Supplier's Broadly Comparable pension scheme (unless otherwise instructed by the Buyer);
- (d) capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
- (e) maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).

- 10.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 10, the Supplier shall (and shall procure that any of its Sub-contractors shall):

- (a) supply to the Buyer details of its (or its Sub-contractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than seven (7) days after receipt of the certificate;
- (b) be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;

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- (c) instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Supplier's Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as appropriate) and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer; and
 - (d) provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 10 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Sub-contractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Sub-contractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).
- 10.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 10, the Supplier shall (and shall procure that any of its Sub-contractors shall) prior to the termination of this Contract:
- (a) allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be on a past service reserve basis which should be calculated allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of final salary benefits). The actuarial basis for this past service reserve basis should be aligned to the funding requirements of the Broadly Comparable pension scheme in place at the time the bulk transfer terms are offered. The bulk transfer terms shall be subject to an underpin in relation to any service credits awarded in the Broadly Comparable pension scheme in accordance with paragraph 10.3(c) such that the element of the past service reserve amount which relates to such service credits shall be no lower than that required by the bulk transfer terms that were agreed in accordance with paragraph 10.3(c) but using the last day of the Fair Deal Eligible Employees' employment with the Supplier or Sub-contractor (as appropriate) as the date used to determine the actuarial assumptions; and
 - (b) if the transfer payment paid by the trustees of the Broadly Comparable pension scheme is less (in the opinion of the Actuary to the Replacement Supplier's Broadly Comparable pension scheme (or to the relevant Statutory Scheme if applicable)) than the transfer payment which would have been paid had paragraph 10.4(a) been complied with, the Supplier shall (or shall procure that the Sub-contractor shall) pay the amount of the difference to the Replacement

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Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Buyer shall otherwise direct. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the difference as required under this paragraph.

11. BROADLY COMPARABLE PENSION SCHEME IN OTHER CIRCUMSTANCES

11.1 If the terms of any of paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Supplier must (and must, where relevant, procure that each of its Sub-contractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.

11.2 Such Broadly Comparable pension scheme must be:

- (a) established by the date of cessation of participation in the Statutory Scheme;
- (b) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
- (c) capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Buyer);
- (d) capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
- (e) maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).

11.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Sub-contractors shall):

- (a) supply to the Buyer details of its (or its Sub-contractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;
- (b) be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995; and

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- (c) where required to do so by the Buyer, instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing a bulk transfer process with the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). The Supplier must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Supplier shall be fully responsible for any costs of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme; and
 - (d) provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Sub-contractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Sub-contractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).
- 11.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Sub-contractors shall) prior to the termination of this Contract allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits ("the Shortfall"), the Supplier or the Sub-contractor (as agreed between them) must pay the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that in the absence of any agreement between the Supplier and any Sub-contractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the Shortfall under this paragraph.

12. RIGHT OF SET-OFF

- 12.1 The Buyer shall have a right to set off against any payments due to the Supplier under this Contract an amount equal to:

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- (a) any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPA or any CSPA Admission Contract in respect of the CSPA Eligible Employees whether due from the Supplier or from any relevant Sub-contractor or due from any third party under any indemnity, bond or guarantee;
- (b) any unpaid employer's contributions or employee's contributions or any other financial obligations under the NHSPA or any Direction Letter/Determination in respect of the NHSPA Eligible Employees whether due from the Supplier or from any relevant Sub-contractor or due from any third party under any indemnity, bond or guarantee; or
- (c) any unpaid employer's contributions or employee's contributions or any other financial obligations under the LGPS or any LGPS Admission Contract in respect of the LGPS Eligible Employees whether due from the Supplier or from any relevant Sub-contractor or due from any third party under any indemnity, bond or guarantee;

and shall pay such set off amount to the relevant Statutory Scheme.

- 12.2 The Buyer shall also have a right to set off against any payments due to the Supplier under this Contract all reasonable costs and expenses incurred by the Buyer as result of Paragraphs 12.1 above.

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ANNEX D1: CSPS**1. DEFINITIONS**

In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule 1: Definitions:

"CSPS Admission Contract"	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services;
"CSPS Eligible Employee"	any CSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the CSPS under a CSPS Admission Contract;
"CSPS Fair Deal Employee"	a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPS in accordance with the provisions of New Fair Deal;
"CSPS"	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

2. FUTURE SERVICE BENEFITS

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Sub-contractors to which the employment of any CSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an employer which participates automatically in the CSPS, shall each secure a CSPS Admission Contract to ensure that CSPS Fair Deal Employees or CSPS Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date. The Supplier and/or any of its Sub-contractors shall procure that the CSPS Fair Deal Employees continue to accrue benefits in the CSPS in accordance with the provisions governing the relevant section of the CSPS for service from (and including) the Relevant Transfer Date.
- 2.2 If the Supplier and/or any of its Sub-contractors enters into a CSPS Admission Contract in accordance with paragraph 2.1 but the CSPS Admission Contract is terminated during the term of this Contract for any reason at a time when the Supplier or Sub-contractor still employs any CSPS Eligible Employees, the Supplier shall (and procure that its Sub-contractors shall) at no extra cost to the Buyer, offer the remaining CSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to

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the CSPS on the date those CSPS Eligible Employees ceased to participate in the CSPS in accordance with the provisions of paragraph 11 of Part D.

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ANNEX D2: NHSPS**1. DEFINITIONS**

In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule 1: Definitions:

**"Direction
Letter/Determination"**

an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Sub-contractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Sub-contractor in the NHSPS in respect of the NHSPS Fair Deal Employees;

**"NHS Broadly Comparable
Employees"**

means each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:

- (a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or
- (b) their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),

but who is now ineligible to participate in the NHSPS under the rules of the NHSPS and in respect of whom the Buyer has agreed are to be

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provided with a Broadly Comparable pension scheme to provide Pension Benefits that are Broadly Comparable to those provided under the NHSPS.

“NHSPS Eligible Employees”

any NHSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the NHSPS under a Direction Letter/Determination Letter.

"NHSPS Fair Deal Employees"

means other than the NHS Broadly Comparable Employees, each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:

- (a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or
- (b) their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),

and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).

For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter/Determination or other NHSPS "access" facility but who has never been employed directly by the Buyer, an NHS Body or other body which

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		participates automatically in the NHSPS is not an NHSPS Fair Deal Employee;
"NHS Body"		has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;
"NHS Pensions"		NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS;
"NHSPS"		the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and the Public Service Pensions Act 2013 governed by subsequent regulations under those Acts including the NHS Pension Scheme Regulations;
"NHS Pension Regulations"	Scheme	as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time;
"NHS Premature Retirement Rights"		rights to which any NHSPS Fair Deal Employee (had they remained in the employment of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS) would have been or is entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury Benefits) Regulations 1995 (SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time;
"Pension Benefits"		any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor's benefits provided under an occupational pension scheme; and

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2. MEMBERSHIP OF THE NHSPS

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Sub-contractors to which the employment of any NHSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an NHS Body or other employer which participates automatically in the NHSPS, shall each secure a Direction Letter/Determination to enable the NHSPS Fair Deal Employees to retain either continuous active membership of or eligibility for the NHSPS for so long as they remain employed in connection with the delivery of the Services under this Contract.
- 2.2 Where it is not possible for the Supplier and/or any of its Sub-contractors to secure a Direction Letter/Determination on or before the Relevant Transfer Date, the Supplier must secure a Direction Letter/Determination as soon as possible after the Relevant Transfer Date, and in the period between the Relevant Transfer Date and the date the Direction Letter/Determination is secure, the Provider must ensure that:
- (a) all employer's and NHSPS Fair Deal Employees' contributions intended to go to the NHSPS are kept in a separate bank account; and
 - (b) the Pension Benefits and Premature Retirement Rights of NHSPS Fair Deal Employees are not adversely affected.
- 2.3 The Supplier must supply to the Buyer a complete copy of each Direction Letter/Determination within 5 Working Days of receipt of the Direction Letter/Determination.
- 2.4 The Supplier must ensure (and procure that each of its Sub-contractors (if any) ensures) that all of its NHSPS Fair Deal Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter/Determination.
- 2.5 The Supplier will (and will procure that its Sub-contractors (if any) will) comply with the terms of the Direction Letter/Determination, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health and Social Care in respect of the NHSPS Fair Deal Employees for so long as it remains bound by the terms of any such Direction Letter/Determination.
- 2.6 Where any employee omitted from the Direction Letter/Determination supplied in accordance with paragraph 2 of this Annex are subsequently found to be an NHSPS Fair Deal Employee, the Supplier will (and will procure that its Sub-contractors (if any) will) treat that person as if they had been an NHSPS Fair Deal Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.
- 2.7 The Supplier will (and will procure that its Sub-contractors (if any) will) provide any indemnity, bond or guarantee required by NHS Pensions in relation to a Direction Letter/Determination.

3. NHS PREMATURE RETIREMENT RIGHTS

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From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Sub-contractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS Fair Deal Employees that are identical to the benefits they would have received had they remained employees of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS.

4. NHS BROADLY COMPARABLE EMPLOYEES

The Supplier shall (and procure that its Sub-contractors shall), with effect from the Relevant Transfer Date, offer the NHSPS Broadly Comparable Employees membership of a pension scheme which is Broadly Comparable to NHSPS on the Relevant Transfer Date in accordance with paragraph 10 of Part D. For the avoidance of doubt, this requirement is separate from any requirement to offer a Broadly Comparable pension scheme in accordance with paragraph 5.2 below.

5. BREACH AND CANCELLATION OF ANY DIRECTION LETTER/DETERMINATION(S)

5.1 The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Sub-contractors) breaches the terms of its Direction Letter/Determination. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Sub-contractor) breaches the terms of its Direction Letter/Determination.

5.2 If the Supplier (or its Sub-contractors, if relevant) ceases to participate in the NHSPS for whatever reason, the Supplier (or any such Sub-contractor, as appropriate) shall offer the NHSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the NHSPS on the date the NHSPS Eligible Employees ceased to participate in the NHSPS in accordance with the provisions of paragraph 11 of Part D.

6. COMPENSATION

6.1 If the Supplier (or its Sub-contractor, if relevant) is unable to provide the NHSPS Fair Deal Employees with either membership of:

(a) the NHSPS (having used its best endeavours to secure a Direction Letter/Determination); or

(b) a Broadly Comparable pension scheme,

the Buyer may in its sole discretion permit the Supplier (or any of its Sub-contractors) to compensate the NHSPS Fair Deal Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Sub-contractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Fair Deal Employees. The Supplier must meet (or must procure that the relevant Sub-contractor meets) the costs of the Buyer determining whether the level of compensation offered is reasonable in the circumstances.

6.2 This flexibility for the Buyer to allow compensation in place of Pension Benefits is in addition to and not instead of the Buyer's right to terminate the Contract under paragraph 7 (Breach) of Part D of this Schedule.

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7. SUPPLIER INDEMNITIES

- 7.1 The Supplier must indemnify and keep indemnified the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Fair Deal Employee or any NHS Broadly Comparable Employees that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.

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ANNEX D3: LGPS**1. DEFINITIONS**

In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule 1: Definitions:

"2013 Regulations"	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time);
"Administering Buyer"	in relation to the Fund [insert name] , the relevant administering authority of that Fund for the purposes of the 2013 Regulations;
"Fund Actuary"	the actuary to a Fund appointed by the Administering Buyer of the Fund;
"Fund"	[insert name], a pension fund within the LGPS;
["Initial Contribution Rate"]	[XX %] of pensionable pay (as defined in the 2013 Regulations);]
"LGPS"	the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme;
"LGPS Admission Contract"	an admission agreement within the meaning in Schedule 1 of the 2013 Regulations;
"LGPS Admission Body"	an admission body (within the meaning of Part 3 of Schedule 2 of the 2013 Regulations);
"LGPS Eligible Employees"	any LGPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the LGPS under an LGPS Admission Contract;
"LGPS Fair Deal Employees"	any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the LGPS or a pension scheme that is Broadly Comparable to the LGPS in accordance with the provisions in accordance with the

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provisions of New Fair Deal and/or the Best Value Direction; and

"LGPS Regulations"

the 2013 Regulations and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525), and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS.

2. SUPPLIER TO BECOME AN LGPS ADMISSION BODY

- 2.1 In accordance with the principles of New Fair Deal and/or the Best Value Direction, the Supplier and/or any of its Sub-contractors to which the employment of any LGPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not a scheme employer which participates automatically in the LGPS, shall each become an LGPS Admission Body by entering into an LGPS Admission Contract on or before the Relevant Transfer Date to enable the LGPS Fair Deal Employees to retain either continuous active membership of or eligibility for the LGPS on and from the Relevant Transfer Date for so long as they remain employed in connection with the delivery of the Services under this Contract.

OPTION 1

- 2.2 [Any LGPS Fair Deal Employees who:

- (a) were active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall be admitted to the LGPS with effect on and from the Relevant Transfer Date; and
- (b) were eligible to join the LGPS (or a Broadly Comparable pension scheme) but were not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall retain the ability to join the LGPS on or after the Relevant Transfer Date if they wish to do so.]

OPTION 2

[Any LGPS Fair Deal Employees whether:

- (c) active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date; or
- (d) eligible to join the LGPS (or a Broadly Comparable pension scheme) but not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date

shall be admitted to the LGPS with effect on and from the Relevant Transfer Date. The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Fair Deal Employees in any pension scheme other than the LGPS unless they cease to be eligible for membership of the LGPS.]

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- 2.3 The Supplier will (and will procure that its Sub-contractors (if any) will) provide at its own cost any indemnity, bond or guarantee required by an Administering Buyer in relation to an LGPS Admission Contract.

3. BROADLY COMPARABLE SCHEME

- 3.1 If the Supplier and/or any of its Sub-contractors is unable to obtain an LGPS Admission Contract in accordance with paragraph 2.1 because the Administering Buyer will not allow it to participate in the Fund, the Supplier shall (and procure that its Sub-contractors shall), with effect from the Relevant Transfer Date, offer the LGPS Fair Deal Employees membership of a pension scheme which is Broadly Comparable to LGPS on the Relevant Transfer Date in accordance with the provisions of paragraph 10 of Part D.
- 3.2 If the Supplier and/or any of its Sub-contractors becomes an LGPS Admission Body in accordance with paragraph 2.1 but the LGPS Admission Contract is terminated during the term of this Contract for any reason at a time when the Supplier or Sub-contractors still employs any LGPS Eligible Employees, the Supplier shall (and procure that its Sub-contractors shall) at no extra cost to the Buyer, offer the remaining LGPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the LGPS on the date the LGPS Eligible Employees ceased to participate in the LGPS in accordance with the provisions of paragraph 11 of Part D.

4. DISCRETIONARY BENEFITS

Where the Supplier and/or any of its Sub-contractors is an LGPS Admission Body, the Supplier shall (and procure that its Sub-contractors shall) comply with its obligations under regulation 60 of the 2013 Regulations in relation to the preparation of a discretionary policy statement.

5. LGPS RISK SHARING

- 5.1 Subject to paragraphs 5.4 to 5.10, if at any time during the term of this Contract the Administering Buyer, pursuant to the LGPS Admission Contract or the LGPS Regulations, requires the Supplier or any Sub-contractor to pay employer contributions or other payments to the Fund in aggregate in excess of the Initial Contribution Rate, the excess of employer contributions above the Initial Contribution Rate for a Contract Year (the “**Excess Amount**”) shall be paid by the Supplier or the Sub-contractor, as the case may be, and the Supplier shall be reimbursed by the Buyer.
- 5.2 Subject to paragraphs 5.4 to 5.9 and 5.11, if at any time during the term of this Contract, the Administering Buyer, pursuant to the LGPS Admission Contract or the LGPS Regulations, requires the Supplier or any Sub-contractor to pay employer contributions or payments to the Fund in aggregate below the Initial Contribution Rate for a Contract Year, the Supplier shall reimburse the Buyer an amount equal to A–B (the “**Refund Amount**”) where:
- A = the amount which would have been paid if contributions and payments had been paid equal to the Initial Contribution Rate for that Contract Year ; and
- B = the amount of contributions or payments actually paid by the Supplier or Sub-contractor for that Contract Year, as the case may be, to the Fund.

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- 5.3 Subject to paragraphs 5.4 to 5.10, where the Administering Buyer obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Contract when the LGPS Admission Contract ceases to have effect and the Supplier or any Sub-contractor is required to pay any exit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Payment**”), such Exit Payment shall be paid by the Supplier or any Sub-contractor (as the case may be) and the Supplier shall be reimbursed by the Buyer.
- 5.4 The Supplier and any Sub-contractors shall at all times be responsible for the following costs:
- (a) any employer contributions relating to the costs of early retirement benefits arising on redundancy or as a result of business efficiency under Regulation 30(7) of the 2013 Regulations or otherwise;
 - (b) any payment of Fund benefits to active members on the grounds of ill health or infirmity of mind or body under Regulation 35 of the 2013 Regulations or otherwise;
 - (c) any payment of Fund benefits to deferred or deferred pensioner members on the grounds of ill health or infirmity of mind or body under Regulation 38 of the 2013 Regulations or otherwise;
 - (d) any employer contributions relating to the costs of early or flexible retirement where the actuarial reduction is waived in whole or in part or a cost neutral reduction is not applied with the consent of the Supplier or any relevant Sub-contractor including without limitation any decision made under Regulation 30(8) of the 2013 Regulations or Schedule 2 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;
 - (e) any employer contributions relating to the costs of enhanced benefits made at the discretion of the Supplier or any relevant Sub-contractors including without limitation additional pension awarded under Regulation 31 of the 2013 Regulations or otherwise;
 - (f) any increase to the employer contribution rate resulting from the award of pay increases by the Supplier or relevant Sub-contractors in respect of all or any of the LGPS Eligible Employees in excess of the pay increases assumed in the Fund's most recent actuarial valuation (unless the Supplier and/or any Sub-contractor is contractually bound to provide such increases on the Relevant Transfer Date);
 - (g) to the extent not covered above, any other costs arising out of or in connection with the exercise of any discretion or the grant of any consent under the LGPS Regulations by the Supplier or any relevant Sub-contractors where a member does not have an absolute entitlement to that benefit under the LGPS;
 - (h) any cost of the administration of the Fund that are not met through the Supplier's or Sub-contractor's employer contribution rate, including without limitation an amount specified in a notice given by the Administering Buyer under Regulation 70 of the 2013 Regulations;

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- (i) the costs of any reports and advice requested by or arising from an instruction given by the Supplier or a Sub-contractor from the Fund Actuary; and/or
 - (j) any interest payable under the 2013 Regulations or LGPS Administration Contract.
- 5.5 For the purposes of calculating any Exit Payment, Excess Amount or Refund Amount, any part of such an amount which is attributable to any costs which the Supplier or Sub-contractors are responsible for in accordance with paragraph 5.4 above shall be disregarded and excluded from the calculation. In the event of any dispute as to level of any cost that should be excluded from the calculation, the opinion of the Fund Actuary shall be final and binding.
- 5.6 Where the Administering Buyer obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Contract when the LGPS Admission Contract ceases to have effect and the Supplier or any Sub-contractor receives payment of an exit credit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Credit**”), the Supplier shall (or procure that any Sub-contractor shall) reimburse the Buyer an amount equal to the Exit Credit within twenty (20) Working Days of receipt of the Exit Credit.
- 5.7 The Supplier shall (or procure that the Sub-contractor shall) notify the Buyer in writing within twenty (20) Working Days:
 - (a) of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of the Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated; and
 - (b) of being informed by the Administering Buyer of any Exit Payment or Exit Credit that is determined by as being due from or to the Supplier or a Sub-contractor and provide a copy of any revised rates and adjustments certificate detailing the Exit Payment or Exit Credit and its calculation.
- 5.8 Within twenty (20) Working Days of receiving the notification under paragraph 5.7 above, the Buyer shall either:
 - (a) notify the Supplier in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;
 - (b) request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Supplier; and/or
 - (c) request a meeting with the Supplier to discuss or clarify the information or evidence provided.
- 5.9 Where the Excess Amount, Refund Amount or Exit Payment is agreed following the receipt of further information or evidence or following a meeting in accordance with paragraph 5.8 above, the Buyer shall notify the Supplier in writing. In the event that the Supplier and the Buyer are unable to agree the amount of the Excess Amount, Refund Amount or Exit Payment then they shall follow the Dispute Resolution Procedure.

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- 5.10 Any Excess Amount or Exit Payment agreed by the Buyer or in accordance with the Dispute Resolution Procedure shall be paid by the Buyer within timescales as agreed between Buyer and Supplier. The amount to be paid by the Buyer shall be an amount equal to the Excess Amount or Exit Payment less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount or Exit Payment by the Supplier or a Sub-contractor.
- 5.11 Any Refund Amount agreed by the Buyer or in accordance with the Dispute Resolution Procedure as payable by the Supplier or any Sub-contractor to the Buyer, shall be paid by the Supplier or any Sub-contractor forthwith as the liability has been agreed. In the event the Supplier or any Sub-contractor fails to pay any agreed Refund Amount, the Buyer shall demand in writing the immediate payment of the agreed Refund Amount by the Supplier and the Supplier shall make payment within seven (7) Working Days of such demand.
- 5.12 This paragraph 5 shall survive termination of this Contract.

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PART E: EMPLOYMENT EXIT PROVISIONS**1. PRE-SERVICE TRANSFER OBLIGATIONS**

1.1 The Supplier agrees that within 20 Working Days of the earliest of:

- (a) receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
- (b) receipt of the giving of notice of early termination or any Partial Termination of this Contract;
- (c) the date which is 12 months before the end of the Term; and
- (d) receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any 6 month period),

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

1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Sub-contractor:

- (a) the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
- (b) the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).

1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-contractor.

1.4 The Supplier warrants, for the benefit of the Buyer, any Replacement Supplier, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.

1.5 From the date of the earliest event referred to in Paragraph 1.1(a), 1.1(b) and 1.1(c), the Supplier agrees, that it shall not, and agrees to procure that each Sub contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Buyer (not to be unreasonably withheld or delayed):

- (a) replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;

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- (b) make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Personnel (including pensions and any payments connected with the termination of employment);
- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- (f) terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,

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

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

- (a) the numbers of employees engaged in providing the Services;
- (b) the percentage of time spent by each employee engaged in providing the Services;
- (c) the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part D (Pensions) of this Schedule 9 (Staff Transfer)(as appropriate); and
- (d) a description of the nature of the work undertaken by each employee by location.

1.7 The Supplier shall provide, and shall procure that each Sub contractor shall provide, all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub-contractor shall provide, to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement

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Sub-contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

- (a) the most recent month's copy pay slip data;
- (b) details of cumulative pay for tax and pension purposes;
- (c) details of cumulative tax paid;
- (d) tax code;
- (e) details of any voluntary deductions from pay; and
- (f) bank/building society account details for payroll purposes.

2. EMPLOYMENT REGULATIONS EXIT PROVISIONS

- 2.1 The Buyer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-contractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Buyer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Supplier Employee.
- 2.2 The Supplier shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub-contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-contractor.
- 2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of:
- (a) any act or omission of the Supplier or any Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative

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- (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;
- (b) the breach or non-observance by the Supplier or any Sub-contractor occurring on or before the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Supplier Employees; and/or
 - (ii) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
 - (d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
 - (ii) in relation to any employee who is not identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
 - (e) a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
 - (f) any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-contractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
 - (g) any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-contractor in relation to its obligations

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under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.

2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

- (a) arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or
- (b) arising from the Replacement Supplier's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.

2.5 If any person who is not identified in the Supplier's Final Supplier Personnel list claims, or it is determined in relation to any person who is not identified in the Supplier's Final Supplier Personnel list, that his/her contract of employment has been transferred from the Supplier or any Sub-contractor to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

- (a) the Buyer shall procure that the Replacement Supplier shall, or any Replacement Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
- (b) the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-contractor, the Buyer shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

2.7 If after the 15 Working Day period specified in Paragraph 2.5(b) has elapsed:

- (a) no such offer of employment has been made;
- (b) such offer has been made but not accepted; or
- (c) the situation has not otherwise been resolved

the Buyer shall advise the Replacement Supplier and/or Replacement Sub-contractor, as appropriate that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

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- 2.8 Subject to the Replacement Supplier and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.9 The indemnity in Paragraph 2.8:
- (a) shall not apply to:
 - (i) any claim for:
 - (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-contractor; or
 - (ii) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and
 - (b) shall apply only where the notification referred to in Paragraph 2.5(a) is made by the Replacement Supplier and/or Replacement Sub-contractor to the Supplier within 6 months of the Service Transfer Date .
- 2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Sub-contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee.
- 2.11 The Supplier shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Personnel list before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

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- (a) the Supplier and/or any Sub-contractor; and
 - (b) the Replacement Supplier and/or the Replacement Sub-contractor.
- 2.12 The Supplier shall, and shall procure that each Sub-contractor shall, promptly provide to the Buyer and any Replacement Supplier and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Sub-contractor, shall promptly provide to the Supplier and each Sub-contractor in writing such information as is necessary to enable the Supplier and each Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.13 Subject to Paragraph 2.14, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:
 - (a) any act or omission of the Replacement Supplier and/or Replacement Sub-contractor in respect of any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;
 - (b) the breach or non-observance by the Replacement Supplier and/or Replacement Sub-contractor on or after the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or
 - (ii) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List which the Replacement Supplier and/or Replacement Sub-contractor is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
 - (d) any proposal by the Replacement Supplier and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Sub-contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under

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regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;

- (e) any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-contractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- (f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Sub-contractor, to the Replacement Supplier or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- (g) a failure of the Replacement Supplier or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and
- (h) any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.

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

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ANNEX 1: LIST OF NOTIFIED SUB-CONTRACTORS

Refer to Order form Attachment 9.1 (List of Notified Sub-Contractors)

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ANNEX 2: STAFFING INFORMATION**EMPLOYEE INFORMATION (ANONYMISED)**

Name of Transferor:

Number of Employees in-scope to transfer:

Completion notes

1. *If you have any Key Sub-contractors, please complete all the above information for any staff employed by such Key Sub-contractor(s) in a separate spreadsheet.*
2. *This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.*
3. *If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.*

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EMPLOYEE DETAILS & KEY TERMS							
Details	Job Title	Grade / band	Work Location	Age	Employment status (for example, employee, fixed-term employee, self-employed, agency worker)?	Continuous service date (dd/mm/yy)	Date employment started with existing employer
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							

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EMPLOYEE DETAILS & KEY TERMS							
Details	Contract end date (if fixed term contract or temporary contract)	Contractual notice period	Contractual weekly hours	Regular overtime hours per week	Mobility or flexibility clause in contract?	Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector	Any collective agreements?
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							

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	ASSIGNMENT	CONTRACTUAL PAY AND BENEFITS						
Details	% of working time dedicated to the provision of services under the contract	Salary (or hourly rate of pay)	Payment interval (weekly / fortnightly / monthly)	Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)	Pay review method	Frequency of pay reviews	Agreed pay increases	Next pay review date
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								
Emp No								
Emp No								

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CONTRACTUAL PAY AND BENEFITS								
Details	Any existing or future commitment to training that has a time-off or financial implication	Car allowance (£ per year)	Lease or company car details	Any other allowances paid (e.g. shift allowance, standby allowance, travel allowance)	Private medical insurance (please specify whether single or family cover)	Life assurance (xSalary)	Long Term Disability / PHI (% of Salary)	Any other benefits in kind
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								
Emp No								
Emp No								

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CONTRACTUAL PAY AND BENEFITS						
Details	Annual leave entitlement (excluding bank holidays)	Bank holiday entitlement	Method of calculating holiday pay (i.e. based on fixed salary only or incl. entitlements to variable remuneration such as bonuses, allowances, commission or overtime pay?)	Maternity or paternity or shared parental leave entitlement and pay	Sick leave entitlement and pay	Redundancy pay entitlement (statutory / enhanced / contractual / discretionary)
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

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PENSIONS						
Details	Employee pension contribution rate	Employer pension contribution rate	Please provide the name of the pension scheme and a link to the pension scheme website	Is the scheme an occupational pension scheme as defined in the Pension Schemes Act 1993?	If the scheme is not an occupational pension scheme, what type of scheme is it? E.g. personal pension scheme?	Type of pension provision e.g. defined benefit (CARE or final salary, and whether a public sector scheme e.g. CSPA, NHSPA, LGPS etc. or a broadly comparable scheme) or a defined contribution scheme or an auto enrolment master trust?
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

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PENSIONS						
Details	If the Employee is in the Local Government Pension Scheme, please supply details of Fund and Administering Buyer.	If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Contract.	If the Employee is in the NHSPS, please provide details of the Direction Letter.	If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.	Did Fair Deal or any other similar pension protection for ex-public sector employees apply to the employee when they TUPE transferred into your employment? If so, what was the nature of that protection (e.g. right to participate in a public sector pension scheme, or a broadly comparable scheme, or to bulk transfer past pension service into their current scheme)?	If Fair Deal, Best Value or other pension protection applied, which public sector employer did they originally transfer out of and when?
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

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	OTHER						
Details	Security Level	Check	Security Expiry date	Clearance	Additional comments	info	or
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							

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SCHEDULE 9.2: KEY PERSONNEL

Refer to Order Form Attachment 9.2 (Key Personnel)

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SCHEDULE 11: PROCESSING PERSONAL DATA

Refer to Order Form Attachment 11 - Processing Personal Data

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C293083 DIGITAL UEC TRANSFORMATION DELIVERY CALL OFF TERMS

(FRAMEWORK SCHEDULE 4 – ANNEX 2)

RM6100 TECHNOLOGY SERVICES 3

LOT 4 CALL OFF TERMS

Where an Order Form is issued by the Buyer that refers to the Framework and this Contract, this Contract is made between the Buyer and the Supplier on the date specified on that Order Form. This Contract is subject to the terms set out below.

The Buyer and the Supplier undertake to comply with the provisions of the Schedules and Attachments to the Order Form in the performance of this Contract.

The Supplier shall supply to the Buyer, and the Buyer shall receive and pay for, the Goods and/or Services on the terms of this Contract.

For the avoidance of doubt, any actions or work undertaken by the Supplier prior to the receipt of an Order Form covering the relevant Services and/or Goods shall be undertaken at the Supplier's risk and expense and the Supplier shall only be entitled to invoice for Services and/or Goods covered by a valid Order Form.

The Definitions in Schedule 1 shall apply to the use of all capitalised terms in this Contract.

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SECTION A - PRELIMINARIES

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Contract, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 1 (*Definitions*) or the relevant Schedule in which that capitalised expression appears.
- 1.2 In this Contract, unless the context otherwise requires:
- (a) the singular includes the plural and vice versa;
 - (b) reference to a gender includes the other gender and the neuter;
 - (c) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;
 - (d) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
 - (e) any reference in this Contract which immediately before Exit Day was a reference to (as it has effect from time to time):
 - (i) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
 - (ii) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred;
 - (f) 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";
 - (g) 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;
 - (h) the headings are for ease of reference only and shall not affect the interpretation or construction of this Contract;
 - (i) unless otherwise provided and save for references in Annexes 1 to 2 of Schedule 5 (*Software*) and in Schedule 10 (*Guarantee*), references to Clauses and Schedules are references to the clauses and schedules of this Contract and references in any Schedule or Attachment to Paragraphs, Parts and Annexes are, unless otherwise provided, references to the paragraphs, parts and annexes of the Schedule or Attachment or the Part of the Schedule or Attachment in which the references appear; and

- (j) references to this Contract are references to this Contract as amended from time to time.
- 1.3 Where a standard, policy or document is referred to in this Contract 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 Buyer and the Parties shall update this Contract with a reference to the replacement hyperlink.
- 1.4 If there is any conflict between the Order Form (including Attachments and any Annexes), these Call Off Terms (including Schedules and its Annexes) and the provisions of the Framework, the conflict shall be resolved in accordance with the following order of precedence:
 - (a) the Framework, except Framework Schedule 18 (Tender);
 - (b) the Order Form and its Attachments (other than Attachment 4.1 (Supplier Solution) and its Annexes) and Schedule 2.2 (Performance Levels) and its Annexes;
 - (c) these Call-Off Terms (including the Schedules and their Annexes) (other than Schedule 2.2 (Performance Levels) and its Annexes which is dealt with above in (b));
 - (d) Attachment 4.1 (*Supplier Solution*) and its Annexes (if any); and
 - (e) Framework Schedule 18 (Tender).
- 1.5 The Schedules and their Annexes and Order Form (including Attachments and their Annexes) form part of this Contract.
- 1.6 In entering into this Contract the Buyer is acting as part of the Crown.

2 DUE DILIGENCE

- 2.1 The Supplier acknowledges that, subject to the Allowable Assumptions:
 - (a) the Buyer 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 Contract;
 - (b) it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information;
 - (c) it has satisfied itself (whether by inspection or having raised all relevant due diligence questions with the Buyer before the Effective Date) of all relevant details relating to:
 - (i) the Buyer Requirements;
 - (ii) the suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Effective Date) future Operating Environment;
 - (iii) the operating processes and procedures and the working methods of the Buyer;

- (iv) the ownership, functionality, capacity, condition and suitability for use in the Services of the Buyer Assets; and
 - (v) the existing contracts (including any licences, support, maintenance and other agreements relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the Supplier will require the benefit of for the provision of the Services; and
- (d) it has advised the Buyer in writing of:
- (i) each aspect, if any, of the Operating Environment that is not suitable for the provision of the Services;
 - (ii) the actions needed to remedy each such unsuitable aspect; and
 - (iii) 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 Contract, including the Services Description and/or Buyer Responsibilities as applicable.

2.2 The Supplier shall not be excused from the performance of any of its obligations under this Contract on the grounds of, nor, subject to Clause 2.3, shall the Supplier be entitled to recover any additional costs or charges, arising as a result of:

- (a) any unsuitable aspects of the Operating Environment;
- (b) any misinterpretation of the Buyer Requirements; and/or
- (c) any failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

2.3 The Parties shall comply with the provisions of Paragraph 6 of Part C of Schedule 7.1 (*Charges and Invoicing*) in relation to the verification of any Allowable Assumptions.

3 WARRANTIES

3.1 The Buyer represents and warrants that:

- (a) it has full capacity and authority to enter into and to perform this Contract;
- (b) this Contract is executed by its duly authorised representative;
- (c) 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 that might affect its ability to perform its obligations under this Contract; and
- (d) its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable 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).

3.2 The Supplier represents and warrants that:

- (a) it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
- (b) it has full capacity and authority to enter into and to perform this Contract;
- (c) this Contract is executed by its duly authorised representative;
- (d) it has all necessary consents and regulatory approvals to enter into this Contract;
- (e) it has notified the Buyer in writing of any actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, any threatened against it or any of its Affiliates that might affect its ability to perform its obligations under this Contract;
- (f) its execution, delivery and performance of its obligations under this Contract will not constitute a breach of any Law or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;
- (g) its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable 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);
- (h) 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 selection questionnaire and ITT (if applicable), 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 Contract or to the extent that the Supplier has otherwise disclosed to the Buyer in writing prior to the date of this Contract;
- (i) it has notified the Buyer in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance;
- (j) it has all necessary rights in and to the Licensed Software, the Third Party IPRs, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-contractor) to the Buyer which are necessary for the performance of the Supplier's obligations under this Contract and/or the receipt of the Services by the Buyer;
- (k) the Contract Inception Report is a true and accurate reflection of the Costs and Supplier Profit Margin forecast by the Supplier and the Supplier does not have any other internal financial model in relation to the Services inconsistent with the Financial Model;

- (l) 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 Contract;
 - (m) 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; and
 - (n) within the previous 12 months, no Financial Distress Events have occurred or are subsisting (or any events that would be deemed to be Financial Distress Events under this Contract had this Contract been in force) and there are currently no matters that it is aware of that could cause a Financial Distress Event to occur or subsist.
- 3.3 The representations and warranties set out in Clause 3.2 shall be deemed to be repeated by the Supplier on the Effective Date (if later than the date of signature of this Contract) by reference to the facts then existing.
- 3.4 Each of the representations and warranties set out in Clauses 3.1 and 3.2 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 Contract.
- 3.5 If at any time a Party becomes aware that a representation or warranty given by it under Clause 3.1 or 3.2 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.
- 3.6 For the avoidance of doubt, the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination which the Buyer may have in respect of breach of that provision by the Supplier.
- 3.7 Except as expressly stated in this Contract, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by Law.

SECTION B – THE SERVICES

4 TERM

4.1 This Contract shall:

- (a) come into force on the Effective Date, save for Clauses 1 (*Definitions and Interpretation*), 3 (*Warranties*), 4 (*Term*), 21 (*Confidentiality*), 22 (*Transparency and Freedom of Information*), 24 (*Publicity and Branding*), 25 (*Limitations on Liability*), 37 (*Waiver and Cumulative Remedies*), 38 (*Relationship of the Parties*), 40 (*Severance*), 42 (*Entire Contract*), 43 (*Third Party Rights*), 44 (*Notices*), 45 (*Disputes*) and 46 (*Governing Law and Jurisdiction*), which shall be binding and enforceable as between the Parties from the date of signature; and
- (b) unless terminated at an earlier date by operation of Law or in accordance with Clause 33 (*Termination Rights*), terminate:
 - (i) at the end of the Initial Term; or
 - (ii) if the Buyer elects to extend the Initial Term by giving the Supplier at least 60 Working Days' notice before the end of the Initial Term, at the end of the Extension Period.

Condition Precedent

- 4.2 Save for Clauses 1 (*Definitions and Interpretation*), 3 (*Warranties*), 4 (*Term*), 21 (*Confidentiality*), 22 (*Transparency and Freedom of Information*), 24 (*Publicity and Branding*), 25 (*Limitations on Liability*), 37 (*Waiver and Cumulative Remedies*), 38 (*Relationship of the Parties*), 40 (*Severance*), 42 (*Entire Contract*), 43 (*Third Party Rights*), 44 (*Notices*), 45 (*Disputes*) and 46 (*Governing Law and Jurisdiction*), this Contract is conditional upon the valid execution and delivery to the Buyer of the Guarantee (the "**Condition Precedent**"). The Buyer may in its sole discretion at any time agree to waive compliance with the Condition Precedent by giving the Supplier notice in writing.
- 4.3 The Supplier shall satisfy, or procure the satisfaction of, the Condition Precedent as soon as possible. In the event that the Condition Precedent is not satisfied within 20 Working Days after the date of this Contract then, unless the Condition Precedent is waived by the Buyer in accordance with Clause 4.2:
 - (a) this Contract shall automatically cease and shall not come into effect; and
 - (b) neither Party shall have any obligation to pay any compensation to the other Party as a result of such cessation.
- 4.4 The Supplier shall consult with the Buyer in relation to the steps it takes to satisfy the condition set out in Clause 4.2 and shall keep the Buyer fully informed of its progress in satisfying the condition and of any circumstances which are likely to result in the condition not being satisfied by the date set out in Clause 4.3.

5 **SERVICES**

Standard of Services

5.1 The Supplier shall provide:

- (a) the Implementation Services from (and including) the Implementation Services Commencement Date; and
- (b) the Operational Services in each case from (and including) the relevant Operational Service Commencement Date.

5.2 The Supplier shall ensure that:

- (a) the Services:
 - (i) comply in all respects with the Services Description; and
 - (ii) are supplied in accordance with the Supplier Solution and the provisions of this Contract; and
- (b) where:
 - (i) the Operational Services to be provided from any Operational Service Commencement Date are similar to services that the Buyer was receiving immediately prior to that Operational Service Commencement Date (such similar services being "**Preceding Services**"); and
 - (ii) the standard and level of service received by the Buyer in respect of any of the Preceding Services in the 12 month period immediately prior to that Operational Service Commencement Date have been disclosed to the Supplier in the Due Diligence Information (such preceding services being "**Relevant Preceding Services**"),

the Operational Services to be provided from the relevant Operational Service Commencement Date that are similar to the Relevant Preceding Services are in each case provided to a standard and level of service which is at least as good as the standard and level of service received by the Buyer in respect of the Relevant Preceding Services in the 12 month period immediately prior to the relevant Operational Service Commencement Date.

5.3 The Supplier shall:

- (a) perform its obligations under this Contract, including in relation to the supply of the Services and any Goods in accordance with:
 - (i) all applicable Law;
 - (ii) Good Industry Practice;
 - (iii) the Standards;
 - (iv) the Baseline Security Requirements;
 - (v) the Quality Plans;

- (vi) the Buyer IT Strategy; and
 - (vii) the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 5.3(a)(i) to 5.3(a)(vi); and
 - (b) deliver the Services using efficient business processes and ways of working having regard to the Buyer's obligation to ensure value for money.
- 5.4 In the event that the Supplier becomes aware of any inconsistency between the requirements of Clauses 5.3(a)(i) to 5.3(a)(vi), the Supplier shall immediately notify the Buyer Representative in writing of such inconsistency and the Buyer Representative shall, as soon as practicable, notify the Supplier which requirement the Supplier shall comply with.

Supplier covenants

5.5 The Supplier shall:

- (a) at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Services in accordance with this Contract;
- (b) save to the extent that obtaining and maintaining the same are Buyer Responsibilities and subject to Clause 13 (*Change*), obtain, and maintain throughout the duration of this Contract, all the consents, approvals, licences and permissions (statutory, regulatory contractual or otherwise) it may require and which are necessary for the provision of the Services;
- (c) ensure that:
 - (i) it shall continue to have all necessary rights in and to the Licensed Software, the Third Party IPRs, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-contractor) to the Buyer which are necessary for the performance of the Supplier's obligations under this Contract and/or the receipt of the Services by the Buyer;
 - (ii) the release of any new Software or upgrade to any Software complies with the interface requirements in the Services Description and (except in relation to new Software or upgrades which are released to address Malicious Software or to comply with the requirements of Schedule 2.4 (*Security Management*)) shall notify the Buyer 3 months before the release of any new Software or Upgrade;
 - (iii) all Software including Upgrades, Updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
 - (iv) any products or services recommended or otherwise specified by the Supplier for use by the Buyer in conjunction with the Deliverables and/or the Services shall enable the Deliverables and/or Services to meet the Buyer Requirements; and

- (v) the Supplier System and Assets used in the performance of the Services will be free of all encumbrances (except as agreed in writing with the Buyer) and will be Euro Compliant;
- (d) minimise any disruption to the Services, the IT Environment and/or the Buyer's operations when carrying out its obligations under this Contract;
- (e) ensure that any Documentation and training provided by the Supplier to the Buyer are comprehensive, accurate and prepared in accordance with Good Industry Practice;
- (f) co-operate with the Other Suppliers and provide reasonable information (including any Documentation), advice and assistance in connection with the Services to any Other Supplier to enable such Other Supplier to create and maintain technical or organisational interfaces with the Services and, on the expiry or termination of this Contract for any reason, to enable the timely transition of the Services (or any of them) to the Buyer and/or to any Replacement Supplier;
- (g) to the extent it is legally able to do so, hold on trust for the sole benefit of the Buyer, all warranties and indemnities provided by third parties or any Sub-contractor in respect of any Deliverables and/or the Services and, where any such warranties are held on trust, at its cost enforce such warranties in accordance with any reasonable directions that the Buyer may notify from time to time to the Supplier;
- (h) unless it is unable to do so, assign to the Buyer on the Buyer's written request and at the cost of the Supplier any such warranties and/or indemnities as are referred to in Clause 5.5(g);
- (i) provide the Buyer with such assistance as the Buyer may reasonably require during the Term in respect of the supply of the Services;
- (j) gather, collate and provide such information and co-operation as the Buyer may reasonably request for the purposes of ascertaining the Supplier's compliance with its obligations under this Contract;
- (k) notify the Buyer in writing as soon as reasonably possible and in any event within 1 month of any change of Control taking place;
- (l) notify the Buyer in writing within 10 Working Days of their occurrence, of any actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it that might affect its ability to perform its obligations under this Contract;
- (m) ensure that neither it, nor any of its Affiliates, embarrasses the Buyer or otherwise brings the Buyer into disrepute by engaging in any act or omission in relation to this Contract which is reasonably likely to diminish the trust that the public places in the Buyer; and
- (n) manage closure or termination of Services and end of life of Goods to take account of the Buyer's disposal requirements, including recycling and scope for re-use, and all applicable Standards.

- 5.6 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.
- 5.7 Without prejudice to Clauses 19.2 and 19.3 (*IPRs Indemnity*) and any other rights and remedies of the Buyer howsoever arising, the Supplier shall:
- (a) remedy any breach of its obligations in Clauses 5.5(b) to 5.5(d) inclusive within 3 Working Days of becoming aware of the breach or being notified of the breach by the Buyer where practicable or within such other time period as may be agreed with the Buyer (taking into account the nature of the breach that has occurred);
 - (b) remedy any breach of its obligations in Clause 5.5(a) and Clauses 5.5(e) to 5.5(j) inclusive within 20 Working Days of becoming aware of the breach or being notified of the breach by the Buyer; and
 - (c) 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 5.7(a) or Clause 5.7(b) within the specified or agreed timeframe shall constitute a Notifiable Default.

Specially Written Software warranty

- 5.8 Without prejudice to Clauses 5.5 (*Supplier Covenants*) and 5.7 (*Services*) and any other rights and remedies of the Buyer howsoever arising, the Supplier warrants to the Buyer that all components of the Specially Written Software shall:
- (a) be free from material design and programming errors;
 - (b) perform in all material respects in accordance with the relevant specifications contained in the Supplier Solution and Documentation; and
 - (c) not infringe any Intellectual Property Rights.

Continuing obligation to provide the Services

- 5.9 The Supplier shall continue to perform all of its obligations under this Contract and shall not suspend the supply of the Services, notwithstanding:
- (a) any withholding of the Service Charges by the Buyer pursuant to Clause 7.2(d)(ii) (*Performance Failures*);
 - (b) the existence of an unresolved Dispute; and/or
 - (c) any failure by the Buyer to pay any Charges,
- unless the Supplier is entitled to terminate this Contract under Clause 33.3(a) (*Termination by the Supplier*) for failure to pay undisputed Charges.

Optional Services

- 5.10 The Buyer may require the Supplier to provide any or all of the Optional Services at any time by giving notice to the Supplier in writing. The Supplier acknowledges that the Buyer is not obliged to take any Optional Services from the Supplier and that

nothing shall prevent the Buyer from receiving services that are the same as or similar to the Optional Services from any third party.

- 5.11 If a Change Request is submitted, the Supplier shall, as part of the Impact Assessment provided by the Supplier in relation to such Change Request, provide details of the impact (if any) that the proposed Change will have on the relevant Optional Services.
- 5.12 Following receipt of the Buyer's notice pursuant to Clause 5.10:
- (a) the Parties shall document the inclusion of the relevant Optional Services within the Services in accordance with the Change Control Procedure, modified to reflect the fact that the terms and conditions on which the Supplier shall provide the relevant Optional Services have already been agreed;
 - (b) the Supplier shall implement and Test the relevant Optional Services in accordance with the Optional Services Implementation Plan;
 - (c) any additional charges for the Optional Services shall be incorporated in the Charges as specified in Paragraph 3 of Part B of Schedule 7.1 (*Charges and Invoicing*); and
 - (d) the Supplier shall, from the date agreed in the Optional Services Implementation Plan (or, if later, the date of Achievement of any Milestones associated with the commencement of the relevant Optional Services (if any)), provide the relevant Optional Services to meet or exceed the applicable Target Performance Level in respect of all Performance Indicators applicable to the Optional Services as set out in Paragraphs 3 and 4 of Attachment 2.2 (*Key Performance Indicators and Subsidiary Performance Indicators Tables*) of the Order Form.

Power of attorney

- 5.13 By way of security for the performance of its obligations under Clauses 5.5(g) and 5.5(h) (*Supplier covenants*) the Supplier hereby irrevocably appoints the Buyer as its agent and attorney to act with full power and authority in the Supplier's name and on its behalf to do all such acts and execute all such documents as may be necessary or desirable to enforce any such warranties and/or effect any such assignment as are referred to in such Clauses and to delegate one or more of the powers conferred on it by this Clause 5.13 (other than the power to delegate) to officer(s) appointed for that purpose by the Buyer and may vary or revoke such delegation at any time.

Buyer Responsibilities

- 5.14 The Buyer shall comply with its responsibilities set out in Schedule 3 (*Buyer Responsibilities*).

6 IMPLEMENTATION

Quality Plans

- 6.1 The Supplier shall develop, within 10 Working Days of the Effective Date, quality plans that ensure that all aspects of the Services are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").

- 6.2 The Supplier shall obtain the Buyer Representative's written approval of the Quality Plans before implementing them, which approval shall not be unreasonably withheld or delayed. The Supplier acknowledges and accepts that the Buyer's approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Services are provided to the standard required by this Contract.
- 6.3 Following the approval by the Buyer of the Quality Plans:
- (a) the Supplier shall design and deliver all Deliverables in accordance with the Quality Plans; and
 - (b) any Changes to the Quality Plans shall be agreed in accordance with the Change Control Procedure.

Implementation Plan and Delays

- 6.4 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.
- 6.5 The Supplier shall:
- (a) comply with the Implementation Plan; and
 - (b) ensure that each Milestone is Achieved on or before its Milestone Date.
- 6.6 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay:
- (a) it shall:
 - (i) notify the Buyer in accordance with Clause 27.1 (*Rectification Plan Process*); and
 - (ii) comply with the Rectification Plan Process in order to address the impact of the Delay or anticipated Delay; and
 - (iii) use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay; and
 - (b) if the Delay or anticipated Delay relates to a Key Milestone, the provisions of Clause 28 (*Delay Payments*) shall apply.

Testing and Achievement of Milestones

- 6.7 The Parties shall comply with the provisions of Schedule 6.2 (*Testing Procedures*) in relation to the procedures to determine whether a Milestone or Test has been Achieved.

7 PERFORMANCE INDICATORS

- 7.1 The Supplier shall:
- (a) provide the Operational Services in such a manner so as to meet or exceed the Target Performance Level for each Performance Indicator from the Milestone Date for each relevant CPP Milestone; and

- (b) comply with the provisions of Schedule 2.2 (*Performance Levels*) in relation to the monitoring and reporting on its performance against the Performance Indicators.

Performance Failures

7.2 If in any Service Period:

- (a) a KPI Failure occurs, Service Credits shall be deducted from the Service Charges in accordance with Paragraph 3 of Part C of Schedule 7.1 (*Charges and Invoicing*);
- (b) a Material KPI Failure occurs, the Supplier shall comply with the Rectification Plan Process (in addition to Service Credits accruing in accordance with Clause 7.2(a));
- (c) a PI Failure occurs, the Supplier shall notify the Buyer of the action (if any) it will take to rectify the PI Failure and/or to prevent the PI Failure from recurring; and/or
- (d) a Material PI Failure occurs:
 - (i) the Supplier shall comply with the Rectification Plan Process; and
 - (ii) the Buyer may withhold a proportionate amount of the Service Charges in accordance with the process set out in Clause 10.7 (*Set Off and Withholding*) until the relevant Material PI Failure is rectified to the reasonable satisfaction of the Buyer, at which point the Buyer shall pay the amount withheld.

7.3 Service Credits shall be the Buyer's exclusive financial remedy for a KPI Failure except where:

- (a) the Supplier has over the previous 12 month period accrued Service Credits in excess of the Service Credit Cap;
- (b) the KPI Failure:
 - (i) breaches the relevant KPI Service Threshold;
 - (ii) has arisen due to the wilful default by the Supplier or any Supplier Personnel; or
 - (iii) results in:
 - (A) the corruption or loss of any Buyer Data (in which case the remedies under Clause 20.7 (*Buyer Data and Security Requirements*) shall also be available); and/or
 - (B) the Buyer being required to make a compensation payment to one or more third parties;
- (c) the Supplier has fraudulently misreported its performance against any Performance Indicator; and/or

- (d) the Buyer is otherwise entitled to or does terminate the relevant Services or this Contract pursuant to Clause 33.1(b) (*Termination by the Buyer*).

Unacceptable KPI Failure

7.4 If in any Service Period an Unacceptable KPI Failure occurs:

- (a) the Buyer shall (subject to the Service Credit Cap set out in Clause 25.4(b) (*Financial and other limits*)) be entitled to withhold and retain as compensation for the Unacceptable KPI Failure a sum equal to any Service Charges which would otherwise have been due to the Supplier in respect of that Service Period (such sum being “**Compensation for Unacceptable KPI Failure**”); and
- (b) if the Buyer withholds and retains such Compensation for Unacceptable KPI Failure, any Service Points and Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue,

provided that the operation of this Clause 7.4 shall be without prejudice to any right which the Buyer may have to terminate this Contract and/or to claim damages from the Supplier as a result of such Unacceptable KPI Failure.

7.5 The Supplier:

- (a) agrees that the application of Clause 7.4 is commercially justifiable where an Unacceptable KPI Failure occurs; and
- (b) acknowledges that it has taken legal advice on the application of Clause 7.4 and has had the opportunity to price for that risk when calculating the Service Charges.

Critical Performance Failure

7.6 If a Critical Performance Failure occurs, the Buyer may exercise its rights to terminate this Contract in whole or in part pursuant to Clause 33.1 or 33.2 (*Termination by the Buyer*).

Changes to Performance Indicators and Service Credits

7.7 Not more than once in each Contract Year the Buyer may, on giving the Supplier at least 3 months’ notice:

- (a) change the weighting that applies in respect of one or more specific Key Performance Indicators; and/or
- (b) convert one or more:
 - (i) Key Performance Indicators into a Subsidiary Performance Indicator; and/or
 - (ii) Subsidiary Performance Indicators into a Key Performance Indicator (in which event the Buyer shall also set out in the notice details of what will constitute a Minor KPI Failure, a Serious KPI Failure and a Severe KPI Failure for the new Key Performance Indicator).

- 7.8 The Supplier shall not be entitled to object to any changes made by the Buyer under Clause 7.7, or increase the Service Charges as a result of such changes provided that:
- (a) the total number of Key Performance Indicators does not exceed 20;
 - (b) the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and
 - (c) there is no change to the Service Credit Cap.

8 SERVICES IMPROVEMENT

- 8.1 The Supplier shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services in accordance with this Clause 8. As part of this obligation the Supplier shall identify and report to the Programme Board once every 12 months on:
- (a) the emergence of new and evolving relevant technologies which could improve the IT Environment and/or the Services, and those technological advances potentially available to the Supplier and the Buyer which the Parties may wish to adopt;
 - (b) new or potential improvements to the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Services;
 - (c) new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Buyer which might result in efficiency or productivity gains or in reduction of operational risk;
 - (d) changes in business processes and ways of working that would enable the Services to be delivered at lower cost and/or with greater benefits to the Buyer; and/or
 - (e) changes to the IT Environment, business processes and ways of working that would enable reductions in the total energy consumed in the delivery of Services.
- 8.2 The Supplier shall ensure that the information that it provides to the Buyer shall be sufficient for the Buyer to decide whether any improvement should be implemented. The Supplier shall provide any further information that the Buyer requests.
- 8.3 If the Buyer wishes to incorporate any improvement identified by the Supplier the Buyer shall send the Supplier a Change Request in accordance with the Change Control Procedure.

9 EQUIPMENT AND MAINTENANCE

Supplier Equipment

- 9.1 The Supplier shall be solely responsible for the cost of carriage of Supplier Equipment to the Sites and to the Buyer Premises, including its off-loading, removal of all packaging and all other associated costs. Likewise on termination or expiry of this Contract the Supplier shall be responsible for the removal and safe disposal of all relevant Supplier Equipment from the Sites and the Buyer Premises, including the cost

of packing, carriage and making good the Sites and/or the Buyer Premises following removal, and taking account of any sustainability requirements, including safe removal of data and recycling requirements.

- 9.2 All the Supplier's property, including Supplier Equipment, shall remain at the sole risk and responsibility of the Supplier, except that the Buyer shall be liable for loss of or damage to any of the Supplier's property located on Buyer Premises which is due to the negligent act or omission of the Buyer.
- 9.3 Subject to any express provision of the Service Continuity Plan to the contrary, the loss or destruction for any reason of any Supplier Equipment shall not relieve the Supplier of its obligation to supply the Services in accordance with this Contract, including the Target Performance Levels.

Maintenance

- 9.4 The Supplier shall create and maintain a rolling schedule of planned maintenance to the IT Environment (the "**Maintenance Schedule**") which shall be agreed with the Buyer. Once the Maintenance Schedule has been agreed with the Buyer Representative, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.
- 9.5 The Supplier shall give as much notice as is reasonably practicable to the Buyer Representative prior to carrying out any Emergency Maintenance.
- 9.6 The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the IT Environment or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the IT Environment and the Services.

Supply of Goods

- 9.7 Where, as part of the Services, the Supplier is to sell goods or equipment ("**Goods**") to the Buyer:
- (a) the relevant Goods and their prices shall be as set out in the Order Form;
 - (b) the Supplier shall supply and, where relevant, install the Goods in accordance with the relevant specification;
 - (c) the Supplier shall ensure that the Goods are free from material defects in design, materials and workmanship and remain so for 12 months after delivery;
 - (d) if following inspection or testing the Buyer considers that the Goods do not conform with the relevant specification, the Buyer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance; and
 - (e) without prejudice to any other rights or remedies of the Buyer:
 - (i) risk in the Goods shall pass to the Buyer at the time of delivery; and

- (ii) ownership of the Goods shall pass to the Buyer at the time of payment.

SECTION C – PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS

10 FINANCIAL AND TAXATION MATTERS

Charges and Invoicing

- 10.1 In consideration of the Supplier carrying out its obligations under this Contract, including the provision of the Services, the Buyer shall pay the Charges to the Supplier in accordance with the pricing and payment profile and the invoicing procedure specified in Schedule 7.1 (*Charges and Invoicing*).
- 10.2 Except as otherwise provided, each Party shall each bear its own costs and expenses incurred in respect of compliance with its obligations under Clauses 6.7 (*Testing and Achievement of Milestones*), 12 (*Records, Reports, Audits and Open Book Data*), 22 (*Transparency and Freedom of Information*), 23 (*Protection of Personal Data*) and, to the extent specified therein, Clause 29 (*Remedial Adviser*) and Clause 30 (*Step-In Rights*).
- 10.3 If the Buyer fails to pay any undisputed Charges properly invoiced under this Contract, the Supplier shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

VAT

- 10.4 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Buyer following delivery of a valid VAT invoice.
- 10.5 The Supplier shall indemnify the Buyer on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed on the Buyer at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under this Contract. Any amounts due under this Clause 10.5 shall be paid in cleared funds by the Supplier to the Buyer not less than five Working Days before the date upon which the tax or other liability is payable by the Buyer.

Set-off and Withholding

- 10.6 The Buyer may set off any amount owed by the Supplier to the Crown or any part of the Crown (including the Buyer) against any amount due to the Supplier under this Contract or under any other agreement between the Supplier and the Buyer.
- 10.7 If the Buyer wishes to:
- (a) set off any amount owed by the Supplier to the Crown or any part of the Crown (including the Buyer) against any amount due to the Supplier pursuant to Clause 10.6; or
 - (b) exercise its right pursuant to Clause 7.2(d)(ii) (*Performance Failures*) to withhold payment of a proportion of the Service Charges,
- it shall give notice to the Supplier within thirty (30) days of receipt of the relevant invoice, setting out the Buyer's reasons for withholding or retaining the relevant Charges.

Benchmarking

10.8 The Parties shall comply with the provisions of Schedule 7.3 (*Benchmarking*) in relation to the benchmarking of any or all of the Services.

Financial Distress

10.9 The Parties shall comply with the provisions of Schedule 7.4 (*Financial Distress*) in relation to the assessment of the financial standing of the Supplier and other specified entities and the consequences of a change to that financial standing.

Promoting Tax Compliance

10.10 If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

- (a) notify the Buyer in writing of such fact within 5 Working Days of its occurrence; and
- (b) promptly provide to the Buyer:
 - (i) details of the steps which 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
 - (ii) such other information in relation to the Occasion of Tax Non-Compliance as the Buyer may reasonably require.

SECTION D - CONTRACT GOVERNANCE

11 GOVERNANCE

- 11.1 The Parties shall comply with the provisions of Schedule 8.1 (*Governance*) in relation to the management and governance of this Contract.

Representatives

- 11.2 Each Party shall have a representative for the duration of this Contract who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Contract.
- 11.3 The initial Supplier Representative shall be the person named as such in the Order Form. Any change to the Supplier Representative shall be agreed in accordance with Clause 14 (*Supplier Personnel*).
- 11.4 The initial Buyer Representative shall be the person named as such in the Order Form. The Buyer may, by written notice to the Supplier, revoke or amend the authority of the Buyer Representative or appoint a new Buyer Representative.

12 RECORDS, REPORTS, AUDITS & OPEN BOOK DATA

- 12.1 The Supplier shall comply with the provisions of:
- (a) Schedule 8.4 (*Reports and Records Provisions*) in relation to the maintenance and retention of Records; and
 - (b) Part A of Schedule 7.5 (*Financial Reports and Audit Rights*) in relation to the maintenance of Open Book Data.
- 12.2 The Parties shall comply with the provisions of:
- (a) Part B of Schedule 7.5 (*Financial Reports and Audit Rights*) in relation to the provision of the Financial Reports; and
 - (b) Part C of Schedule 7.5 (*Financial Reports and Audit Rights*) in relation to the exercise of the Audit Rights by the Buyer or any Audit Agents.

13 CHANGE

Change Control Procedure

- 13.1 Any requirement for a Change shall be subject to the Change Control Procedure.

Change in Law

- 13.2 The Supplier shall neither be relieved of its obligations to supply the Services in accordance with the terms and conditions of this Contract nor be entitled to an increase in the Charges as the result of:
- (a) a General Change in Law; or
 - (b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Effective Date.

- 13.3 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in Clause 13.2(b)), the Supplier shall:
- (a) notify the Buyer as soon as reasonably practicable of the likely effects of that change, including:
 - (i) whether any Change is required to the Services, the Charges or this Contract; and
 - (ii) whether any relief from compliance with the Supplier's obligations is required, including any obligation to Achieve a Milestone and/or to meet the Target Performance Levels; and
 - (b) provide the Buyer 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;
 - (ii) as to how the Specific Change in Law has affected the cost of providing the Services; and
 - (iii) demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of Clause 8 (*Services Improvement*), has been taken into account in amending the Charges.
- 13.4 Any variation in the Charges or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in Clause 13.2(b)) shall be implemented in accordance with the Change Control Procedure.

SECTION E – SUPPLIER PERSONNEL AND SUPPLY CHAIN

14 SUPPLIER PERSONNEL

14.1 The Supplier shall:

- (a) Provide in advance of any admission to Buyer 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 Buyer may reasonably require;
- (b) ensure that all Supplier Personnel:
 - (i) are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;
 - (ii) are vetted in accordance with Good Industry Practice and, where applicable, the security requirements set out in Attachment 2.1 (*Services Description*) of the Order Form and Schedule 2.4 (*Security Management*); and
 - (iii) comply with all reasonable requirements of the Buyer concerning conduct at the Buyer Premises, including the security requirements as set out in Schedule 2.4 (*Security Management*);
- (c) subject to Schedule 9.1 (*Staff Transfer*), 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 Buyer;
- (d) 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 Contract shall be a Default by the Supplier;
- (e) use all reasonable endeavours to minimise the number of changes in Supplier Personnel;
- (f) 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;
- (g) bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and
- (h) procure that the Supplier Personnel shall vacate the Buyer Premises immediately upon the termination or expiry of this Contract.

14.2 If the Buyer reasonably believes that any of the Supplier Personnel are unsuitable to undertake work in respect of this Contract, it may:

- (a) refuse admission to the relevant person(s) to the Buyer Premises; and/or
- (b) direct the Supplier to end the involvement in the provision of the Services of the relevant person(s).

Key Personnel

- 14.3 The Supplier shall ensure that the Key Personnel fulfil the Key Roles at all times during the Term. Attachment 9.2 (*Key Personnel*) of the Order Form lists the Key Roles and names of the persons who the Supplier shall appoint to fill those Key Roles at the Effective Date.
- 14.4 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Personnel.
- 14.5 The Supplier shall not remove or replace any Key Personnel (including when carrying out Exit Management) unless:
- (a) requested to do so by the Buyer;
 - (b) the person concerned resigns, retires or dies or is on maternity leave, paternity leave or shared parental leave or long-term sick leave;
 - (c) 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
 - (d) the Supplier obtains the Buyer's prior written consent (such consent not to be unreasonably withheld or delayed).
- 14.6 The Supplier shall:
- (a) notify the Buyer promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of 2 weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
 - (b) ensure that any Key Role is not vacant for any longer than 10 Working Days;
 - (c) give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel's employment contract, this will mean at least 60 Working Days' notice;
 - (d) ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the performance of the Services; and
 - (e) ensure that any replacement for a Key Role:
 - (i) has a level of qualifications and experience appropriate to the relevant Key Role; and
 - (ii) is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.

Employment Indemnity

- 14.7 The Parties agree that:

- (a) the Supplier shall both during and after the Term indemnify the Buyer against all Employee Liabilities that may arise as a result of any claims brought against the Buyer by any person where such claim arises from any act or omission of the Supplier or any Supplier Personnel; and
- (b) the Buyer shall both during and after the Term indemnify the Supplier against all Employee Liabilities that may arise as a result of any claims brought against the Supplier by any person where such claim arises from any act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.

Income Tax and National Insurance Contributions

14.8 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 Contract, the Supplier shall:

- (a) 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
- (b) indemnify the Buyer 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 Services by the Supplier or any Supplier Personnel.

Staff Transfer

14.9 The Parties agree that:

- (a) where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers, Schedule 9.1 (*Staff Transfer*) shall apply as follows:
 - (i) where the Relevant Transfer involves the transfer of Transferring Buyer Employees, Part A and Part D of Schedule 9.1 (*Staff Transfer*) shall apply;
 - (ii) where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B and Part D of Schedule 9.1 (*Staff Transfer*) shall apply;
 - (iii) where the Relevant Transfer involves the transfer of Transferring Buyer Employees and Transferring Former Supplier Employees, Parts A, B and D of Schedule 9.1 (*Staff Transfer*) shall apply; and
 - (iv) Part C of Schedule 9.1 (*Staff Transfer*) shall not apply;
- (b) where commencement of the provision of the Services or a part of the Services does not result in a Relevant Transfer, Part C of Schedule 9.1 (*Staff Transfer*) shall apply, Part D of Schedule 9.1 may apply and Parts A and B of Schedule 9.1 (*Staff Transfer*) shall not apply; and

- (c) Part E of Schedule 9.1 (*Staff Transfer*) shall apply on the expiry or termination of the Services or any part of the Services.

15 SUPPLY CHAIN RIGHTS AND PROTECTIONS

Advertising Sub-contract Opportunities

15.1 The Supplier shall:

- (a) subject to Clauses 15.3 and 15.4, advertise on Contracts Finder all Sub-contract opportunities arising from or in connection with the provision of the Goods and/or Services and/or Works above a minimum threshold of £25,000 that arise during the Term;
- (b) within ninety (90) days of awarding a Sub-contract to a Sub-contractor, update the notice on Contracts Finder with details of the successful Sub-contractor;
- (c) monitor the number, type and value of the Sub-contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Term;
- (d) provide reports on the information at Clause 15.1(c) to the Buyer in the format and frequency as reasonably specified by the Buyer; and
- (e) promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

15.2 Each advert referred to in Clause 15.1 above shall provide a full and detailed description of the Sub-contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.

15.3 The obligation at Clause 15.1 shall only apply in respect of Sub-contract opportunities arising after the Effective Date.

15.4 Notwithstanding Clause 15.1 the Buyer may, by giving its prior written approval, agree that a Sub-contract opportunity is not required to be advertised on Contracts Finder.

Appointment of Sub-contractors

15.5 The Supplier shall exercise due skill and care in the selection and appointment of any Sub-contractors to ensure that the Supplier is able to:

- (a) manage any Sub-contractors in accordance with Good Industry Practice;
- (b) comply with its obligations under this Contract in the delivery of the Services; and
- (c) assign, novate or otherwise transfer to the Buyer or any Replacement Supplier any of its rights and/or obligations under each Sub-contract that relates exclusively to this Contract.

15.6 Prior to sub-contracting any of its obligations under this Contract, the Supplier shall notify the Buyer in writing of:

- (a) the proposed Sub-contractor's name, registered office and company registration number;

- (b) the scope of any Services to be provided by the proposed Sub-contractor; and
- (c) where the proposed Sub-contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Buyer that the proposed Sub-contract has been agreed on “arm’s-length” terms.

15.7 If requested by the Buyer within 10 Working Days of receipt of the Supplier’s notice issued pursuant to Clause 15.6, the Supplier shall also provide:

- (a) a copy of the proposed Sub-contract; and
- (b) any further information reasonably requested by the Buyer.

15.8 The Buyer may, within 10 Working Days of receipt of the Supplier’s notice issued pursuant to Clause 15.6 (or, if later, receipt of any further information requested pursuant to Clause 15.7), object to the appointment of the relevant Sub-contractor if it considers that:

- (a) the appointment of a proposed Sub-contractor may prejudice the provision of the Services and/or may be contrary to the interests of the Buyer;
- (b) the proposed Sub-contractor is unreliable and/or has not provided reasonable services to its other customers;
- (c) the proposed Sub-contractor employs unfit persons; and/or
- (d) the proposed Sub-contractor should be excluded in accordance with Clause 15.22 (*Termination of sub-contracts*);

in which case, the Supplier shall not proceed with the proposed appointment.

15.9 If:

- (a) the Buyer has not notified the Supplier that it objects to the proposed Sub-contractor’s appointment by the later of 10 Working Days of receipt of:
 - (i) the Supplier’s notice issued pursuant to Clause 15.6; and
 - (ii) any further information requested by the Buyer pursuant to Clause 15.7; and
- (b) the proposed Sub-contract is not a Key Sub-contract (which shall require the written consent of CCS and the Buyer in accordance with Clause 10.10 (*Appointment of Key Sub-contractors*),

the Supplier may proceed with the proposed appointment and, where the Sub-contract is entered into exclusively for the purpose of delivery of the Services, may notify the Buyer that the relevant Sub-contract shall constitute a Third Party Contract for the purposes of Attachment 4.4 (*Third Party Contracts*) of the Order Form.

Appointment of Key Sub-contractors

15.10A The Supplier shall only be entitled to sub-contract its obligations to the Key Sub-contractors listed in Framework Schedule 7 (Key Sub-Contractors) where such Key Sub-contractors are set out in the Order Form.

- 15.10 Where during the Term the Supplier wishes to enter into a Key Sub-contract or replace a Key Sub-contractor, it must obtain the prior written consent of CCS and the Buyer, such consent not to be unreasonably withheld or delayed. For these purposes, CCS and/or the Buyer may withhold its consent to the appointment of a Key Sub-contractor if it reasonably considers that:
- (a) the appointment of a proposed Key Sub-contractor may prejudice the provision of the Services or may be contrary to the interests of the Buyer;
 - (b) the proposed Key Sub-contractor is unreliable and/or has not provided reasonable services to its other customers; and/or
 - (c) the proposed Key Sub-contractor employs unfit persons; and/or
 - (d) the proposed Key Sub-contractor should be excluded in accordance with Clause 15.22 (*Termination of sub-contracts*).
- 15.11 The Buyer consents to the appointment of the Key Sub-contractors listed in Attachment 4.3 (*Notified Key Sub-contractors*).
- 15.12 Except where the Buyer has given its prior written consent, the Supplier shall ensure that each Key Sub-contract shall include:
- (a) provisions which will enable the Supplier to discharge its obligations under this Contract;
 - (b) a right under CRTPA for the Buyer to enforce any provisions under the Key Sub-contract which are capable of conferring a benefit upon the Buyer;
 - (c) a provision enabling the Buyer 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 Buyer or any Replacement Supplier without restriction (including any need to obtain any consent or approval) or payment by the Buyer;
 - (e) obligations no less onerous on the Key Sub-contractor than those imposed on the Supplier under this Contract in respect of:
 - (i) data protection requirements set out in Clauses 20 (*Buyer Data and Security Requirements*) and 23 (*Protection of Personal Data*);
 - (ii) FOIA requirements set out in Clause 22 (*Transparency and Freedom of Information*);
 - (iii) the obligation not to embarrass the Buyer or otherwise bring the Buyer into disrepute set out in Clause 5.5(m) (*Services*);
 - (iv) the keeping of records in respect of the services being provided under the Key Sub-contract, including the maintenance of Open Book Data; and
 - (v) the conduct of Audits set out in Part C of Schedule 7.5 (*Financial Reports and Audit Rights*);

- (f) 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 Buyer under Clauses 33.1(a) (*Termination by the Buyer*) and 34.4 (*Payments by the Buyer*) and Schedule 7.2 (*Payments on Termination*) of this Contract;
- (g) a provision restricting the ability of the Key Sub-contractor to sub-contract all or any part of the services provided to the Supplier under the Key Sub-contract without first seeking the written consent of the Buyer;
- (h) a provision enabling the Supplier or the Buyer to appoint a Remedial Adviser on substantially the same terms as are set out in Clause 29 (*Remedial Adviser*);
- (i) a provision enabling the Supplier, the Buyer or any other person on behalf of the Buyer to step-in on substantially the same terms as are set out in Clause 30 (*Step-in Rights*);
- (j) a provision requiring the Key Sub-contractor to participate in, and if required by the Buyer in the relevant Multi-Party Procedure Initiation Notice to procure the participation of all or any of its Sub-contractors in, the Multi-Party Dispute Resolution Procedure; and
- (k) a provision requiring the Key Sub-contractor to:
 - (i) promptly notify the Supplier and the Buyer in writing of any of the following of which it is, or ought to be, aware:
 - (A) the occurrence of a Financial Distress Event in relation to the Key Sub-contractor; or
 - (B) any fact, circumstance or matter of which it is aware which could cause the occurrence of a Financial Distress Event in relation to the Key Sub-contractor,

and in any event, provide such notification within 10 Working Days of the date on which the Key Sub-contractor first becomes aware of such); and
 - (ii) co-operate with the Supplier and the Buyer in order to give full effect to the provisions of Schedule 7.4 (*Financial Distress*), including meeting with the Supplier and the Buyer to discuss and review the effect of the Financial Distress Event on the continued performance and delivery of the Services, and contributing to and complying with the Financial Distress Remediation Plan, and providing the information specified at paragraph 4.3(b)(ii) of Schedule 7.4 (*Financial Distress*).

15.13 The Supplier shall not terminate or materially amend the terms of any Key Sub-contract without the Buyer's prior written consent, which shall not be unreasonably withheld or delayed.

Supply chain protection

15.14 The Supplier shall ensure that all Sub-contracts (which in this sub-clause includes any contract in the Supplier's supply chain made wholly or substantially for the purpose of

performing or contributing to the performance of the whole or any part of this Contract) contain provisions:

- (a) giving the Supplier a right to terminate the Sub-contract if the Sub-contractor fails to comply in the performance of the Sub-contract with legal obligations in the fields of environmental, social or labour law;
- (b) requiring the Supplier or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
- (c) that if the Supplier or other party fails to consider and verify an invoice in accordance with sub-paragraph (b), the invoice shall be regarded as valid and undisputed for the purpose of sub-paragraph (d) after a reasonable time has passed;
- (d) requiring the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;
- (e) giving the Buyer a right to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period; and
- (f) requiring the Sub-contractor to include a clause to the same effect as this Clause 15.14 in any contracts it enters into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract.

15.15 The Supplier shall:

- (a) pay any undisputed sums which are due from it to a Sub-contractor within thirty (30) days of verifying that the invoice is valid and undisputed;
- (b) include within the Balanced Scorecard Report produced by it pursuant to Schedule 2.2 (*Performance Levels*) a summary of its compliance with Clause 15.15(a), such data to be certified each Quarter by a director of the Supplier as being accurate and not misleading.

15.16 Without prejudice to Clause 15.15(a), the Supplier shall:

- (a) pay any sums which are due from it to any Sub-contractor or Unconnected Sub-contractor pursuant to any invoice (or other notice of an amount for payment) on the earlier of:
 - (i) the date set out for payment in the relevant Sub-contract or Unconnected Sub-contract; or
 - (ii) the date that falls sixty (60) days after the day on which the Supplier receives an invoice (or otherwise has notice of an amount for payment); and
- (b) include within the Balanced Scorecard Report produced by it pursuant to Schedule 2.2 (*Performance Levels*) a summary of its compliance with Clause 15.16(a), such data to be certified every six months by a director of the Supplier as being accurate and not misleading.

- 15.17 If any Balanced Scorecard Report shows that in either of the last two six month periods the Supplier failed to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt, the Supplier shall upload to the Virtual Library within 15 Working Days of submission of the latest Balanced Scorecard Report an action plan (the "Action Plan") for improvement. The Action Plan shall include, but not be limited to, the following:
- (a) identification of the primary causes of failure to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt;
 - (b) actions to address each of the causes set out in sub-paragraph (a); and
 - (c) mechanism for and commitment to regular reporting on progress to the Supplier's Board.
- 15.18 The Action Plan shall be certificated by a director of the Supplier and the Action Plan or a summary of the Action Plan published on the Supplier's website within 10 Working Days of the date on which the Action Plan is uploaded to the Virtual Library.
- 15.19 Where the Supplier fails to pay any sums due to any Sub-contractor or Unconnected Sub-contractor in accordance with the terms set out in the relevant Sub-contract or Unconnected Sub-contract, the Action Plan shall include details of the steps the Supplier will take to address this.
- 15.20 The Supplier shall comply with the Action Plan or any similar action plan connected to the payment of Sub-contractors or Unconnected Sub-contractors which is required to be submitted to the Buyer as part of the procurement process and such action plan shall be included as part of the Supplier's Solution (to the extent it is not already included).
- 15.21 Notwithstanding any provision of Clauses 21 (*Confidentiality*) and 24 (*Publicity and Branding*), if the Supplier notifies the Buyer (whether in a Balanced Scorecard Report or otherwise) that the Supplier has failed to pay a Sub-contractor's undisputed invoice within thirty (30) days of receipt or that it has failed to pay 95% or above of its Sub-Contractors or Unconnected Sub-contractors within sixty (60) days after the day on which the Supplier receives an invoice or otherwise has notice of an amount for payment, or the Buyer otherwise discovers the same, the Buyer shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

Termination of Sub-contracts

- 15.22 The Buyer 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 Buyer's right of termination pursuant to Clause 33.1(b) (*Termination by the Buyer*);
 - (ii) the relevant Sub-contractor or any of its Affiliates have embarrassed the Buyer or otherwise brought the Buyer into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Buyer, regardless of whether or not such act or omission is related to the Sub-contractor's obligations in relation to the

Services or otherwise;

- (iii) the relevant Sub-contractor has failed to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour law; and/or
- (iv) the Buyer has found grounds for exclusion of the Sub-contractor in accordance with Clause 15.27; and
- (b) a Key Sub-contract where there is a Change of Control of the relevant Key Sub-contractor, unless:
 - (i) the Buyer has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) the Buyer has not served its notice of objection within 6 months of the later of the date the Change of Control took place or the date on which the Buyer was given notice of the Change of Control.

Competitive Terms

15.23 If the Buyer is able to obtain from any Sub-contractor or any other third party (on a like-for-like basis) more favourable commercial terms with respect to the supply of any goods, software or services used by the Supplier or the Supplier Personnel in the supply of the Services, then the Buyer may:

- (a) require the Supplier to replace its existing commercial terms with that person with the more favourable commercial terms obtained by the Buyer in respect of the relevant item; or
- (b) enter into a direct agreement with that Sub-contractor or third party in respect of the relevant item.

15.24 If the Buyer exercises either of its options pursuant to Clause 15.23, then the Charges shall be reduced by an amount that is agreed in accordance with the Change Control Procedure.

15.25 The Buyer's right to enter into a direct agreement for the supply of the relevant items is subject to:

- (a) the Buyer making the relevant item available to the Supplier where this is necessary for the Supplier to provide the Services; and
- (b) any reduction in the Charges taking into account any unavoidable costs payable by the Supplier in respect of the substituted item, including in respect of any licence fees or early termination charges.

Retention of Legal Obligations

15.26 Notwithstanding the Supplier's right to sub-contract pursuant to this Clause 15, 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. In respect of any element of the Services delivered by Supplier Personnel and/or which are Sub-contracted by the Supplier, an obligation on the Supplier to do or to refrain from doing any act or thing under this Contract, shall include an obligation on the Supplier

to procure that the Supplier Personnel and the Sub-contractor also do or refrain from doing such act or thing in their delivery of those elements of the Services.

Exclusion of Sub-contractors

15.27 Where the Buyer considers whether there are grounds for the exclusion of a Sub-contractor under Regulation 57 of the Public Contracts Regulations 2015, then:

- (a) if the Buyer finds there are compulsory grounds for exclusion, the Supplier shall replace or shall not appoint the Sub-contractor;
- (b) if the Buyer finds there are non-compulsory grounds for exclusion, the Buyer may require the Supplier to replace or not to appoint the Sub-contractor and the Supplier shall comply with such a requirement.

Reporting SME/VCSE Sub-contracts

15.28 In addition to any other Management Information requirements set out in this Contract, the Supplier agrees that it shall, at no charge, provide timely, full, accurate and complete Supply Chain Transparency Information Reports to the Buyer thirty (30) days prior to the end of each financial year by providing all of the information described in the Supply Chain Transparency Information Template in the format set out in the Schedule 8.4 (Reports and Records Provisions) Annex 4 and in accordance with any guidance issued by the Buyer from time to time.

15.29 The Buyer may update the Supply Chain Transparency Information Template from time to time (including the data required and/or format) by issuing a replacement version with at least thirty (30) days' notice and specifying the date from which it must be used.

SECTION F - INTELLECTUAL PROPERTY, DATA AND CONFIDENTIALITY

16 INTELLECTUAL PROPERTY RIGHTS

16.1 Except as expressly set out in this Contract:

- (a) the Buyer shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, namely:
 - (i) the Supplier Software;
 - (ii) the Third Party Software;
 - (iii) the Third Party IPRs; and
 - (iv) the Supplier Background IPRs;
- (b) the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Buyer or its licensors, including:
 - (i) the Buyer Software;
 - (ii) the Buyer Data; and
 - (iii) the Buyer Background IPRs;
- (c) Specially Written Software and Project Specific IPRs (except for any Know-How, trade secrets or Confidential Information contained therein) shall be the property of the Buyer.

16.2 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 16.1, 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).

16.3 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

16.4 Unless the Buyer otherwise agrees in advance in writing:

- (a) all Specially Written Software and any software element of Project Specific IPRs shall be created in a format, or able to be converted into a format, which is suitable for publication by the Buyer as open source software; and
- (b) where the Specially Written Software and any software element of Project Specific IPRs are written in a format that requires conversion before publication as open source software, the Supplier shall also provide the converted format to the Buyer.

16.5 Where the Buyer agrees that any Specially Written Software and/or any software element of Project Specific IPRs should be excluded from Open Source publication, the Supplier shall as soon as reasonably practicable provide written details of the impact that such exclusion will have on the Buyer's ability to publish other Open Source software under Clause 19A (*Open Source Publication*).

17 TRANSFER AND LICENCES GRANTED BY THE SUPPLIER

Specially Written Software and Project Specific IPRs

17.1 Subject to Clause 17.17 (*Patents*) the Supplier hereby agrees to transfer to the Buyer, or shall procure the transfer to the Buyer of, all rights (subject to Clause 16.1(a) (*Intellectual Property Rights*)) in the Specially Written Software and the Project Specific IPRs including (without limitation):

- (a) the Documentation, Source Code and the Object Code of the Specially Written Software; and
- (b) all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software (together the **"Software Supporting Materials"**);

but not including any Know-How, trade secrets or Confidential Information.

17.2 The Supplier:

- (a) shall:
 - (i) inform the Buyer of all Specially Written Software and any element of Project Specific IPRs that constitutes a modification or enhancement to Supplier Software or Third Party Software; and
 - (ii) deliver to the Buyer the Specially Written Software and the software element of Project Specific IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven (7) days of the issue of a Milestone Achievement Certificate in respect of the relevant Deliverable and shall provide updates of the Source Code and of the Software Supporting Materials promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Buyer; and
 - (iii) without prejudice to Clause 17.11 (*Third Party Software and Third Party IPRs*), provide full details to the Buyer of any Supplier Background IPRs or Third Party IPRs which are embedded in or which are an integral part of the Specially Written Software or any element of Project Specific IPRs;
- (b) acknowledges and agrees that the ownership of the media referred to in Clause 17.2(a)(ii) shall vest in the Buyer upon their receipt by the Buyer; and
- (c) shall execute all such assignments as are required to ensure that any rights in the Specially Written Software and Project Specific IPRs are properly transferred to the Buyer.

Supplier Software and Supplier Background IPRs

17.3 The Supplier shall not use any Supplier Non-COTS Software or Supplier Non-COTS Background IPR in the provision of the Services unless it is detailed in Attachment 5 (*Software*) of the Order Form or sent to the Technical Board for review and approval granted by the Buyer.

17.4 The Supplier hereby grants to the Buyer:

- (a) subject to the provisions of Clause 17.17 (*Patents*) and Clause 1.1(b) (*Consequences of expiry or termination*), perpetual, royalty-free and non-exclusive licences 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)):
 - (i) the Supplier Non-COTS Software for which the Supplier delivers a copy to the Buyer for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Buyer's (or any other Central Government Body's) business or function; and
 - (ii) the Supplier Non-COTS Background IPRs for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Buyer's (or any other Central Government Body's) business or function;
- (b) a licence to use the Supplier COTS Software for which the Supplier delivers a copy to the Buyer and Supplier COTS Background IPRs on the licence terms identified in a letter in or substantially in the form set out in Annex 1 to Schedule 5 (*Software*) and signed by or on behalf of the Parties on or before the Effective Date provided always that the Buyer shall remain entitled to sub-license and to assign and novate the Supplier COTS Software and Supplier COTS Background IPRs on equivalent terms to those set out in Clauses 17.7 (*Buyer's right to sub-licence*) and 17.8 (*Buyer's right to assign/novate sub-licences*) in relation to the Supplier Non-COTS Software and Supplier Non-COTS Background IPRs; and
- (c) a perpetual royalty-free non-exclusive licence to use without limitation any Know-How, trade secrets or Confidential Information contained within the Specially Written Software or the Project Specific IPRs.

17.5 At any time during the Term or following termination or expiry of this Contract, the Supplier may terminate the licence granted in respect of the Supplier Non-COTS Software under Clause 17.4(a)(i) or in respect of the Supplier Non-COTS Background IPRs under Clause 17.4(a)(ii) by giving thirty (30) days' notice in writing (or such other period as agreed by the Parties) if the Buyer or any person to whom the Buyer grants a sub-licence pursuant to Clause 17.7 (*Buyer's right to sub-licence*) commits any material breach of the terms of Clause 17.4(a)(i) or 17.4(a)(ii) or 17.7(a)(ii) (as the case may be) which, if the breach is capable of remedy, is not remedied within 20 Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.

17.6 In the event the licence of the Supplier Non-COTS Software or the Supplier Non-COTS Background IPRs is terminated pursuant to Clause 17.5, the Buyer shall:

- (a) immediately cease all use of the Supplier Non-COTS Software or the Supplier Non-COTS Background IPRs (as the case may be);
- (b) at the discretion of the Supplier, return or destroy documents and other tangible materials to the extent that they contain any of the Supplier Non-COTS Software and/or the Supplier Non-COTS Background IPRs, provided that if the

Supplier has not made an election within 6 months of the termination of the licence, the Buyer may destroy the documents and other tangible materials that contain any of the Supplier Non-COTS Software and/or the Supplier Non-COTS Background IPRs (as the case may be); and

- (c) ensure, so far as reasonably practicable, that any Supplier Non-COTS Software and/or Supplier Non-COTS Background IPRs that are held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Buyer) from any computer, word processor, voicemail system or any other device containing such Supplier Non-COTS Software and/or Supplier Non-COTS Background IPRs.

Buyer's right to sub-license

17.7 Subject to Clause 17.17 (*Patents*) the Buyer may sub-license:

- (a) the rights granted under Clause 17.4(a) (*Supplier Software and Supplier Background IPRs*) 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 Buyer;
 - (ii) the sub-licence authorises the third party to use the rights licensed in Clause 17.4(a) (*Supplier Software and Supplier Background IPRs*) only for purposes relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Buyer'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 in or substantially in the form set out in Annex 2 to Schedule 5 (*Software*); and
- (b) the rights granted under Clause 17.4(a) (*Supplier Software and Supplier Background IPRs*) 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 Buyer; and
 - (ii) the Supplier has received a confidentiality undertaking in its favour in or substantially in the form set out in Annex 2 to Schedule 5 (*Software*) duly executed by the Approved Sub-Licensee.

Buyer's right to assign/novate licences

17.8 The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Clause 17.4(a) (*Supplier Software and Supplier*

Background IPRs) to:

- (a) a Central Government Body; or
- (b) to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.

17.9 Any change in the legal status of the Buyer which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in Clause 17.4 (*Supplier Software and Supplier Background IPRs*). If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licence granted in Clause 17.4 (*Supplier Software and Supplier Background IPRs*).

17.10 If a licence granted in Clause 17.4 (*Supplier Software and Supplier Background IPRs*) is novated under Clause 17.8 (*Buyer's right to assign/novate licences*) or there is a change of the Buyer's status pursuant to Clause 17.9, the rights acquired on that novation or change of status shall not extend beyond those previously enjoyed by the Buyer.

Third Party Software and Third Party IPRs

17.11 The Supplier shall not use in the provision of the Services (including in any Specially Written Software or in the software element of Project Specific IPRs) any Third Party Non-COTS Software or Third Party Non-COTS IPRs unless detailed in Attachment 5 (*Software*) of the Order Form or approval is granted by the Buyer following a review by the Technical Board and has in each case either:

- (a) first procured that the owner or an authorised licensor of the relevant Third Party Non-COTS IPRs or Third Party Non-COTS Software (as the case may be) has granted a direct licence to the Buyer on a royalty-free basis to the Buyer and on terms no less favourable to the Buyer than those set out in Clauses 17.4(a) and 17.5 (*Supplier Software and Supplier Background IPRs*) and Clause 17.8 (*Buyer's right to assign/novate licences*); or
- (b) complied with the provisions of Clause 17.12.

17.12 If the Supplier cannot obtain for the Buyer a licence in respect of any Third Party Non-COTS Software and/or Third Party Non-COTS IPRs in accordance with the licence terms set out in Clause 17.11(a), the Supplier shall:

- (a) notify the Buyer in writing giving details of what licence terms can be obtained from the relevant third party and whether there are alternative software providers which the Supplier could seek to use; and
- (b) use the relevant Third Party Non-COTS Software and/or Third Party Non-COTS IPRs only if the Buyer has first approved in writing the terms of the licence from the relevant third party.

17.13 The Supplier shall:

- (a) notify the Buyer in writing of all Third Party COTS Software and Third Party COTS IPRs that it uses and the terms on which it uses them; and

- (b) unless instructed otherwise in writing by the Buyer in any case within 20 Working Days of notification pursuant to Clause 17.12(a), use all reasonable endeavours to procure in each case that the owner or an authorised licensor of the relevant Third Party COTS Software and Third Party COTS IPRs grants a direct licence to the Buyer on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the relevant third party.

17.14 Should the Supplier become aware at any time, including after termination, that the Specially Written Software and/or the Project Specific IPRs contain any Intellectual Property Rights for which the Buyer does not have a suitable licence, then the Supplier must notify the Buyer within ten (10) days of what those rights are and which parts of the Specially Written Software and the Project Specific IPRs they are found in.

Termination and Replacement Suppliers

17.15 For the avoidance of doubt, the termination or expiry of this Contract 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 17.

17.16 The Supplier shall, if requested by the Buyer in accordance with Schedule 8.5 (*Exit Management*) and at the Supplier's cost:

- (a) grant (or procure the grant) to any Replacement Supplier of:
 - (i) a licence to use any Supplier Non-COTS Software, Supplier Non-COTS Background IPRs, Third Party Non-COTS IPRs and/or Third Party Non-COTS Software on a royalty-free basis to the Replacement Supplier and on terms no less favourable than those granted to the Buyer in respect of the relevant Software and/or IPRs pursuant to or as contemplated by this Clause 17 subject to receipt by the Supplier of a confidentiality undertaking in its favour in or substantially in the form set out in Annex 2 to Schedule 5 (*Software*) duly executed by the Replacement Supplier;
 - (ii) a licence to use any Supplier COTS Software and/or Supplier COTS Background IPRs, on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the Supplier; and/or
- (b) use all reasonable endeavours to procure the grant to any Replacement Supplier of a licence to use any Third Party COTS Software and/or Third Party COTS IPRs on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the relevant third party.

Patents

17.17 Where a patent owned by the Supplier is necessarily infringed by the use of the Specially Written Software or Project Specific IPRs by the Buyer or any Replacement Supplier, the Supplier hereby grants to the Buyer 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 Contract.

18 LICENCES GRANTED BY THE BUYER

- 18.1. The Buyer hereby grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Term to use the Buyer Software, the Buyer Background IPRs, the Specially Written Software, the Project Specific IPRs and the Buyer Data solely to the extent necessary for performing the Services in accordance with this Contract, including (but not limited to) the right to grant sub-licences to Sub-contractors provided that:
- (a) any relevant Sub-contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 21 (*Confidentiality*); and
 - (b) the Supplier shall not, without the Buyer's prior written consent, use the licensed materials for any other purpose or for the benefit of any person other than the Buyer.
- 18.2. In the event of the termination or expiry of this Contract, the licence granted pursuant to Clause 18.1 and any sub-licence granted by the Supplier in accordance with Clause 18.1 shall terminate automatically on the date of such termination or expiry and the Supplier shall:
- (a) immediately cease all use of the Buyer Software, the Buyer Background IPRs and the Buyer Data (as the case may be);
 - (b) at the discretion of the Buyer, return or destroy documents and other tangible materials that contain any of the Buyer Software, the Buyer Background IPRs and the Buyer Data, provided that if the Buyer has not made an election within 6 months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Buyer Software, the Buyer Background IPRs and the Buyer Data (as the case may be); and
 - (c) ensure, so far as reasonably practicable, that any Buyer Software, Buyer Background IPRs and Buyer Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any Supplier computer, word processor, voicemail system or any other Supplier device containing such Buyer Software, Buyer Background IPRs and/or Buyer Data.

19 IPRs INDEMNITY

- 19.1 The Supplier shall at all times, during and after the Term, on written demand indemnify the Buyer and each other Indemnified Person, and keep the Buyer and each other Indemnified Person indemnified, against all Losses incurred by, awarded against or agreed to be paid by an Indemnified Person arising from an IPRs Claim.
- 19.2 If an IPRs Claim is made, or the Supplier anticipates that an IPRs Claim might be made, the Supplier may, at its own expense and sole option, either:
- (a) procure for the Buyer or other relevant Indemnified Person the right to continue using the relevant item which is subject to the IPRs 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 services or the IT Environment;
- (iii) there is no additional cost to the Buyer or relevant Indemnified Person (as the case may be); and
- (iv) the terms and conditions of this Contract shall apply to the replaced or modified Services.

19.3 If the Supplier elects to procure a licence in accordance with Clause 19.2(a) or to modify or replace an item pursuant to Clause 19.2(b), but this has not avoided or resolved the IPRs Claim, then:

- (a) the Buyer may terminate this Contract (if subsisting) with immediate effect by written notice to the Supplier; and
- (b) without prejudice to the indemnity set out in Clause 19.1, 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.

19A OPEN SOURCE PUBLICATION

19A.1 The Supplier agrees that the Buyer may at its sole discretion publish as Open Source Software all or part of the Specially Written Software and any software element of the Project Specific IPRs after the Operational Service Commencement Date.

19A.2 The Supplier hereby warrants that the Specially Written Software and any software element of the Project Specific IPRs:

- (a) are suitable for release as Open Source and that any release will not allow a third party to use the Open Source software to in any way compromise the operation, running or security of the Specially Written Software, the Project Specific IPRs or the Buyer System;
- (b) shall not cause any harm or damage to any party using anything published as Open Source and that the Specially Written Software and the Project Specific IPRs do not contain any Malicious Software;
- (c) do not contain any material which would bring the Buyer into disrepute upon publication as Open Source;
- (d) do not contain any IPR owned or claimed to be owned by any third party which is found, or alleged to be found, in the Specially Written Software and the Project Specific IPRs ("**Non-Party IPRs**"); and
- (e) will be supplied in a format suitable for publication as Open Source ("**the Open Source Publication Material**") no later than the Operational Service Commencement Date.

19A.3 The Supplier shall ensure that the Open Source Publication Material provided to the Buyer does not include any Supplier Software or Supplier Background IPRs save that which the Supplier is willing to allow to be included in any Open Source publication. In such a case, the Supplier hereby acknowledges that any such Supplier Software or Supplier Background IPRs will become Open Source and will be licensed and treated

as such following publication by the Buyer and any third party that uses the Open Source Publication Materials on the terms of the Open Source licence used by the Buyer when publishing as Open Source.

- 19A.4 The Supplier hereby indemnifies the Buyer against all claims in which the Buyer is, or is threatened to be, a party for any alleged infringement of any Non-Party IPRs arising from publication of the Specially Written Software and any software element of the Project Specific IPRs as Open Source under sub-clause 19A.1.

20 BUYER DATA AND SECURITY REQUIREMENTS

- 20.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Buyer Data.
- 20.2 The Supplier shall not store, copy, disclose, or use the Buyer Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise expressly authorised in writing by the Buyer.
- 20.3 To the extent that Buyer Data is held and/or processed by the Supplier, the Supplier shall supply that Buyer Data to the Buyer as requested by the Buyer in the format specified in Attachment 2.1 (*Services Description*) of the Order Form.
- 20.4 The Supplier shall preserve the integrity of Buyer Data and prevent the corruption or loss of Buyer Data at all times that the relevant Buyer Data is under its control or the control of any Sub-contractor.
- 20.5 The Supplier shall perform secure back-ups of all Buyer Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Service Continuity Plan. The Supplier shall ensure that such back-ups are available to the Buyer (or to such other person as the Buyer may direct) at all times upon request and are delivered to the Buyer at no less than 6 monthly intervals (or such other intervals as may be agreed in writing between the Parties).
- 20.6 The Supplier shall ensure that any system on which the Supplier holds any Buyer Data, including back-up data, is a secure system that complies with the Security Requirements.
- 20.7 If the Buyer Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Buyer may:
- (c) require the Supplier (at the Supplier's expense) to restore or procure the restoration of Buyer Data to the extent and in accordance with the requirements specified in Schedule 8.6 (*Service Continuity Plan and Corporate Resolution Planning*) and the Supplier shall do so as soon as practicable but not later than 5 Working Days from the date of receipt of the Buyer's notice; and/or
 - (d) itself restore or procure the restoration of Buyer Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in Schedule 8.6 (*Service Continuity Plan and Corporate Resolution Planning*).
- 20.8 If at any time the Supplier suspects or has reason to believe that Buyer Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Buyer immediately and inform the Buyer of the remedial action the Supplier proposes to take.

- 20.9 The Supplier shall comply with the requirements of Schedule 2.4 (*Security Management*).
- 20.10 The Buyer shall notify the Supplier of any changes or proposed changes to the Baseline Security Requirements.
- 20.11 If the Supplier believes that a change or proposed change to the Baseline Security Requirements will have a material and unavoidable cost implication to the Services it may submit a Change Request. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall then be agreed in accordance with the Change Control Procedure.
- 20.12 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to Clause 20.11 the Supplier shall continue to perform the Services in accordance with its existing obligations.
- 20.13 Where a Buyer has notified the Supplier that the award of this Contract by the Buyer shall be conditional upon the Supplier having an accredited security facility and a number of UK national security cleared personnel, the Supplier shall have:
- (a) (or be willing obtain within such period as agreed between the Parties) an accredited secure facility environment in accordance with HMG Security Policy Framework May 2018 and/or any future variations to the policy, (commonly referred to as List X). Further information on List X accreditation can be found at: <https://www.gov.uk/government/publications/security-policy-framework>; and
 - (b) a number of UK national security cleared personnel prior to the Effective Date.
- 20.14 If the Supplier fails to comply with Clause 20.13 above, then without prejudice to the Buyer's other rights and remedies (if any), the Buyer shall be entitled to terminate this Contract for material Default in accordance with Clause 33.1.

21 CONFIDENTIALITY

- 21.1 For the purposes of this Clause 21, 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.
- 21.2 Except to the extent set out in this Clause 21 or where disclosure is expressly permitted elsewhere in this Contract, the Recipient shall:
- (c) 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);
 - (d) not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Contract or without obtaining the owner's prior written consent;
 - (e) not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Contract; and

- (f) 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.

21.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:

- (a) the Recipient is required to disclose the Confidential Information by Law, provided that Clause 22 (Transparency and *Freedom of Information*) shall apply to disclosures required under the FOIA or the EIRs;
- (b) the need for such disclosure arises out of or in connection with:
 - (i) any legal challenge or potential legal challenge against the Buyer arising out of or in connection with this Contract;
 - (ii) the examination and certification of the Buyer'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 Buyer is making use of any Services provided under this Contract; or
 - (iii) the conduct of a Central Government Body review in respect of this Contract; or
- (c) 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.

21.4 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.

21.5 The Supplier may disclose the Confidential Information of the Buyer on a confidential basis only to:

- (a) Supplier Personnel who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance of the Supplier's obligations under this Contract;
- (b) its auditors; and
- (c) its professional advisers for the purposes of obtaining advice in relation to this Contract.

Where the Supplier discloses Confidential Information of the Buyer pursuant to this Clause 21.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.

21.6 The Buyer may disclose the Confidential Information of the Supplier:

- (a) on a confidential basis to any Central Government Body for any proper purpose of the Buyer or of the relevant Central Government Body;
- (b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- (c) to the extent that the Buyer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 21.6(a) (including any benchmarking organisation) for any purpose relating to or connected with this Contract;
- (e) on a confidential basis for the purpose of the exercise of its rights under this Contract, including the Audit Rights, its step-in rights pursuant to Clause 30 (*Step-In Rights*), its rights to appoint a Remedial Adviser pursuant to Clause 29 (*Remedial Adviser*) and Exit Management rights; or
- (f) 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 Contract,

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 Buyer under this Clause 21.

21.7 Nothing in this Clause 21 shall prevent a Recipient from using any techniques, ideas or know-how gained during the performance of this Contract 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.

22 **TRANSPARENCY AND FREEDOM OF INFORMATION**

22.1 The Parties acknowledge that

- (a) the Transparency Reports;
- (b) the content of this Contract, including any changes to this Contract agreed from time to time, except for –
 - (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and
 - (ii) Commercially Sensitive Information; and
- (c) the Publishable Performance Information

(together the "**Transparency Information**") are not Confidential Information.

22.2 Notwithstanding any other provision of this Contract, the Supplier hereby gives its consent for the Buyer to publish to the general public the Transparency Information in its entirety (but with any information which is exempt from disclosure in accordance

with the provisions of the FOIA redacted). The Buyer shall, prior to publication, consult with the Supplier on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

- 22.3 The Supplier shall assist and co-operate with the Buyer to enable the Buyer to publish the Transparency Information, including the preparation of the Transparency Reports in accordance with Paragraph 1 of Schedule 8.4 (Reports and Records Provisions).
- 22.4 If the Buyer believes that publication of any element of the Transparency Information would be contrary to the public interest, the Buyer shall be entitled to exclude such information from publication. The Buyer acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, the Buyer acknowledges that it will only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication it will provide a clear explanation to the Supplier.
- 22.5 The Buyer shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Contract is being performed, having regard to the context of the wider commercial relationship with the Supplier.
- 22.6 The Supplier agrees that any Information it holds that is not included in the Transparency Reports but is reasonably relevant to or that arises from the provision of the Services shall be provided to the Buyer on request unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of the FOIA. The Buyer may disclose such information under the FOIA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information (subject to Clause 21.6(c)) and Open Book Data) publish such Information. The Supplier shall provide to the Buyer within five (5) Working Days (or such other period as the Buyer may reasonably specify) any such Information requested by the Buyer.
- 22.7 The Supplier acknowledges that the Buyer is subject to the requirements of the FOIA and the EIRs. The Supplier shall:
- (a) provide all necessary assistance and cooperation as reasonably requested by the Buyer to enable the Buyer to comply with its obligations under the FOIA and EIRs;
 - (b) transfer to the Buyer all Requests for Information relating to this Contract that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - (c) provide the Buyer with a copy of all Information held on behalf of the Buyer which is requested in a Request For Information and which is in its possession or control in the form that the Buyer requires within 5 Working Days (or such other period as the Buyer may reasonably specify) of the Buyer's request for such Information; and
 - (d) not respond directly to a Request For Information addressed to the Buyer unless authorised in writing to do so by the Buyer.

- 22.8 The Supplier acknowledges that the Buyer may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The Buyer 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 Contract) the Buyer 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 EIRs.

23 PROTECTION OF PERSONAL DATA

Status of the Controller

- 23.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this Contract will determine the status of each Party under the Data Protection Legislation. A Party may act as:

- (e) **"Controller"** (where the other Party acts as the **"Processor"**);
- (f) **"Processor"** (where the other Party acts as the **"Controller"**);
- (g) **"Joint Controller"** (where both Parties are considered to jointly control the same Personal Data);
- (h) **"Independent Controller"** of the Personal Data where the other Party is also **"Controller"** of the same Personal Data in its own right (but there is no element of joint control);

and the Parties shall set out in Attachment 11 (*Processing Personal Data*) of the Order Form which scenario or scenarios are intended to apply under this Contract.

Where one Party is Controller and the other Party its Processor

- 23.2 Where a Party is a Processor, the only processing that it is authorised to do is listed in Attachment 11 (Processing Personal Data) of the Order Form by the Controller.
- 23.3 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 23.4 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, 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.

23.5 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

- (a) process that Personal Data only in accordance with Attachment 11 (*Processing Personal Data*) of the Order Form, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Buyer before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, including in the case of the Controller the measures set out in Clause 20 (*Buyer Data and Security Requirements*), which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) 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 Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Attachment 11 (*Processing Personal Data*));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this Clause, Clauses 21 (*Confidentiality*) and 20 (*Buyer Data and Security Requirements*);
 - (B) are subject to appropriate confidentiality undertakings with the Processor 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 Controller or as otherwise permitted by this Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or DPA 2018 Section 75) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor 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 Controller in meeting its obligations); and

- (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data; and
 - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
- 23.6 Subject to Clause 23.7, the Processor shall notify the Controller immediately if it:
 - (a) receives a Data Subject Request (or purported Data Subject 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 Contract;
 - (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.
- 23.7 The Processor's obligation to notify under Clause 23.6 shall include the provision of further information to the Controller in phases, as details become available.
- 23.8 Taking into account the nature of the processing, the Processor shall provide the Controller with reasonable assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 23.6 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
 - (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event; and/or
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 23.9 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
 - (a) the Controller determines that the processing is not occasional;

- (b) the Controller 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; or
 - (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 23.10 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 23.11 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 23.12 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:
 - (a) notify the Controller in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 23 such that they apply to the Sub-processor; and
 - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 23.13 The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 23.14 The Buyer may, at any time on not less than 30 Working Days' notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 23.15 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Buyer may on not less than 30 Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Where the Parties are Joint Controllers of Personal Data

- 23.16 In the event that the Parties are Joint Controllers in respect of Personal Data under this Contract, the Parties shall implement Clauses that are necessary to comply with GDPR Article 26 based on the terms set out in Schedule 11 (Processing Personal Data).

Where the Parties are Independent Controllers of Personal Data

- 23.17 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their processing of such Personal Data as Controller.
- 23.18 Each Party shall process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 23.19 Where a Party has provided Personal Data to the other Party in accordance with

Clause 23.17, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.

23.20 The Parties shall be responsible for their own compliance with Articles 13 and 14 GDPR in respect of the processing of Personal Data for the purposes of this Contract.

23.21 The Parties shall only provide Personal Data to each other:

- (a) to the extent necessary to perform the respective obligations under this Contract;
- (b) in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects); and
- (c) where it has recorded it in Attachment 11 (*Processing Personal Data*) of the Order Form.

23.22 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its processing of Personal Data as independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.

23.23 A Party processing Personal Data for the purposes of this Contract shall maintain a record of its processing activities in accordance with Article 30 GDPR and shall make the record available to the other Party upon reasonable request.

23.24 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to this Contract ("the Request Recipient"):

- (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
- (b) where the request or correspondence is directed to the other party and/or relates to the other party's Processing of the Personal Data, the Request Recipient will:
 - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other party that it has received the same and shall forward such request or correspondence to the other party; and
 - (ii) provide any information and/or assistance as reasonably requested by the other party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.

- 23.25 Each party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other party pursuant to this Contract and shall:
- (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Breach;
 - (b) implement any measures necessary to restore the security of any compromised Personal Data;
 - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 23.26 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Contract as specified in Attachment 11 (Processing Personal Data).
- 23.27 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's obligations under this Contract which is specified in Attachment 11 (Processing Personal Data) of the Order Form.
- 23.28 Notwithstanding the general application of Clauses 23.2 to 23.15 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Clause 23.16 to 23.27.

24 PUBLICITY AND BRANDING

- 24.1 The Supplier shall not:
- (a) make any press announcements or publicise this Contract or its contents in any way; or
 - (b) use the Buyer's name or brand in any promotion or marketing or announcement of orders;
- without the prior written consent of the Buyer, which shall not be unreasonably withheld or delayed.
- 24.2 Each Party acknowledges to the other that nothing in this Contract either expressly or by implication constitutes an endorsement of any products or services of the other Party (including the Services, the Supplier System and the Buyer System) and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

SECTION G - LIABILITY, INDEMNITIES AND INSURANCE

25 LIMITATIONS ON LIABILITY

Unlimited liability

25.1 Neither Party limits its liability for:

- (a) death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);
- (b) fraud or fraudulent misrepresentation by it or its employees;
- (c) 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; or
- (d) any liability to the extent it cannot be limited or excluded by Law.

25.2 The Supplier's liability in respect of the indemnities in Clause 10.5 (VAT), Clause 14.7 (*Employment Indemnity*), Clause 14.8 (*Income Tax and National Insurance Contributions*), Clause 19.1 (*IPRs Indemnity*), Schedule 9.1 (*Staff Transfer*) and the Annexes to Schedule 9.1 (*Staff Transfer*) shall be unlimited.

25.3 The Buyer's liability in respect of the indemnities in Clause 14.7 (*Employment Indemnity*), Schedule 9.1 (*Staff Transfer*) and the Annexes to Schedule 9.1 (*Staff Transfer*) shall be unlimited.

Financial and other limits

25.4 Subject to Clauses 25.1 and 25.2 (*Unlimited Liability*) and Clauses 25.7 (*Consequential losses*):

- (a) the Supplier's aggregate liability in respect of loss of or damage to the Buyer Premises or other property or assets of the Buyer (including technical infrastructure, assets or equipment but excluding any loss or damage to the Buyer's Data or any other data) that is caused by Defaults of the Supplier occurring in each and any Contract Year shall in no event exceed £10 million;
- (b) the Supplier's aggregate liability in respect of loss of or damage to Buyer Data or breach of the Data Protection Legislation that is caused by Default of the Supplier occurring in each and any Contract Year shall in no event exceed £10 million;
- (c) the Supplier's aggregate liability in respect of all:
 - (i) Service Credits; and
 - (ii) Compensation for Unacceptable KPI Failure;

incurred in any rolling period of 12 months shall be subject to the Service Credit Cap; and

(d) the Supplier's aggregate liability in respect of all other Losses incurred by the Buyer under or in connection with this Contract as a result of Defaults by the Supplier shall in no event exceed:

- (i) in relation to Defaults occurring in the first Contract Year, an amount equal to 150% of the Estimated Year 1 Charges;
- (ii) in relation to Defaults occurring during any subsequent Contract Year, an amount equal to 150% of the Charges paid and/or due to be paid to the Supplier under this Contract in the Contract Year immediately preceding the occurrence of the Default; and
- (iii) in relation to Defaults occurring after the end of the Term, an amount equal to 150% of the Charges paid and/or due to be paid to the Supplier in the 12 month period immediately prior to the last day of the Term,

provided that where any Losses referred to this Clause 25.4(d) have been incurred by the Buyer as a result of the Supplier's abandonment of this Contract or the Supplier's wilful default, wilful breach of a fundamental term of this Contract or wilful repudiatory breach of this Contract, the references in such Clause to 150% shall be deemed to be references to 200%.

25.5 Deductions from Charges shall not be taken into consideration when calculating the Supplier's liability under Clause 25.4(c).

25.6 Subject to Clauses 25.1 and 25.3 (*Unlimited Liability*) and Clause 25.7 (*Consequential Losses*) and without prejudice to the Buyer's obligation to pay the Charges as and when they fall due for payment:

(a) the Buyer's total aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Contract as a result of early termination of this Contract by the Buyer pursuant to Clause 33.1(a) (*Termination by the Buyer*) or by the Supplier pursuant to Clause 33.3(a) (*Termination by the Supplier*) shall in no event exceed the following amounts:

- (i) in relation to the Unrecovered Payment, the amount set out in Paragraph 4 of Schedule 7.2 (*Payments on Termination*);
- (ii) in relation to the Breakage Costs Payment, the amount set out in Paragraph 3.2 of Schedule 7.2 (*Payments on Termination*); and
- (iii) in relation to the Compensation Payment, the amount set out in Paragraph 6 of Schedule 7.2 (*Payments on Termination*); and

(b) the Buyer's aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Contract as a result of Defaults of the Buyer shall in no event exceed:

- (i) in relation to Defaults occurring in the first Contract Year, an amount equal to the Estimated Year 1 Charges;
- (ii) in relation to Defaults occurring during any subsequent Contract Year, an amount equal to the total Charges paid and/or due to be paid under this Contract in the Contract Year immediately preceding the occurrence of the Default; and

- (iii) in relation to Defaults occurring after the end of the Term, an amount equal to the total Charges paid and/or due to be paid to the Supplier in the 12 month period immediately prior to the last day of the Term.

Consequential Losses

25.7 Subject to Clauses 25.1, 25.2 and 25.3 (*Unlimited Liability*) and Clause 25.8, neither Party shall be liable to the other Party for:

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

25.8 Notwithstanding Clause 25.7 but subject to Clause 25.4, the Supplier acknowledges that the Buyer may, amongst other things, recover from the Supplier the following Losses incurred by the Buyer to the extent that they arise as a result of a Default by the Supplier:

- (a) any additional operational and/or administrative costs and expenses incurred by the Buyer, including costs relating to time spent by or on behalf of the Buyer in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional cost of procuring Replacement Services for the remainder of the Term and/or replacement Deliverables, which shall include any incremental costs associated with such Replacement Services and/or replacement Deliverables above those which would have been payable under this Contract;
- (d) any compensation or interest paid to a third party by the Buyer;
- (e) any fine or penalty incurred by the Buyer pursuant to Law and any costs incurred by the Buyer in defending any proceedings which result in such fine or penalty; and
- (f) any anticipated savings identified in Attachment 7.6 (*Anticipated Savings*) of the Order Form.

Conduct of indemnity claims

25.9 Where under this Contract one Party indemnifies the other Party, the Parties shall comply with the provisions of Schedule 8.7 (*Conduct of Claims*) in relation to the conduct of claims made by a third person against the Party having (or claiming to have) the benefit of the indemnity.

Mitigation

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

26 INSURANCE

- 26.1 Without limitation to the generality of Clause 26.2, the Supplier shall ensure that it maintains the policy or policies of insurance referred to in the Order Form.
- 26.2 Notwithstanding the benefit to the Buyer of the policy or policies of insurance referred to in Framework Schedule 14 (Insurance Requirements), the Supplier shall effect and maintain any such further policy or policies of insurance or extensions to such existing policy or policies of insurance procured by under the Framework in respect of all risks which may be incurred by the Supplier arising out of its performance of its obligations under this Contract.

SECTION H – REMEDIES AND RELIEF

27 RECTIFICATION PLAN PROCESS

27.1 In the event that:

- (a) there is, or is reasonably likely to be, a Delay; and/or
- (b) in any Service Period there has been:
 - (i) a Material KPI Failure; and/or
 - (ii) a Material PI Failure; and/or
- (c) 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),

(each a “**Notifiable Default**”), the Supplier shall notify the Buyer 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 Buyer may not terminate this Contract in whole or in part on the grounds of the Notifiable Default without first following the Rectification Plan Process.

Notification

27.2 If:

- (a) the Supplier notifies the Buyer pursuant to Clause 27.1 that a Notifiable Default has occurred; or
- (b) the Buyer 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 Buyer serves a Termination Notice, the Supplier shall comply with the Rectification Plan Process.

27.3 The “**Rectification Plan Process**” shall be as set out in Clauses 27.4 (*Submission of the draft Rectification Plan*) to 27.9 (*Contract of the Rectification Plan*).

Submission of the draft Rectification Plan

27.4 The Supplier shall submit a draft Rectification Plan to the Buyer 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 27.2 (*Notification*). The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Notifiable Default.

27.5 The draft Rectification Plan shall set out:

- (a) full details of the Notifiable Default that has occurred, including a root cause analysis;
- (b) the actual or anticipated effect of the Notifiable Default; and
- (c) 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).

27.6 The Supplier shall promptly provide to the Buyer any further documentation that the Buyer 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 8.3 (*Dispute Resolution Procedure*).

Contract of the Rectification Plan

27.7 The Buyer 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:

- (a) is insufficiently detailed to be capable of proper evaluation;
- (b) will take too long to complete;
- (c) will not prevent reoccurrence of the Notifiable Default; and/or
- (d) will rectify the Notifiable Default but in a manner which is unacceptable to the Buyer.

27.8 The Buyer shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Buyer rejects the draft Rectification Plan, the Buyer 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 Buyer for review within 5 Working Days (or such other period as agreed between the Parties) of the Buyer's notice rejecting the first draft.

27.9 If the Buyer consents to the Rectification Plan:

- (a) the Supplier shall immediately start work on the actions set out in the Rectification Plan; and
- (b) the Buyer may no longer terminate this Contract in whole or in part on the grounds of the relevant Notifiable Default;

save in the event of a Rectification Plan Failure or other Supplier Termination Event.

28 DELAY PAYMENTS

- 28.1 If a Key Milestone has not been Achieved by its relevant Milestone Date, the provisions of Paragraph 1 of Part C of Schedule 7.1 (*Charges and Invoicing*) shall apply in relation to the payment of Delay Payments.
- 28.2 Delay Payments shall be the Buyer's exclusive financial remedy for the Supplier's failure to Achieve a Key Milestone by its Milestone Date except where:
- (e) the Buyer is entitled to or does terminate this Contract pursuant to Clause 33.1(b) (*Termination by the Buyer*); or
 - (f) the Delay exceeds the Delay Deduction Period.

29 REMEDIAL ADVISER

- 29.1 If:
- (a) any of the Intervention Trigger Events occur; or
 - (b) the Buyer reasonably believes that any of the Intervention Trigger Events are likely to occur,
- (each an “**Intervention Cause**”), the Buyer may give notice to the Supplier (an “**Intervention Notice**”) giving reasonable details of the Intervention Cause and requiring:
- (i) a meeting between the Buyer Representative and the Supplier Representative to discuss the Intervention Cause; and/or
 - (ii) the appointment as soon as practicable by the Supplier of a Remedial Adviser, as further described in this Clause 29.

For the avoidance of doubt, if the Intervention Cause is also a Supplier Termination Event, the Buyer has no obligation to exercise its rights under this Clause 29.1 prior to or instead of exercising its right to terminate this Contract.

- 29.2 If the Buyer gives notice that it requires the appointment of a Remedial Adviser:
- (a) the Remedial Adviser shall be:
 - (i) a person selected by the Supplier and approved by the Buyer; or
 - (ii) if none of the persons selected by the Supplier have been approved by the Buyer (or no person has been selected by the Supplier) within 10 Working Days following the date on which the Intervention Notice is given, a person identified by the Buyer;
 - (b) the terms of engagement and start date agreed with the Remedial Adviser must be approved by the Buyer; and
 - (c) any right of the Buyer to terminate this Contract pursuant to Clause 33.1(b) (*Termination by the Buyer*) for the occurrence of that Intervention Cause shall be suspended for 60 Working Days from (and

including) the date of the Intervention Notice (or such other period as may be agreed between the Parties)(the “**Intervention Period**”).

29.3 The Remedial Adviser’s overall objective shall be to mitigate the effects of, and (to the extent capable of being remedied) to remedy, the Intervention Cause and to avoid the occurrence of similar circumstances in the future. In furtherance of this objective (but without diminishing the Supplier’s responsibilities under this Contract), the Parties agree that the Remedial Adviser may undertake any one or more of the following actions:

- (a) observe the conduct of and work alongside the Supplier Personnel to the extent that the Remedial Adviser considers reasonable and proportionate having regard to the Intervention Cause;
- (b) gather any information the Remedial Adviser considers relevant in the furtherance of its objective;
- (c) write reports and provide information to the Buyer in connection with the steps being taken by the Supplier to remedy the Intervention Cause;
- (d) make recommendations to the Buyer and/or the Supplier as to how the Intervention Cause might be mitigated or avoided in the future; and/or
- (e) take any other steps that the Buyer and/or the Remedial Adviser reasonably considers necessary or expedient in order to mitigate or rectify the Intervention Cause.

29.4 The Supplier shall:

- (a) work alongside, provide information to, co-operate in good faith with and adopt any reasonable methodology in providing the Services recommended by the Remedial Adviser;
- (b) ensure that the Remedial Adviser has all the access it may require in order to carry out its objective, including access to the Assets;
- (c) submit to such monitoring as the Buyer and/or the Remedial Adviser considers reasonable and proportionate in respect of the Intervention Cause;
- (d) implement any reasonable recommendations made by the Remedial Adviser that have been approved by the Buyer within the timescales given by the Remedial Adviser; and
- (e) not terminate the appointment of the Remedial Adviser prior to the end of the Intervention Period without the prior consent of the Buyer (such consent not to be unreasonably withheld).

29.5 The Supplier shall be responsible for:

- (a) the costs of appointing, and the fees charged by, the Remedial Adviser; and
- (b) its own costs in connection with any action required by the Buyer and/or the Remedial Adviser pursuant to this Clause 29.

29.6 If:

- (a) the Supplier:
 - (i) fails to perform any of the steps required by the Buyer in an Intervention Notice; and/or
 - (ii) is in Default of any of its obligations under Clause 29.4; and/or
- (b) the relevant Intervention Trigger Event is not rectified by the end of the Intervention Period,

(each a “**Remedial Adviser Failure**”), the Buyer shall be entitled to terminate this Contract pursuant to Clause 33.1(b) (*Termination by the Buyer*).

30 **STEP-IN RIGHTS**

30.1 On the occurrence of a Step-In Trigger Event, the Buyer may serve notice on the Supplier (a “**Step-In Notice**”) that it will be taking action under this Clause 30 (*Step-in Rights*), either itself or with the assistance of a third party (provided that the Supplier may require any third parties to comply with a confidentiality undertaking equivalent to Clause 21 (*Confidentiality*)). The Step-In Notice shall set out the following:

- (a) the action the Buyer wishes to take and in particular the Services that it wishes to control (the “**Required Action**”);
- (b) the Step-In Trigger Event that has occurred and whether the Buyer believes that the Required Action is due to the Supplier's Default;
- (c) the date on which it wishes to commence the Required Action;
- (d) the time period which it believes will be necessary for the Required Action;
- (e) whether the Buyer will require access to the Supplier's premises and/or the Sites; and
- (f) to the extent practicable, the impact that the Buyer anticipates the Required Action will have on the Supplier's obligations to provide the Services during the period that the Required Action is being taken.

30.2 Following service of a Step-In Notice, the Buyer shall:

- (a) take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;
- (b) keep records of the Required Action taken and provide information about the Required Action to the Supplier;
- (c) co-operate wherever reasonable with the Supplier in order to enable the Supplier to continue to provide the Services in relation to which the Buyer is not assuming control; and
- (d) act reasonably in mitigating the cost that the Supplier will incur as a result of the exercise of the Buyer's rights under this Clause 30.

- 30.3 For so long as and to the extent that the Required Action is continuing, then:
- (a) the Supplier shall not be obliged to provide the Services to the extent that they are the subject of the Required Action;
 - (b) no Deductions shall be applicable in relation to Charges in respect of Services that are the subject of the Required Action and the provisions of Clause 30.4 shall apply to Deductions from Charges in respect of other Services; and
 - (c) the Buyer shall pay to the Supplier the Charges after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.
- 30.4 If the Supplier demonstrates to the reasonable satisfaction of the Buyer that the Required Action has resulted in:
- (a) the degradation of any Services not subject to the Required Action; or
 - (b) the non-Achievement of a Milestone,
- beyond that which would have been the case had the Buyer not taken the Required Action, then the Supplier shall be entitled to an agreed adjustment of the Charges.
- 30.5 Before ceasing to exercise its step in rights under this Clause 30 the Buyer shall deliver a written notice to the Supplier (a “**Step-Out Notice**”), specifying:
- (a) the Required Action it has actually taken; and
 - (b) the date on which the Buyer plans to end the Required Action (the “**Step-Out Date**”) subject to the Buyer being satisfied with the Supplier's ability to resume the provision of the Services and the Supplier's plan developed in accordance with Clause 30.6.
- 30.6 The Supplier shall, following receipt of a Step-Out Notice and not less than 20 Working Days prior to the Step-Out Date, develop for the Buyer's approval a draft plan (a “Step-Out Plan”) relating to the resumption by the Supplier of the Services, including any action the Supplier proposes to take to ensure that the affected Services satisfy the requirements of this Contract.
- 30.7 If the Buyer does not approve the draft Step-Out Plan, the Buyer shall inform the Supplier of its reasons for not approving it. The Supplier shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Buyer for the Buyer's approval. The Buyer shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.
- 30.8 The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Clause 30, provided that the Buyer shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Buyer under:
- (c) limbs (c) or (d) of the definition of a Step-In Trigger Event; or
 - (d) limbs (e), (f) and (g) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Buyer serving the Step-In Notice is identified as not being the result of the Supplier's Default).

31 **BUYER CAUSE**

31.1 Notwithstanding any other provision of this Contract, if the Supplier has failed to:

- (a) Achieve a Milestone by its Milestone Date;
- (b) provide the Operational Services in accordance with the Target Performance Levels; and/or
- (c) comply with its obligations under this Contract,

(each a “**Supplier Non-Performance**”),

and can demonstrate that the Supplier Non-Performance would not have occurred but for an Buyer Cause, then (subject to the Supplier fulfilling its obligations in this Clause 31):

- (i) the Supplier shall not be treated as being in breach of this Contract to the extent the Supplier can demonstrate that the Supplier Non-Performance was caused by the Buyer Cause;
- (ii) the Buyer shall not be entitled to exercise any rights that may arise as a result of that Supplier Non-Performance:
 - (A) to terminate this Contract pursuant to Clause 33.1(b) (*Termination by the Buyer*); or
 - (B) to take action pursuant to Clauses 29 (*Remedial Adviser*) or 30 (*Step-In*);
- (iii) where the Supplier Non-Performance constitutes the failure to Achieve a Milestone by its Milestone Date:
 - (A) the Milestone Date shall be postponed by a period equal to the period of Delay that the Supplier can demonstrate was caused by the Buyer Cause;
 - (B) if the Buyer, acting reasonably, considers it appropriate, the Implementation Plan shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from the Buyer Cause;
 - (C) if the Milestone is a Key Milestone, the Supplier shall have no liability to pay any Delay Payments associated with the Key Milestone to the extent that the Supplier can demonstrate that such failure was caused by the Buyer Cause; and
 - (D) the Supplier shall be entitled to claim compensation subject to and in accordance with the principles set out in Paragraph 2 of Part C of Schedule 7.1 (*Charges and Invoicing*); and/or
- (iv) where the Supplier Non-Performance constitutes a Performance Failure:
 - (A) the Supplier shall not be liable to accrue Service Credits;

- (B) the Buyer shall not be entitled to withhold any of the Service Charges pursuant to Clause 7.2(d)(ii) (*Performance Failures*);
- (C) the Buyer shall not be entitled to withhold and retain any Compensation for Unacceptable KPI Failure pursuant to Clause 7.4(a) (*Unacceptable KPI Failure*); and
- (D) the Supplier shall be entitled to invoice for the Service Charges for the relevant Operational Services affected by the Buyer Cause,

in each case, to the extent that the Supplier can demonstrate that the Performance Failure was caused by the Buyer Cause.

31.2 In order to claim any of the rights and/or relief referred to in Clause 31.1, the Supplier shall as soon as reasonably practicable (and in any event within 10 Working Days) after becoming aware that an Buyer Cause has caused, or is reasonably likely to cause, a Supplier Non-Performance, give the Buyer notice (a "**Relief Notice**") setting out details of:

- (a) the Supplier Non-Performance;
- (b) the Buyer Cause and its effect, or likely effect, on the Supplier's ability to meet its obligations under this Contract;
- (c) any steps which the Buyer can take to eliminate or mitigate the consequences and impact of such Buyer Cause; and
- (d) the relief and/or compensation claimed by the Supplier.

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

31.4 The Supplier shall use all reasonable endeavours to eliminate or mitigate the consequences and impact of a Buyer Cause, including any Losses that the Supplier may incur and the duration and consequences of any Delay or anticipated Delay.

31.5 Without prejudice to Clause 5.9 (*Continuing obligation to provide the Services*), if a Dispute arises as to:

- (a) whether a Supplier Non-Performance would not have occurred but for a Buyer Cause; and/or
- (b) the nature and/or extent of the relief and/or compensation 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.

- 31.6 Any Change that is required to the Implementation Plan or to the Charges pursuant to this Clause 31 shall be implemented in accordance with the Change Control Procedure.

32 FORCE MAJEURE

- 32.1 Subject to the remaining provisions of this Clause 32 (and, in relation to the Supplier, subject to its compliance with its obligations in Schedule 8.6 (Service Continuity Plan and Corporate Resolution Planning)), a Party may claim relief under this Clause 32 from liability for failure to meet its obligations under this Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Contract which results from a failure or delay by an agent, Sub-contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.
- 32.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 32.3 If the Supplier is the Affected Party, it shall not be entitled to claim relief under this Clause 32 to the extent that consequences of the relevant Force Majeure Event:
- (a) are capable of being mitigated, but the Supplier has failed to do so;
 - (b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by this Contract; or
 - (c) are the result of the Supplier's failure to comply with its Service Continuity Plan (except to the extent that such failure is also due to a Force Majeure Event that affects the execution of the Service Continuity Plan).
- 32.4 Subject to Clause 32.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 32.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 32.6 Where, as a result of a Force Majeure Event:
- (a) an Affected Party fails to perform its obligations in accordance with this Contract, then during the continuance of the Force Majeure Event:
 - (i) the other Party shall not be entitled to exercise any rights to terminate this Contract in whole or in part as a result of such failure other than

pursuant to Clause 33.1(c) (*Termination by the Buyer*) or Clause 33.3(b) (*Termination by the Supplier*); and

- (ii) neither Party shall be liable for any Default arising as a result of such failure;
- (b) the Supplier fails to perform its obligations in accordance with this Contract:
- (i) the Buyer shall not be entitled:
 - (A) during the continuance of the Force Majeure Event to exercise its rights under Clause 29 (*Remedial Adviser*) and/or Clause 30 (*Step-in Rights*) as a result of such failure;
 - (B) to receive Delay Payments pursuant to Clause 28 (*Delay Payments*) to the extent that the Achievement of any Milestone is affected by the Force Majeure Event; and
 - (C) to receive Service Credits, to withhold any of the Service Charges pursuant to Clause 7.2(d)(ii) (*Performance Failures*) or withhold and retain any of the Service Charges as compensation pursuant to Clause 7.4(a) (*Unacceptable KPI Failure*) to the extent that a Performance Failure has been caused by the Force Majeure Event; and
 - (ii) the Supplier shall be entitled to receive payment of the Charges (or a proportional payment of them) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the terms of this Contract during the occurrence of the Force Majeure Event.
- 32.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract.
- 32.8 Relief from liability for the Affected Party under this Clause 32 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Contract and shall not be dependent on the serving of notice under Clause 32.7.

SECTION I – TERMINATION AND EXIT MANAGEMENT

33 TERMINATION RIGHTS

Termination by the Buyer

33.1 The Buyer may terminate this Contract by issuing a Termination Notice to the Supplier:

- (a) for convenience at any time, including where the Contract 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;
- (b) if a Supplier Termination Event occurs;
- (c) if a Force Majeure Event endures for a continuous period of more than ninety (90) days; or
- (d) if the Contract has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure,

and this Contract shall terminate on the date specified in the Termination Notice.

33.2 Where the Buyer:

- (a) is terminating this Contract under Clause 33.1(b) due to the occurrence of either limb (b) and/or (g) of the definition of Supplier Termination Event, it may rely on a single material Default or on a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are cured) which taken together constitute a material Default; and/or
- (b) has the right to terminate this Contract under Clause 33.1(b) or Clause 33.1(c), it may, prior to or instead of terminating the whole of this Contract, serve a Termination Notice requiring the partial termination of this Contract to the extent that it relates to any part of the Services which are materially affected by the relevant circumstances.

Termination by the Supplier

33.3 The Supplier may, by issuing a Termination Notice to the Buyer, terminate:

- (a) this Contract if the Buyer fails to pay an undisputed sum due to the Supplier under this Contract which in aggregate exceeds £[REDACTED] and such amount remains outstanding 40 Working Days after the receipt by the Buyer of a notice of non-payment from the Supplier; or
- (b) any Services that are materially impacted by a Force Majeure Event that endures for a continuous period of more than ninety (90) days,

and this Contract or the relevant Services (as the case may be) shall then terminate on the date specified in the Termination Notice (which shall not be less than 20 Working Days from the date of the issue of the Termination Notice). If the operation of Clause 33.3(b) would result in a Partial Termination, the provisions of Clause 33.4 (*Partial Termination*) shall apply.

Partial Termination

- 33.4 If the Supplier notifies the Buyer pursuant to Clause 33.3(b) (Termination by the Supplier) that it intends to terminate this Contract in part and the Buyer, acting reasonably, believes that the effect of such Partial Termination is to render the remaining Services incapable of meeting a significant part of the Buyer Requirements, then the Buyer shall be entitled to terminate the remaining part of this Contract by serving a Termination Notice to the Supplier within 1 month of receiving the Supplier's Termination Notice. For the purpose of this Clause 33.4, in assessing the significance of any part of the Buyer Requirements, regard shall be had not only to the proportion of that part to the Buyer Requirements as a whole, but also to the importance of the relevant part to the Buyer.
- 33.5 The Parties shall agree the effect of any Change necessitated by a Partial Termination in accordance with the Change Control Procedure, including the effect the Partial Termination may have on any other Services and the Charges, provided that:
- (a) the Supplier shall not be entitled to an increase in the Charges in respect of the Services that have not been terminated if the Partial Termination arises due to the occurrence of a Supplier Termination Event;
 - (b) any adjustment to the Charges (if any) shall be calculated in accordance with the Financial Model and must be reasonable; and
 - (c) the Supplier shall not be entitled to reject the Change.

34 CONSEQUENCES OF EXPIRY OR TERMINATION

General Provisions on Expiry or Termination

- 34.1 The provisions of Clauses 5.8 (Specially Written Software warranty), 10.4 and 10.5 (VAT), 10.6 and 10.7 (Set-off and Withholding), 12 (Records, Reports, Audits and Open Book Data), 14.7 (Employment Indemnity), 14.8 (Income Tax and National Insurance Contributions), 16 (Intellectual Property Rights), 17 (Licences Granted by the Supplier), 19.1 (IPRs Indemnity), 21 (Confidentiality), 22 (Transparency and Freedom of Information), 23 (Protection of Personal Data), 25 (Limitations on Liability), 34 (Consequences of Expiry or Termination), 40 (Severance), 42 (Entire Contract), 43 (Third Party Rights), 45 (Disputes) and 46 (Governing Law and Jurisdiction), and the provisions of Schedules 1 (Definitions), 7.1 (Charges and Invoicing), 7.2 (Payments on Termination), 7.5 (Financial Reports and Audit Rights), 8.3 (Dispute Resolution Procedure), 8.4 (Reports and Records Provisions), 8.5 (Exit Management), and 9.1 (Staff Transfer), shall survive the termination or expiry of this Contract.

Exit Management

- 34.2 The Parties shall comply with the provisions of Schedule 8.5 (Exit Management) and any current Exit Plan in relation to orderly transition of the Services to the Buyer or a Replacement Supplier.

Payments by the Buyer

- 34.3 If this Contract is terminated by the Buyer pursuant to Clause 33.1(a) (Termination by the Buyer) or by the Supplier pursuant to Clause 33.3(a) (Termination by the Supplier),

the Buyer shall pay the Supplier the following payments (which shall be the Supplier's sole remedy for the termination of this Contract):

- (a) the Termination Payment; and
- (b) the Compensation Payment, if either of the following periods is less than three hundred and sixty-five (365) days:
 - (i) the period from (but excluding) the date that the Termination Notice is given (or, where Paragraph 2.1(a) of Part D of Schedule 7.1 (*Charges and Invoicing*) applies, deemed given) by the Buyer pursuant to Clause 33.1(a) (*Termination by the Buyer*) to (and including) the Termination Date; or
 - (ii) the period from (and including) the date of the non-payment by the Buyer referred to in Clause 33.3(a) (*Termination by the Supplier*) to (and including) the Termination Date.

34.4 If this Contract is terminated (in part or in whole) by the Buyer pursuant to Clauses 33.1(b), 33.1(c) and/or 33.2 (Termination by the Buyer), or the Term expires, the only payments that the Buyer shall be required to make as a result of such termination (whether by way of compensation or otherwise) are:

- (a) payments in respect of any Assets or apportionments in accordance with Schedule 8.5 (*Exit Management*); and
- (b) payments in respect of unpaid Charges for Services received up until the Termination Date.

34.5 The costs of termination incurred by the Parties shall lie where they fall if:

- (a) either Party terminates or partially terminates this Contract for a continuing Force Majeure Event pursuant to Clauses 33.1(c) or 33.2(b) (*Termination by the Buyer*) or 33.3(b) (*Termination by the Supplier*); or
- (b) the Buyer terminates this Contract under Clause 33.1(d) (*Termination by the Buyer*).

Payments by the Supplier

34.6 In the event of termination or expiry of this Contract, the Supplier shall repay to the Buyer all Charges it has been paid in advance in respect of Services not provided by the Supplier as at the date of expiry or termination.

34.7 If this Contract is terminated (in whole or in part) by the Buyer pursuant to Clause 33.1(b) (Termination by the Buyer) prior to Achievement of one or more CPP Milestones, the Buyer may at any time on or within 12 months of the issue of the relevant Termination Notice by issue to the Supplier of written notice (a "Milestone Adjustment Payment Notice") require the Supplier to repay to the Buyer an amount equal to the aggregate Milestone Adjustment Payment Amounts in respect of each CPP Milestone to which the Milestone Adjustment Payment Notice relates.

34.8 A Milestone Adjustment Payment Notice shall specify:

- (a) each CPP Milestone to which it relates;

- (b) in relation to each such CPP Milestone, each Deliverable relating to that CPP Milestone that the Buyer wishes to retain, if any (each such Deliverable being a **“Retained Deliverable”**); and
- (c) those Retained Deliverables, if any, the Allowable Price for which the Buyer considers should be subject to deduction of an adjusting payment on the grounds that they do not or will not perform in all material respects in accordance with their specification (such adjusting payment being an **“Allowable Price Adjustment”**),

and may form part of a Termination Notice.

34.9 The Supplier shall within 10 Working Days of receipt of a Milestone Adjustment Payment Notice, in each case as applicable:

- (a) notify the Buyer whether it agrees that the Retained Deliverables which the Buyer considers should be subject to an Allowable Price Adjustment as specified in the relevant Milestone Adjustment Payment Notice should be so subject; and
- (b) in relation to each such Retained Deliverable that the Supplier agrees should be subject to an Allowable Price Adjustment, notify the Buyer of the Supplier's proposed amount of the Allowable Price Adjustment and the basis for its approval;
- (c) provide the Buyer with its calculation of the Milestone Adjustment Payment Amount in respect of each CPP Milestone the subject of the relevant Milestone Adjustment Payment Notice using its proposed Allowable Price Adjustment, including details of:
 - (i) all relevant Milestone Payments; and
 - (ii) the Allowable Price of each Retained Deliverable; and
- (d) provide the Buyer with such supporting information as the Buyer may require.

34.10 If the Parties do not agree the calculation of a Milestone Adjustment Payment Amount within 20 Working Days of the Supplier's receipt of the relevant Milestone Adjustment Payment Notice, either Party may refer the Dispute to the Dispute Resolution Procedure.

34.11 If the Buyer issues a Milestone Adjustment Payment Notice pursuant to Clause 34.7:

- (a) the Buyer shall:
 - (i) securely destroy or return to the Supplier all Non-retained Deliverables that are in tangible form; and
 - (ii) ensure that all Non-retained Deliverables that are held in electronic, digital or other machine-readable form cease to be readily accessible (other than by the information technology staff of the Buyer) from any computer, word processor, voicemail system or any other device containing such all Non-retained Deliverables,

in each case as soon as reasonably practicable after repayment of the

aggregate Milestone Adjustment Payment Amounts repayable pursuant to that Milestone Adjustment Payment Notice; and

- (b) all licences granted pursuant to Clause 17 (*Licences granted by the Supplier*) in respect of Specially Written Software and Project Specific IPRs and any Supplier Non-COTS Software and/or Supplier Background IPRs shall terminate upon such repayment to the extent that they relate to the Non-retained Deliverables.

SECTION J - MISCELLANEOUS AND GOVERNING LAW

35 COMPLIANCE

Health and Safety

35.1 The Supplier shall perform its obligations under this Contract (including those in relation to the Services) in accordance with:

- (a) all applicable Law regarding health and safety; and
- (b) the Health and Safety Policy whilst at the Buyer Premises.

35.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Buyer Premises of which it becomes aware and which relate to or arise in connection with the performance of this Contract. 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.

Equality and Diversity

35.3 The Supplier shall:

- (a) perform its obligations under this Contract (including those in relation to the Services) in accordance with:
 - (i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
 - (ii) the Buyer's equality and diversity policy as provided to the Supplier from time to time; and
 - (iii) any other requirements and instructions which the Buyer reasonably imposes in connection with any equality obligations imposed on the Buyer at any time under applicable equality Law; and
- (b) take all necessary steps, and inform the Buyer 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).

Official Secrets Act and Finance Act

35.4 The Supplier shall comply with the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.

36 ASSIGNMENT AND NOVATION

- 36.1 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 Contract without the prior written consent of the Buyer.
- 36.2 The Buyer may at its discretion assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Contract and/or any associated licences to:
- (a) any Central Government Body; or
 - (b) to a body other than a Central Government Body (including any private sector body) which performs any of the functions that previously had been performed by the Buyer,

and the Supplier shall, at the Buyer's request, enter into a novation agreement in such form as the Buyer shall reasonably specify in order to enable the Buyer to exercise its rights pursuant to this Clause 36.2.

- 36.3 A change in the legal status of the Buyer such that it ceases to be a Central Government Body shall not (subject to Clause 36.4) affect the validity of this Contract and this Contract shall be binding on any successor body to the Buyer.
- 36.4 If the Buyer assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Contract to a body which is not a Central Government Body or if a body which is not a Central Government Body succeeds the Buyer (any such body a "Successor Body"), the Supplier shall have the right to terminate for an Insolvency Event affecting the Successor Body identical to the right of termination of the Buyer under limb (k) of the definition of Supplier Termination Event (as if references in that limb (k) to the Supplier and the Guarantor were references to the Successor Body).

37 WAIVER AND CUMULATIVE REMEDIES

- 37.1 The rights and remedies under this Contract may be waived only by notice 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 Contract or by law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 37.2 Unless otherwise provided in this Contract, rights and remedies under this Contract are cumulative and do not exclude any rights or remedies provided by law, in equity or otherwise.

38 RELATIONSHIP OF THE PARTIES

Except as expressly provided otherwise in this Contract, nothing in this Contract, nor any actions taken by the Parties pursuant to this Contract, 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.

39 PREVENTION OF FRAUD AND BRIBERY

39.1 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 Effective Date:

- (a) 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
- (b) 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.

39.2 The Supplier shall not during the term of this Contract:

- (a) commit a Prohibited Act; and/or
- (b) do or suffer anything to be done which would cause the Buyer or any of the Buyer'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.

39.3 The Supplier shall during the term of this Contract:

- (a) 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;
- (b) have in place reasonable prevention measures (as defined in sections 45(3) and 46(4) of the Criminal Finance Act 2017) to ensure that Associated Persons of the Supplier do not commit tax evasion facilitation offences as defined under that Act;
- (c) keep appropriate records of its compliance with its obligations under Clause 39.3(a) and make such records available to the Buyer on request; and
- (d) take account of any guidance about preventing facilitation of tax evasion offences which may be published and updated in accordance with Section 47 of the Criminal Finances Act 2017.

39.4 The Supplier shall immediately notify the Buyer in writing if it becomes aware of any breach of Clause 39.1 and/or 39.2, or has reason to believe that it has or any of the Supplier Personnel have:

- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- (b) 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
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise

suspects that any person or Party directly or indirectly connected with this Contract has committed or attempted to commit a Prohibited Act.

- 39.5 If the Supplier makes a notification to the Buyer pursuant to Clause 39.4, the Supplier shall respond promptly to the Buyer's enquiries, co-operate with any investigation, and allow the Buyer to Audit any books, Records and/or any other relevant documentation in accordance with Clause 12 (Records, Reports, Audits and Open Book Data).
- 39.6 If the Supplier is in Default under Clauses 39.1 and/or 39.2, the Buyer may by notice:
- (a) require the Supplier to remove from performance of this Contract any Supplier Personnel whose acts or omissions have caused the Default; or
 - (b) immediately terminate this Contract.
- 39.7 Any notice served by the Buyer under Clause 39.6 shall specify the nature of the Prohibited Act, the identity of the Party who the Buyer believes has committed the Prohibited Act and the action that the Buyer has elected to take (including, where relevant, the date on which this Contract shall terminate).

40 SEVERANCE

- 40.1 If any provision of this Contract (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 Contract are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of this Contract shall not be affected.
- 40.2 In the event that any deemed deletion under Clause 40.1 is so fundamental as to prevent the accomplishment of the purpose of this Contract or materially alters the balance of risks and rewards in this Contract, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Contract so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Contract and, to the extent that is reasonably possible, achieves the Parties' original commercial intention.
- 40.3 If the Parties are unable to agree on the revisions to this Contract within 5 Working Days of the date of the notice given pursuant to Clause 40.2, the matter shall be dealt with in accordance with Paragraph 4 (Commercial Negotiation) of Schedule 8.3 (Dispute Resolution Procedure) except that if the representatives are unable to resolve the dispute within 30 Working Days of the matter being referred to them, this Contract shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Contract is terminated pursuant to this Clause 40.3.

41 FURTHER ASSURANCES

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 reasonably necessary to give effect to the meaning of this Contract.

42 ENTIRE AGREEMENT

- 42.1 This Contract constitutes the entire agreement between the Parties in respect of its subject matter and supersedes and extinguishes all prior negotiations, arrangements,

understanding, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.

42.2 Neither Party has been given, nor entered into this Contract in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Contract.

42.3 Nothing in this Clause 42 shall exclude any liability in respect of misrepresentations made fraudulently.

43 THIRD PARTY RIGHTS

43.1 The provisions of Clause 19.1 (IPRs Indemnity), Paragraphs 2.1 and 2.6 of Part A, Paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B, Paragraphs 2.1 and 2.3 of Part C, Part D and Paragraphs 1.4, 2.3 and 2.8 of Part E of Schedule 9.1 (Staff Transfer) and the provisions of Paragraph 6.9 of Schedule 8.5 (Exit Management) (together "Third Party Provisions") confer benefits on persons named or identified 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.

43.2 Subject to Clause 43.1, a person who is not a Party to this Contract has no right under the CRTPA to enforce any term of this Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

43.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.

43.4 Any amendments or modifications to this Contract may be made, and any rights created under Clause 43.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

44 NOTICES

44.1 Any notices sent under this Contract must be in writing.

44.2 Subject to Clause 44.4, the following table sets out the method by which notices may be served under this Contract and the respective deemed time and proof of service:

Manner of Delivery	Deemed time of service	Proof of service
Email	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™ 1 st 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
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44.3 Notices For the purposes of this Clause 44, the address and email address of each Party shall be the address and email address set out in the Order Form.

44.4 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 recorded delivery in the manner set out in the table in Clause 44.2:

- (c) Step-In Notices;
- (d) Force Majeure Notices;
- (e) notices issued by the Supplier pursuant to Clause 33.3 (*Termination by the Supplier*);
- (f) Termination Notices; and
- (g) Dispute Notices.

44.5 Failure to send any original notice by personal delivery or recorded delivery in accordance with Clause 44.4 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 For™ 1st Class delivery (as set out in the table in Clause 44.2) or, if earlier, the time of response or acknowledgement by the other Party to the email attaching the notice.

44.6 This Clause 44 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 8.3 (Dispute Resolution Procedure)).

45 DISPUTES

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

45.2 The Supplier shall continue to provide the Services in accordance with the terms of this Contract until a Dispute has been resolved.

46 GOVERNING LAW AND JURISDICTION

- 46.1 This Contract 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 and Wales.
- 46.2 Subject to Clause 45 (Disputes) and Schedule 8.3 (Dispute Resolution Procedure) (including the Buyer's right to refer the dispute to arbitration), the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Contract or its subject matter or formation.

SCHEDULE 1

Definitions

Unless otherwise provided or the context otherwise requires the following expressions shall have the meanings set out below.

“Accounting Reference Date”	means in each year the date to which the Supplier prepares its annual audited financial statements;
“Achieve”	<p>(a) in respect of a Test, to successfully pass a Test without any Test Issues; and</p> <p>(b) in respect of a Milestone, the issue of a Milestone Achievement Certificate in respect of that Milestone in accordance with the provisions of Schedule 6.2 (<i>Testing Procedures</i>),</p> <p>and “Achieved” and “Achievement” shall be construed accordingly;</p>
“Acquired Rights Directive”	the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;
“Affected Party”	the Party seeking to claim relief in respect of a Force Majeure Event;
“Affiliate”	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
“Allowable Assumptions”	the assumptions set out in Part D of Attachment 7.1 (<i>Charges and Invoicing</i>) of the Order Form;
“Allowable Price”	<p>in relation to the Retained Deliverables relating to a CPP Milestone, if any, an amount determined in accordance with the formula:</p> $A - B$ <p>where:</p> <p>(a) A is an amount equal to the Costs incurred by the Supplier in providing or developing the relevant Retained Deliverables as reflected in the Financial Model together with an amount equal to the Anticipated Contract Life Profit Margin thereon; and</p>

	<p>(b) B is an amount equal to the Allowable Price Adjustment relating to the relevant Retained Deliverables, if any, or if there is no such Allowable Price Adjustment, zero,</p> <p>provided that the Allowable Price for any Retained Deliverables shall in no circumstances exceed the aggregate amount of the Milestone Payments paid to the Supplier in respect of the Milestones (or in the case of Partial Termination, the Milestones for the parts of the Services terminated) relating to that CPP Milestone;</p>
“Allowable Price Adjustment”	has the meaning given in Clause 34.8(c) (<i>Payments by the Supplier</i>);
“Annual Contract Report”	has the meaning given in Schedule 7.5 (<i>Financial Reports and Audit Rights</i>);
“Annual Revenue”	<p>means, for the purposes of determining whether an entity is a Public Sector Dependent Supplier, the audited consolidated aggregate revenue (including share of revenue of joint ventures and Associates) reported by the Supplier or, as appropriate, the Supplier Group in its most recent published accounts, subject to the following methodology:</p> <p>(a) figures for accounting periods of other than 12 months should be scaled pro rata to produce a proforma figure for a 12 month period; and</p> <p>(b) where the Supplier, the Supplier Group and/or their joint ventures and Associates report in a foreign currency, revenue should be converted to British Pound Sterling at the closing exchange rate on the Accounting Reference Date;</p>
“Anticipated Contract Life Profit Margin”	has the meaning given in Schedule 7.1 (<i>Charges and Invoicing</i>);
“Approved Sub-Licensee”	<p>any of the following:</p> <p>(a) a Central Government Body;</p> <p>(b) any third party providing services to a Central Government Body; and/or</p> <p>(c) any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer;</p>
“Attachment”	an attachment to the Order Form;
“Assets”	all assets and rights used by the Supplier to provide the Services in accordance with this Contract but excluding the Buyer Assets;

“Associated Person”	has the meaning given to it in Section 44(4) of the Criminal Finances Act 2017;
“Associates”	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
“Assurance”	means written confirmation from a Relevant Buyer to the Supplier that the CRP Information is approved by the Relevant Buyer;
“ATP Milestone”	the Milestone linked to Authority to Proceed for the relevant Operational Services set out in the Implementation Plan;
“Audit”	any exercise by the Buyer of its Audit Rights pursuant to Clause 12 (<i>Records, Reports, Audit and Open Book Data</i>) and Schedule 7.5 (<i>Financial Reports and Audit Rights</i>);
“Audit Agents”	<ul style="list-style-type: none"> (a) the Buyer’s internal and external auditors; (b) the Buyer’s statutory or regulatory auditors; (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; (d) HM Treasury or the Cabinet Office; (e) any party formally appointed by the Buyer to carry out audit or similar review functions; and (f) successors or assigns of any of the above;
“Audit Rights”	the audit and access rights referred to in Schedule 7.5 (<i>Financial Reports and Audit Rights</i>);
“Authority to Proceed” or “ATP”	the authorisation to the Supplier to commence the provision of the relevant Operational Services to the Buyer, provided by the Buyer in the form of a Milestone Achievement Certificate in respect of the ATP Milestone;
“Balanced Scorecard Report”	has the meaning given in Paragraph 1.1(b) of Part B of Schedule 2.2 (<i>Performance Levels</i>);
“Baseline Security Requirements”	the Buyer's baseline security requirements, the current copy of which is contained in Annex 1 of Schedule 2.4 (<i>Security Management</i>), as updated from time to time by the Buyer and notified to the Supplier;

“Board”	means the Supplier’s board of directors;
“Board Confirmation”	means the written confirmation from the Board in accordance with Paragraph 8 of Schedule 7.4 (Financial Distress);
“Breakage Costs Payment”	has the meaning given in Schedule 7.2 (<i>Payments on Termination</i>);
“Buyer”	means the entity identified as such in the Order Form;
“Buyer Assets”	the Buyer Materials, the Buyer infrastructure and any other data, software, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision or receipt of the Services, details of which are set out in the Order Form;
“Buyer Background IPRs”	<p>(a) IPRs owned by the Buyer before the Effective Date, including IPRs contained in any of the Buyer’s Know-How, documentation, processes and procedures;</p> <p>(b) IPRs created by the Buyer independently of this Contract; and/or</p> <p>(c) Crown Copyright which is not available to the Supplier otherwise than under this Contract;</p> <p>but excluding IPRs owned by the Buyer subsisting in the Buyer Software;</p>
“Buyer Cause”	<p>any material breach by the Buyer of any of the Buyer Responsibilities, except to the extent that such breach is:</p> <p>(a) the result of any act or omission by the Buyer to which the Supplier has given its prior consent; or</p> <p>caused by the Supplier, any Sub-contractor or any Supplier Personnel;</p>
“Buyer Data”	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(i) supplied to the Supplier by or on behalf of the Buyer; and/or</p> <p>(ii) which the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</p> <p>any Personal Data for which the Buyer is the Data Controller;</p>

“Buyer IT Strategy”	the Buyer's IT policy in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Change Control Procedure;
“Buyer Materials”	<p>the Buyer Data together with any materials, documentation, information, programs and codes supplied by the Buyer to the Supplier, the IPRs in which:</p> <p>(a) are owned or used by or on behalf of the Buyer; and</p> <p>(b) are or may be used in connection with the provision or receipt of the Services,</p> <p>but excluding any Project Specific IPRs, Specially Written Software, Supplier Software, Third Party Software and Documentation relating to Supplier Software or Third Party Software;</p>
“Buyer Premises”	premises owned, controlled or occupied by the Buyer and/or any Central Government Body which are made available for use by the Supplier or its Sub-contractors for provision of the Services (or any of them);
“Buyer Representative”	the representative appointed by the Buyer (as may be changed from time to time in accordance with Clause 11.4, the details of which as at the Effective Date are set out in the Order Form;
“Buyer Requirements”	the requirements of the Buyer set out in Attachment 2.1 (<i>Services Description</i>), Schedule 2.2 (<i>Performance Indicators</i>), Attachment 2.2 (<i>Key Performance Indicators and Subsidiary Performance Indicators Tables</i>), Schedule 2.3 (<i>Standards</i>), Attachment 2.3 (<i>Environmental Requirements</i>), Schedule 2.4 (<i>Security Management</i>), the Order Form in respect of insurance, Schedule 6.1 (<i>Implementation Plan</i>), Attachment 6.1 (<i>Outline Implementation Plan</i>), Schedule 8.4 (<i>Reports and Records Provisions</i>), Attachment 8.4 (<i>Transparency Reports and Records to Upload to Virtual Library</i>), Schedule 8.5 (<i>Exit Management</i>) and Schedule 8.6 (<i>Service Continuity Plan and Corporate Resolution Planning</i>);
“Buyer Responsibilities”	the responsibilities of the Buyer specified in Attachment 3 (<i>Specific Obligations</i>) of the Order Form;
“Buyer Software”	software which is owned by or licensed to the Buyer (other than under or pursuant to this Contract) and which is or will be used by the Supplier for the purposes of providing the Services;
“Buyer System”	the Buyer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Buyer or the Supplier in connection with this Contract which

	is owned by the Buyer or licensed to it by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Services;
“Cabinet Office Markets and Suppliers Team”	means the UK Government’s team responsible for managing the relationship between government and its Strategic Suppliers, or any replacement or successor body carrying out the same function;
“Call Off Terms”	means these terms and conditions;
“CCS”	means Crown Commercial Service, the authority to the Framework;
“Central Government Body”	<p>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:</p> <ul style="list-style-type: none"> (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency;
“Certificate of Costs”	has the meaning given in Schedule 7.1 (<i>Charges and Invoicing</i>);
“Change”	any change to this Contract;
“Change Authorisation Note”	a form setting out an agreed Contract Change which shall be substantially in the form of Annex 2 of Schedule 8.2 (<i>Change Control Procedure</i>);
“Change Control Procedure”	the procedure for changing this Contract set out in Schedule 8.2 (<i>Change Control Procedure</i>);
“Change in Law”	any change in Law which impacts on the performance of the Services which comes into force after the Effective Date;
“Change Request”	a written request for a Contract Change substantially in the form of Annex 1 of Schedule 8.2 (<i>Change Control Procedure</i>);
“Charges”	the charges for the provision of the Services set out in or otherwise calculated in accordance with Schedule 7.1 (<i>Charges and Invoicing</i>) and Attachment 7.1 (<i>Pricing Mechanism, Charging Mechanism,</i>

		<i>Adjustments, Risk Register and Allowable Assumptions</i>) of the Order Form, including any Milestone Payment or Service Charge;
“Class Transaction”	1	has the meaning set out in the listing rules issued by the UK Listing Buyer;
“CNI”		means Critical National Infrastructure;
“Commercially Sensitive Information”		<p>the information listed in Attachment 4.2 (<i>Commercially Sensitive Information</i>) of the Order Form comprising the information of a commercially sensitive nature relating to –</p> <p>(a) the pricing of the Services;</p> <p>(b) details of the Supplier’s IPRs; and</p> <p>(c) the Supplier’s business and investment plans;</p> <p>which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;</p>
“Comparable Supply”		the supply of services to another customer of the Supplier that are the same or similar to any of the Services;
“Compensation for Unacceptable KPI Failure”		has the meaning given in Clause 7.4(a) (<i>Unacceptable KPI Failure</i>);
“Compensation Payment”		has the meaning given in Schedule 7.2 (<i>Payments on Termination</i>);
“Condition Precedent”		has the meaning given in Clause 4.2 (<i>Condition Precedent</i>);
“Confidential Information”		<p>(a) Information, including all Personal Data, which (however it is conveyed) is provided by the Disclosing Party pursuant to or in anticipation of this Contract that relates to:</p> <p>(i) the Disclosing Party Group; or</p> <p>(ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Disclosing Party Group;</p> <p>(b) other Information provided by the Disclosing Party pursuant to or in anticipation of this Contract that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential (whether or not it is so marked) which comes (or has come) to the Recipient’s</p>

	<p>attention or into the Recipient's possession in connection with this Contract;</p> <p>(c) discussions, negotiations, and correspondence between the Disclosing Party or any of its directors, officers, employees, consultants or professional advisers and the Recipient or any of its directors, officers, employees, consultants and professional advisers in connection with this Contract and all matters arising therefrom; and</p> <p>(d) Information derived from any of the above,</p> <p>but not including any Information which:</p> <p>(i) was in the possession of the Recipient without obligation of confidentiality prior to its disclosure by the Disclosing Party;</p> <p>(ii) the Recipient obtained on a non-confidential basis from a third party who is not, to the Recipient's knowledge or belief, bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Recipient;</p> <p>(iii) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Contract or breach of a duty of confidentiality;</p> <p>(iv) was independently developed without access to the Confidential Information; or</p> <p>(v) relates to the Supplier's:</p> <ol style="list-style-type: none"> 1. performance under this Contract; or 2. failure to pay any Sub-contractor as required pursuant to Clause 15.15(a) (<i>Supply Chain Protection</i>);
"Contract"	<p>the contract between the Buyer and the Supplier (entered into pursuant to the terms of the Framework) consisting of:</p> <p>(a) the Order Form; and</p> <p>(b) the Call Off Terms;</p>
"Contract Change"	any change to this Contract other than an Operational Change;
"Contract Inception Report"	the initial financial model in a form agreed by the Supplier and the Buyer in writing on or before the Effective Date;
"Contract Finder"	the online government portal which allows suppliers to search for information about contracts worth over £10,000 (excluding VAT) as prescribed by Part 4 of the Public Contract Regulations 2015;

“Contract Year”	<p>(a) a period of 12 months commencing on the Effective Date; or</p> <p>(b) thereafter a period of 12 months commencing on each anniversary of the Effective Date;</p> <p>provided that the final Contract Year shall end on the expiry or termination of the Term;</p>
“Control”	<p>the possession by person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and “Controls” and “Controlled” shall be interpreted accordingly;</p>
“Controller”	<p>has the meaning given in the GDPR;</p>
“Corporate Change Event”	<p>means:</p> <p>(a) any change of Control of the Supplier or a Parent Undertaking of the Supplier;</p> <p>(b) any change of Control of any member of the Supplier Group which, in the reasonable opinion of the Buyer, could have a material adverse effect on the Services;</p> <p>(c) any change to the business of the Supplier or any member of the Supplier Group which, in the reasonable opinion of the Buyer, could have a material adverse effect on the Services;</p> <p>(d) a Class 1 Transaction taking place in relation to the shares of the Supplier or any Parent Undertaking of the Supplier whose shares are listed on the main market of the London Stock Exchange plc;</p> <p>(e) an event that could reasonably be regarded as being equivalent to a Class 1 Transaction taking place in respect of the Supplier or any Parent Undertaking of the Supplier;</p> <p>(f) payment of dividends by the Supplier or the ultimate Parent Undertaking of the Supplier Group exceeding 25% of the Net Asset Value of the Supplier or the ultimate Parent Undertaking of the Supplier Group respectively in any 12 month period;</p> <p>(g) an order is made or an effective resolution is passed for the winding up of any member of the Supplier Group;</p> <p>(h) any member of the Supplier Group stopping payment of its debts generally or becoming unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986 or any member of the Supplier Group ceasing to carry on all or substantially all its business, or any compromise, composition, arrangement or agreement being made with creditors of any</p>

	<p>member of the Supplier Group;</p> <p>(i) the appointment of a receiver, administrative receiver or administrator in respect of or over all or a material part of the undertaking or assets of any member of the Supplier Group; and/or</p> <p>(j) any process or events with an effect analogous to those in paragraphs (e) to (g) inclusive above occurring to a member of the Supplier Group in a jurisdiction outside England and Wales;</p>
“Corporate Resolution Planning Information”	<p>means, together, the:</p> <p>a) Group Structure Information and Resolution Commentary; and</p> <p>b) UK Public Sector and CNI Contract Information;</p>
“Costs”	has the meaning given in Schedule 7.1 (<i>Charges and Invoicing</i>);
“CPP Milestone”	a contract performance point as set out in the Implementation Plan, being the Milestone at which the Supplier has demonstrated that the Supplier Solution or relevant Service is working satisfactorily in its operating environment in accordance with Schedule 6.2 (<i>Testing Procedures</i>) and Paragraph 2 of Attachment 2 (<i>Test Success Criteria</i>) of the Order Form;
“Critical National Infrastructure”	<p>means those critical elements of UK national infrastructure (namely assets, facilities, systems, networks or processes and the essential workers that operate and facilitate them), the loss or compromise of which could result in:</p> <p>a) major detrimental impact on the availability, integrity or delivery of essential services – including those services whose integrity, if compromised, could result in significant loss of life or casualties – taking into account significant economic or social impacts; and/or</p> <p>b) significant impact on the national security, national defence, or the functioning of the UK;</p>
“Critical Performance Failure”	<p>(a) the Supplier accruing in aggregate [<i>insert number</i>] or more Service Points (in terms of the number of points allocated) in any period of [<i>insert number</i>] months; or</p> <p>(b) the Supplier accruing Service Credits or Compensation for Unacceptable KPI Failure which meet or exceed the Service Credit Cap;</p>
“Critical Service Contract”	means the overall status of the Services provided under this Contract as determined by the Buyer and specified in Paragraph

	10.1 of Part 2 to Schedule 8.6 (<i>Service Continuity Plan and Corporate Resolution Planning</i>);
“CRP Information”	means the Corporate Resolution Planning Information;
“CRTPA”	the Contracts (Rights of Third Parties) Act 1999;
“Data Loss Event”	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
“Data Protection Impact Assessment”	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
“Data Protection Legislation”	<ul style="list-style-type: none"> a) the GDPR, the LED and any applicable national implementing Laws as amended from time to time b) the DPA 2018 to the extent that it relates to processing of personal data and privacy; c) all applicable Law about the processing of personal data and privacy;
“Data Subject”	has the meaning given in the DPA;
“Data Subject Request”	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to their Personal Data;
“Deductions”	all Service Credits, Compensation for Unacceptable KPI Failure, Delay Payments or any other deduction which is paid or payable to the Buyer under this Contract;
“Default”	<p>any breach of the obligations of the relevant Party (including abandonment of this Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement:</p> <ul style="list-style-type: none"> (a) in the case of the Buyer, of its employees, servants, agents; or (b) in the case of the Supplier, of its Sub-contractors or any Supplier Personnel, <p>in connection with or in relation to the subject-matter of this Contract and in respect of which such Party is liable to the other;</p>
“Defect”	<ul style="list-style-type: none"> (a) any error, damage or defect in the manufacturing of a Deliverable; or

	<p>(b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or</p> <p>(c) any failure of any Deliverable to provide the performance, features and functionality specified in the Buyer Requirements or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from meeting its associated Test Success Criteria; or</p> <p>(d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the Buyer Requirements or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from meeting its associated Test Success Criteria;</p>
“Delay”	<p>(a) a delay in the Achievement of a Milestone by its Milestone Date; or</p> <p>(b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;</p>
“Delay Deduction Period”	the period of one hundred (100) days commencing on the relevant Milestone Date;
“Delay Payments”	the amounts payable by the Supplier to the Buyer in respect of a Delay in Achieving a Key Milestone as specified in Table 1 of Part B of Attachment 7.1 (<i>Pricing Mechanism, Charging Mechanism, Adjustments, Risk Register and Allowable Assumptions</i>) of the Order Form;
“Deliverable”	an item or feature delivered or to be delivered by the Supplier at or before a Milestone Date or at any other stage during the performance of this Contract;
“Dependent Parent Undertaking”	means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;

“Detailed Implementation Plan”	the plan developed and revised from time to time in accordance with Paragraphs 3 and 4 of Schedule 6.1 (<i>Implementation Plan</i>);
“Disclosing Party”	has the meaning given in Clause 21.1 (<i>Confidentiality</i>);
“Disclosing Party Group”	<p>(a) where the Disclosing Party is the Supplier, the Supplier and any Affiliates of the Supplier; and</p> <p>(b) where the Disclosing Party is the Buyer, the Buyer and any Central Government Body with which the Buyer or the Supplier interacts in connection with this Contract;</p>
“Dispute”	any dispute, difference or question of interpretation arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Change Control Procedure or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
“Dispute Notice”	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”	the dispute resolution procedure set out in Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
“Documentation”	<p>descriptions of the Services and Performance Indicators, details of the Supplier System (including (i) vendors and versions for off-the-shelf components and (ii) source code and build information for proprietary components), relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation as:</p> <p>(a) is required to be supplied by the Supplier to the Buyer under this Contract;</p> <p>(b) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide Services;</p> <p>(c) is required by the Supplier in order to provide the Services; and/or</p> <p>(d) has been or shall be generated for the purpose of providing the Services;</p>

“DOTAS”	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;
“DPA”	the Data Protection Act 2018 ;
“Due Diligence Information”	any information supplied to the Supplier by or on behalf of the Buyer prior to the Effective Date;
“Effective Date”	the later of: (a) the date on which the Order Form is signed by both Parties; and (b) the date on which the Condition Precedent has been satisfied or waived in accordance with Clause 4.2 (Condition Precedent);
“EIRs”	the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commissioner or any Central Government Body in relation to such Regulations;
“Emergency Maintenance”	ad hoc and unplanned maintenance provided by the Supplier where: (a) the Buyer reasonably suspects that the IT Environment or the Services, or any part of the IT Environment or the Services, has or may have developed a fault, and notifies the Supplier of the same; or (b) the Supplier reasonably suspects that the IT Environment or the Services, or any part the IT Environment or the Services, has or may have developed a fault;
“Employee Liabilities”	all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:

	<ul style="list-style-type: none"> (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments; (b) unfair, wrongful or constructive dismissal compensation; (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay; (d) compensation for less favourable treatment of part-time workers or fixed term employees; (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions; (f) employment claims whether in tort, contract or statute or otherwise; (g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;
“Employment Regulations”	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the Acquired Rights Directive;
“Estimated Year 1 Charges”	the estimated Charges payable by the Buyer during the first Contract Year, as set out in the Financial Model;
“Estimated Initial Service Charges”	the estimated Service Charges payable by the Buyer during the period of 12 months from the first Operational Service Commencement Date, as set out in the Financial Model;
“Euro Compliant”	<p>means that: (i) the introduction of the euro within any part(s) of the UK shall not affect the performance or functionality of any relevant items nor cause such items to malfunction, end abruptly, provide invalid results or adversely affect the Buyer’s business; (ii) all currency-reliant and currency-related functions (including all calculations concerning financial data) of any relevant items enable the introduction and operation of the euro; and (iii) in particular each and every relevant item shall, to the extent it performs or relies upon currency-related functions (including all calculations concerning financial data):</p> <ul style="list-style-type: none"> (a) be able to perform all such functions in any number of currencies and/or in euros; (b) during any transition phase applicable to the relevant part(s) of the UK, be able to deal with multiple currencies and, in relation to the euro and the national currency of the relevant part(s) of the UK, dual denominations;

	<p>(c) recognise accept, display and print all the euro currency symbols and alphanumeric codes which may be adopted by any government and other European Union body in relation to the euro;</p> <p>(d) incorporate protocols for dealing with rounding and currency conversion;</p> <p>(e) recognise data irrespective of the currency in which it is expressed (which includes the euro) and express any output data in the national currency of the relevant part(s) of the UK and/or the euro; and</p> <p>(f) permit the input of data in euro and display an outcome in euro where such data, supporting the Buyer's normal business practices, operates in euro and/or the national currency of the relevant part(s) of the UK;</p>
"Exit Day"	shall have the meaning in the European Union (Withdrawal) Act 2018;
"Exit Management"	services, activities, processes and procedures to ensure a smooth and orderly transition of all or part of the Services from the Supplier to the Buyer and/or a Replacement Supplier, as set out or referred to in Schedule 8.5 (<i>Exit Management</i>);
"Exit Plan"	the plan produced and updated by the Supplier during the Term in accordance with Paragraph 4 of Schedule 8.5 (<i>Exit Management</i>);
"Expedited Dispute Timetable"	the reduced timetable for the resolution of Disputes set out in Paragraph 3 of Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
"Expert"	has the meaning given in Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
"Expert Determination"	the process described in Paragraph 6 of Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
"Extension Period"	a period set out in the Order Form (in years) from the end of the Initial Term;
"Financial Distress Event"	the occurrence of one or more of the events listed in Paragraph 3.1 of Schedule 7.4 (<i>Financial Distress</i>);
"Financial Distress Remediation Plan"	a plan setting out how the Supplier will ensure the continued performance and delivery of the Services in accordance with this Contract in the event that a Financial Distress Event occurs;
"Financial Model"	has the meaning given in Schedule 7.5 (<i>Financial Reports and Audit Rights</i>);

“Financial Reports”	has the meaning given in Schedule 7.5 (<i>Financial Reports and Audit Rights</i>);
“Financial Transparency Objectives”	has the meaning given in Schedule 7.5 (<i>Financial Reports and Audit Rights</i>);
“FOIA”	the Freedom of Information Act 2000 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 any relevant Central Government Body in relation to such Act;
“Force Majeure Event”	any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or other natural disaster but excluding any industrial dispute relating to the Supplier or the Supplier Personnel or any other failure in the Supplier’s or a Sub-contractor’s supply chain;
“Force Majeure Notice”	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
“Former Supplier”	has the meaning given in Schedule 9.1 (<i>Staff Transfer</i>);
“Framework”	the framework agreement reference RM6100 between the Supplier and CCS
“GDPR”	The General Data Protection Regulation (EU) 2016/679
“General Anti-Abuse Rule”	(a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into Parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
“General Change in Law”	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
“Good Industry Practice”	at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert supplier of services similar to the Services to a customer like the

	Buyer, such supplier seeking to comply with its contractual obligations in full and complying with applicable Laws;
“Goods”	has the meaning given in Clause 9.7 (<i>Supply of Goods</i>);
“Group Structure Information and Resolution Commentary”	means the information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraphs 11 to 13 and Appendix 1 of Part 2 of Schedule 8.6 (Service Continuity Plan and Corporate Resolution Planning);
“Guarantee”	the deed of guarantee in favour of the Buyer entered into by the Guarantor on or about the date of this Contract (which is in the form set out in Schedule 10 (<i>Guarantee</i>)), or any guarantee acceptable to the Buyer that replaces it from time to time;
“Guarantor”	[To be completed after further competition] [<i>insert name</i>], a company registered in [<i>insert country</i>] with company number [<i>insert company number</i>] and whose registered office is at [<i>insert registered address</i>];
“Halifax Abuse Principle”	the principle explained in the CJEU Case C-255/02 Halifax and others;
“Health and Safety Policy”	the health and safety policy of the Buyer and/or other relevant Central Government Body as provided to the Supplier on or before the Effective Date and as subsequently provided to the Supplier from time to time except any provision of any such subsequently provided policy that cannot be reasonably reconciled to ensuring compliance with applicable Law regarding health and safety;
“HMRC”	HM Revenue & Customs;
“Impact Assessment”	has the meaning given in Schedule 8.2 (<i>Change Control Procedure</i>);
“Implementation Plan”	the Outline Implementation Plan or (if and when approved by the Buyer pursuant to Paragraph 3 of Schedule 6.1 (<i>Implementation Plan</i>)) the Detailed Implementation Plan as updated in accordance with Paragraph 4 of Schedule 6.1 (<i>Implementation Plan</i>) from time to time;
“Implementation Services”	the implementation services described as such in the Services Description;
“Implementation Services Commencement Date”	the date on which the Supplier is to commence provision of the first of the Services, being 01/05/24;

“Indemnified Person”	the Buyer and each and every person to whom the Buyer (or any direct or indirect sub-licensee of the Buyer) sub-licenses, assigns or novates any Relevant IPRs or rights in Relevant IPRs in accordance with this Contract;
“Independent Control”	where a Controller has provided Personal Data to another Party which is neither a Processor or Joint Controller because the recipient itself determines the purposes and means of processing but does so separately from the Controller providing it with Personal Data;
“Information”	all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);
“Initial Term”	the period set out in the Order Form from and including the Effective Date;
“Initial Upload Date”	means the occurrence of an event detailed in Part B of Attachment 8.4 (<i>Transparency Reports and Records to Upload to the Virtual Library</i>) of the Order Form which requires the Supplier to provide its initial upload of the relevant information to the Virtual Library;
“Insolvency Event”	<p>with respect to any person, means:</p> <ul style="list-style-type: none"> (a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or: <ul style="list-style-type: none"> (i) (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986; (b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;

	<ul style="list-style-type: none"> (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person; (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days; (e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; (f) where that person is a company, a LLP or a partnership: <ul style="list-style-type: none"> (i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person; (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person; (iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or (iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or (g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;
"Intellectual Property Rights" or "IPRs"	<ul style="list-style-type: none"> (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>(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>
“Intervention Cause”	has the meaning given in Clause 29.1 (Remedial Adviser);
“Intervention Notice”	has the meaning given in Clause 29.1 (<i>Remedial Adviser</i>);
“Intervention Period”	has the meaning given in Clause 29.2(c) (<i>Remedial Adviser</i>);
“Intervention Trigger Event”	<p>(a) any event falling within limb (a), (b), (c), (e), (f) or (g) of the definition of a Supplier Termination Event;</p> <p>(b) a Default by the Supplier that is materially preventing or materially delaying the performance of the Services or any material part of the Services;</p> <p>(c) the Supplier accruing in aggregate [<i>insert number of points which is 75% of the points that would constitute a “Critical Performance Failure”</i>] or more Service Points (in terms of the number of points allocated) in any period of [<i>insert number of months taken from definition of “Critical Performance Failure”</i>] months;</p> <p>(d) the Supplier accruing Service Credits which meet or exceed 75% of the Service Credit Cap; and/or</p> <p>(e) the Supplier not Achieving a Key Milestone within seventy-five (75) days of its relevant Milestone Date;</p>
“IPRs Claim”	any claim against any Indemnified Person of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any Relevant IPRs save for any such claim to the extent that it is caused by any use by or on behalf of that Indemnified Person of any Relevant IPRs, or the use of the Buyer Software by or on behalf of the Supplier, in either case in combination with any item not supplied or recommended by the Supplier pursuant to this Contract or for a purpose not reasonably to be inferred from the Services Description or the provisions of this Contract;
“IT”	information and communications technology;
“IT Environment”	the Buyer System and the Supplier System;

“Joint Controllers”	where two or more Controllers jointly determine the purposes and means of processing;
“Key Milestone”	the Milestones identified in the Implementation Plan as key milestones and in respect of which Delay Payments may be payable in accordance with Paragraph 1 of Part C of Schedule 7.1 (<i>Charges and Invoicing</i>) if the Supplier fails to Achieve the Milestone Date in respect of such Milestone;
“Key Performance Indicator”	the key performance indicators set out in Paragraph 1 and/or Paragraph 3 of Attachment 2.2 (<i>Key Performance Indicators and Subsidiary Performance Indicators Tables</i>) of the Order Form;
“Key Personnel”	those persons appointed by the Supplier to fulfil the Key Roles, being the persons listed in Attachment 9.2 (<i>Key Personnel</i>) of the Order Form against each Key Role as at the Effective Date or as amended from time to time in accordance with Clauses 14.5 and 14.6 (<i>Key Personnel</i>);
“Key Roles”	a role described as a Key Role in Attachment 9.2 (<i>Key Personnel</i>) of the Order Form and any additional roles added from time to time in accordance with Clause 14.4 (<i>Key Personnel</i>);
“Key Sub-contract”	each Sub-contract with a Key Sub-contractor;
“Key Sub-contractor”	any Sub-contractor: <ul style="list-style-type: none"> (a) which, in the opinion of CCS or the Buyer, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or (b) with a Sub-contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under this Contract (as set out in the Financial Model);
“Know-How”	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the Services but excluding know how already in the other Party’s possession before this Contract;
“KPI Failure”	a failure to meet the Target Performance Level in respect of a Key Performance Indicator;
“KPI Service Threshold”	shall be as set out against the relevant Key Performance Indicator in Paragraph 1 and/or Paragraph 3 of Attachment 2.2 (<i>Key Performance Indicators and Subsidiary Performance Indicators Tables</i>) of the Order Form;

“Law”	any law, statute, 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, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
“LED”	Law Enforcement Directive (<i>Directive (EU) 2016/680</i>);
“Licensed Software”	all and any Software licensed by or through the Supplier, its Sub-contractors or any third party to the Buyer for the purposes of or pursuant to this Contract, including any Supplier Software, Third Party Software and/or any Specially Written Software;
“Losses”	losses, liabilities, damages, costs and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise;
“Maintenance Schedule”	shall have the meaning set out in Clause 9.4 (<i>Maintenance</i>);
“Malicious Software”	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
“Management Information”	the management information specified in Schedule 2.2 (<i>Performance Levels</i>), Schedule 7.1 (<i>Charges and Invoicing</i>) and Schedule 8.1 (<i>Governance</i>) to be provided by the Supplier to the Buyer;
“Material Failure” KPI	(a) a Serious KPI Failure; (b) a Severe KPI Failure; or (c) a failure by the Supplier to meet a KPI Service Threshold;
“Material Failure” PI	(a) a failure by the Supplier to meet the PI Service Threshold in respect of 25% or more of the Subsidiary Performance Indicators that are measured in that Service Period; and/or (b) a failure by the Supplier to meet the Target Performance Level in respect of 50% or more of the Subsidiary

	Performance Indicators that are measured in that Service Period;
“Measurement Period”	in relation to a Key Performance Indicator or Subsidiary Performance Indicator, the period over which the Supplier’s performance is measured (for example, a Service Period if measured monthly or a 12 month period if measured annually);
“Milestone”	an event or task described in the Implementation Plan which, if applicable, shall be completed by the relevant Milestone Date;
“Milestone Achievement Certificate”	the certificate to be granted by the Buyer when the Supplier has Achieved a Milestone, which shall be in substantially the same form as that set out in Annex 3 of Schedule 6.2 (<i>Testing Procedures</i>);
“Milestone Adjustment Payment Amount”	<p>in respect of each CPP Milestone the subject of a Milestone Adjustment Payment Notice, an amount determined in accordance with the formula:</p> $A - B$ <p>where:</p> <p>(a) A is an amount equal to the aggregate sum of all Milestone Payments paid to the Supplier in respect of the Milestones (or in the case of Partial Termination, the Milestones for the parts of the Services terminated) relating to that CPP Milestone; and</p> <p>(b) B is an amount equal to the aggregate Allowable Price for the Retained Deliverables relating to that CPP Milestone or, if there are no such Retained Deliverables, zero;</p>
“Milestone Adjustment Payment Notice”	has the meaning given in Clause 34.7 (<i>Payments by the Supplier</i>);
“Milestone Date”	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
“Milestone Payment”	a payment identified in Table 1 of Part B of Attachment 7.1 (<i>Pricing Mechanism, Charging Mechanism, Adjustments, Risk Register and Allowable Assumptions</i>) of the Order Form to be made following the issue of a Milestone Achievement Certificate;
“Milestone Retention”	has the meaning given in Schedule 7.1 (<i>Charges and Invoicing</i>);

“Minor Failure” KPI	shall be as set out against the relevant Key Performance Indicator in Paragraph 1 and/or Paragraph 3 of Attachment 2.2 (<i>Key Performance Indicators and Subsidiary Performance Indicators Tables</i>) of the Order Form;
“month”	a calendar month and “monthly” shall be interpreted accordingly;
“Multi-Party Dispute Resolution Procedure”	has the meaning given in Paragraph 9.1 of Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
“Multi-Party Procedure Initiation Notice”	has the meaning given in Paragraph 9.2 of Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
“NCSC”	the National Cyber Security Centre or any replacement or successor body carrying out the same function;
“New Releases”	an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;
“Non-trivial Customer Base”	a significant customer base with respect to the date of first release and the relevant market but excluding Affiliates and other entities related to the licensor;
“Non-retained Deliverables”	in relation to a CPP Milestone Payment Notice and each CPP Milestone the subject of that CPP Milestone Payment Notice, Deliverables provided to the Buyer which relate to the relevant CPP Milestone(s) and which are not Retained Deliverables;
“Notifiable Default”	shall have the meaning given in Clause 27.1 (<i>Rectification Plan Process</i>);
“Object Code”	software and/or data in machine-readable, compiled object code form;
“Occasion of Tax Non-Compliance”	<p>(a) any tax return of the Supplier submitted to a Relevant Tax Buyer on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>(i) a Relevant Tax Buyer successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p>

	<p>(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 Buyer under the DOTAS or any equivalent or similar regime; and/or</p> <p>(b) any tax return of the Supplier submitted to a Relevant Tax Buyer on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion;</p>
“Open Book Data”	has the meaning given in Schedule 7.5 (<i>Financial Reports and Audit Rights</i>)
“Open Source”	computer Software that is released on the internet for use by any person, such release usually being made under a recognised open source licence and stating that it is released as open source;
“Operating Environment”	the Buyer System and the Sites;
“Operational Change”	<p>any change in the Supplier's operational procedures which in all respects, when implemented:</p> <p>(a) will not affect the Charges and will not result in any other costs to the Buyer;</p> <p>(b) may change the way in which the Services are delivered but will not adversely affect the output of the Services or increase the risks in performing or receiving the Services;</p> <p>(c) will not adversely affect the interfaces or interoperability of the Services with any of the Buyer's IT infrastructure; and</p> <p>(d) will not require a change to this Contract;</p>
“Operational Service Commencement Date”	<p>in relation to an Operational Service, the later of:</p> <p>(a) the date identified in the Operational Services Implementation Plan upon which the Operational Service is to commence; and</p> <p>(b) where the Implementation Plan states that the Supplier must have Achieved the relevant ATP Milestone before it can commence the provision of that Operational Service, the date upon which the Supplier Achieves the relevant ATP Milestone;</p>
“Operational Services”	the operational services described as such in the Services Description;
“Optional Services”	the services described as such in Attachment 2.1 (<i>Services Description</i>) of the Order Form which are to be provided by the Supplier if required by the Buyer in accordance with

	Clause 5.10 (<i>Optional Services</i>);
“Optional Services Implementation Plan”	the implementation plan to effect the Optional Services agreed between the Parties prior to the Effective Date and, if not agreed prior to the Effective Date, to be developed by the Supplier and approved by the Buyer;
“Order”	means the order placed by the Buyer with the Supplier for the provision of the Services in accordance with the Framework and under the terms of this Contract
“Order Form”	the form (based on the template included at Annex 1 to Framework Schedule 4 (Template Order Form and Template Call Off Terms)) together with any Attachments, as completed and forming part of this Contract, which contains details of an Order together with other information in relation to such Order, including the description of the Services to be provided;
“Other Supplier”	any supplier to the Buyer (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been aware;
“Outline Implementation Plan”	the outline plan set out in Attachment 6.1 (<i>Outline Implementation Plan</i>) of the Order Form;
“Parent Undertaking”	has the meaning set out in section 1162 of the Companies Act 2006;
“Partial Termination”	the partial termination of this Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 33.2(b) (<i>Termination by the Buyer</i>) or 33.3(b) (<i>Termination by the Supplier</i>) or otherwise by mutual agreement by the Parties;
“Parties” and “Party”	have the meanings respectively given on page 1 of this Contract;
“Performance Failure”	a KPI Failure or a PI Failure;
“Performance Indicators”	the Key Performance Indicators and the Subsidiary Performance Indicators;
“Permitted Maintenance”	has the meaning given in Clause 9.4 (<i>Maintenance</i>);
“Performance Monitoring Report”	has the meaning given in Schedule 2.2 (<i>Performance Levels</i>);

“Personal Data”	has the meaning given in the GDPR;
“Personal Data Breach”	has the meaning given in the GDPR;
“PI Failure”	a failure to meet the Target Performance Level in respect of a Subsidiary Performance Indicator;
“PI Service Threshold”	shall be as set out against the relevant Subsidiary Performance Indicator in Paragraph 2 and/or Paragraph 4 of Attachment 2.2 (<i>Key Performance Indicators and Subsidiary Performance Indicators Tables</i>) of the Order Form;
“Preceding Services”	has the meaning given in Clause 5.2(b) (<i>Standard of Services</i>);
“Processor”	has the meaning given to it under the GDPR;
“Processor Personnel”	means all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Contract;
“Programme Board”	the body described in Paragraph 5 of Schedule 8.1 (<i>Governance</i>);
“Prohibited Act”	<p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer a financial or other advantage to:</p> <p>(i) induce that person to perform improperly a relevant function or activity; or</p> <p>(ii) reward that person for improper performance of a relevant function or activity;</p> <p>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;</p> <p>(c) an offence:</p> <p>(i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);</p> <p>(ii) under legislation or common law concerning fraudulent acts; or</p>

	<p>(iii) defrauding, attempting to defraud or conspiring to defraud the Buyer (including offences by the Supplier under Part 3 of the Criminal Finances Act 2017); or</p> <p>(d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</p>
“Protective Measures:	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;
“Project Specific IPRs”	<p>(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 Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p> <p>(b) Intellectual Property Rights arising as a result of the performance of the Supplier's obligations under this Contract;</p> <p>but shall not include the Supplier Background IPRs or the Specially Written Software;</p>
“Public Sector Dependent Supplier”	means a supplier where that supplier, or that supplier's group has Annual Revenue of £50 million or more of which over 50% is generated from UK Public Sector Business;
“Public Sector and CNI Contract Information”	means the information requirements set out in accordance with Paragraphs 11 to 13 and Appendix II of Part 2 of Schedule 8.6 (Service Continuity Plan and Corporate Resolution Planning);
“Publishable Performance Information”	means any of the information in the Performance Monitoring Report as it relates to a Performance Indicator where it is expressed as publishable in the tables in Attachment 2.2 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of the Order Form which shall not constitute Commercially Sensitive Information;
“Quality Plans”	has the meaning given in Clause 6.1 (<i>Quality Plans</i>);
“Quarter”	the first three Service Periods and each subsequent three Service Periods (save that the final Quarter shall end on the date of termination or expiry of this Contract);

“Recipient”	has the meaning given in Clause 21.1 (<i>Confidentiality</i>);
“Records”	has the meaning given in Schedule 8.4 (<i>Reports and Records Provisions</i>);
“Rectification Plan”	a plan to address the impact of, and prevent the reoccurrence of, a Notifiable Default;
“Rectification Plan Failure”	<ul style="list-style-type: none"> (a) the Supplier failing to submit or resubmit a draft Rectification Plan to the Buyer within the timescales specified in Clauses 27.4 (<i>Submission of the draft Rectification Plan</i>) or 27.8 (<i>Contract of the Rectification Plan</i>); (b) the Buyer, acting reasonably, rejecting a revised draft of the Rectification Plan submitted by the Supplier pursuant to Clause 27.7 (<i>Contract of the Rectification Plan</i>); (c) the Supplier failing to rectify a material Default within the later of: <ul style="list-style-type: none"> (i) 30 Working Days of a notification made pursuant to Clause 27.2 (<i>Notification</i>); and (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; (d) a Material 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 Measurement Periods subsequent to the Measurement Period in which the initial Material KPI Failure occurred; (e) the Supplier not Achieving a Key Milestone by the expiry of the Delay Deduction Period; and/or (f) 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;
“Rectification Plan Process”	the process set out in Clauses 27.4 (<i>Submission of the draft Rectification Plan</i>) to 27.9 (<i>Contract of the Rectification Plan</i>);
“Registers”	has the meaning given in Schedule 8.5 (<i>Exit Management</i>);
“Reimbursable Expenses”	has the meaning given in Schedule 7.1 (<i>Charges and Invoicing</i>);

“Relevant Buyer” or “Relevant Authorities”	means the Buyer and the Cabinet Office Markets and Suppliers Team or, where the Supplier is a Strategic Supplier, the Cabinet Office Markets and Suppliers Team;
“Relevant IPRs”	IPRs used to provide the Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer or a third party in the fulfilment of the Supplier’s obligations under this Contract including IPRs in the Specially Written Software, the Supplier Non-COTS Software, the Supplier Non-COTS Background IPRs, the Third Party Non-COTS Software and the Third Party Non-COTS IPRs but excluding any IPRs in the Buyer Software, the Buyer Background IPRs, the Supplier COTS Software, the Supplier COTS Background IPRs, the Third Party COTS Software and/or the Third Party COTS IPRs;
“Relevant Preceding Services”	has the meaning given in Clause 5.2(b) (<i>Standard of Services</i>);
“Relevant Requirements”	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
“Relevant Tax Buyer”	HMRC, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;
“Relevant Transfer”	a transfer of employment to which the Employment Regulations applies;
“Relief Notice”	has the meaning given in Clause 31.2 (<i>Buyer Cause</i>);
“Remedial Adviser”	the person appointed pursuant to Clause 29.2 (<i>Remedial Adviser</i>);
“Remedial Adviser Failure”	has the meaning given in Clause 29.6 (<i>Remedial Adviser</i>);
“Replacement Services”	any services which are the same as or substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the expiry or termination or Partial Termination of this Contract, whether those services are provided by the Buyer internally and/or by any third party;
“Replacement Supplier”	any third party service provider of Replacement Services appointed by the Buyer from time to time (or where the Buyer is providing replacement Services for its own account, the Buyer);
“Request For Information”	a Request for Information under the FOIA or the EIRs;

“Required Action”	has the meaning given in Clause 30.1(a) (<i>Step-In Rights</i>);
“Retained Deliverables”	has the meaning given in Clause 34.8(b) (<i>Payments by the Supplier</i>);
“Risk Register”	the register of risks and contingencies that have been factored into any Costs due under this Contract, a copy of which is set out in Part C of Attachment 7.1 (<i>Charges and Invoicing</i>) of the Order Form;
“Security Management Plan”	has the meaning given to it in Schedule 2.4 (<i>Security Management</i>);
“Serious KPI Failure”	shall be as set out against the relevant Key Performance Indicator in Paragraph 1 and/or Paragraph 3 of Attachment 2.2 (<i>Key Performance Indicators and Subsidiary Performance Indicators Tables</i>) of the Order Form;
“Service Charges”	the periodic payments made in accordance with Schedule 7.1 (<i>Charges and Invoicing</i>) in respect of the supply of the Operational Services;
“Service Continuity Plan”	any plan prepared pursuant to Paragraph 2 of Schedule 8.6 (<i>Service Continuity Plan and Corporate Resolution Planning</i>) as may be amended from time to time;
“Service Continuity Services”	the business continuity, disaster recovery and insolvency continuity services set out in Schedule 8.6 (<i>Service Continuity Plan and Corporate Resolution Planning</i>);
“Service Credit Cap”	<p>(a) in the period of 12 months from the first Operational Service Commencement Date to occur after the Effective Date, [x]% of the Estimated Initial Service Charges; and</p> <p>(b) during the remainder of the Term, [x]% of the Service Charges paid and/or due to be paid to the Supplier under this Contract in the period of 12 months immediately preceding the Service Period in respect of which Service Credits are accrued;</p>
“Service Credits”	credits payable by the Supplier due to the occurrence of 1 or more KPI Failures, calculated in accordance with Paragraph 3 of Part C of Schedule 7.1 (<i>Charges and Invoicing</i>);
“Service Period”	<p>a calendar month, save that:</p> <p>(a) the first service period shall begin on the first Operational Service Commencement Date and shall expire at the end of the</p>

	<p>calendar month in which the first Operational Service Commencement Date falls; and</p> <p>(b) the final service period shall commence on the first day of the calendar month in which the Term expires or terminates and shall end on the expiry or termination of the Term;</p>
“Service Points”	in relation to a KPI Failure, the points that are set out against the relevant Key Performance Indicator in the fifth column of the table in Paragraph 1 and/or Paragraph 3 of Attachment 2.2 (<i>Key Performance Indicators and Subsidiary Performance Indicators Tables</i>) of the Order Form;
“Services”	any and all of the services to be provided by the Supplier under this Contract, including those set out in Attachment 2.1 (<i>Services Description</i>) of the Order Form;
“Service Transfer Date”	has the meaning given in Schedule 9.1 (<i>Staff Transfer</i>);
“Services Description”	the services description set out in Attachment 2.1 (<i>Services Description</i>) of the Order Form;
“Severe KPI Failure”	shall be as set out against the relevant Key Performance Indicator in Paragraph 1 and/or Paragraph 3 of Attachment 2.2 (<i>Key Performance Indicators and Subsidiary Performance Indicators Tables</i>) of the Order Form;
“Sites”	<p>any premises (including the Buyer Premises, the Supplier’s premises or third party premises):</p> <p>(a) from, to or at which:</p> <ul style="list-style-type: none"> (i) the Services are (or are to be) provided; or (ii) the Supplier manages, organises or otherwise directs the provision or the use of the Services; or <p>(b) where:</p> <ul style="list-style-type: none"> (i) any part of the Supplier System is situated; or (ii) any physical interface with the Buyer System takes place; <p>details of which are set out in the Order Form.</p>
“SME”	an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;

“Social Value”	the social, economic or environmental benefits set out in the Buyer’s Requirements;
“Software”	Specially Written Software, Supplier Software and Third Party Software;
“Software Supporting Materials”	has the meaning given in Clause 17.1(b) (<i>Specially Written Software and Project Specific IPRs</i>);
“Source Code”	computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
“Specially Written Software”	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 Contract, including any modifications or enhancements to Supplier Software or Third Party Software created specifically for the purposes of this Contract;
“Specific Change in Law”	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply;
“Staffing Information”	has the meaning given in Schedule 9.1 (<i>Staff Transfer</i>);
“Standards”	the standards, policies and/or procedures identified in Schedule 2.3 (<i>Standards</i>);
“Step-In Notice”	has the meaning given in Clause 30.1 (<i>Step-In Rights</i>);
“Step-In Trigger Event”	<p>(a) any event falling within the definition of a Supplier Termination Event;</p> <p>(b) a Default by the Supplier that is materially preventing or materially delaying the performance of the Services or any material part of the Services;</p> <p>(c) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this Contract;</p>

	<p>(d) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 30 (<i>Step-In Rights</i>) is necessary;</p> <p>(e) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Services; and/or</p> <p>(f) a need by the Buyer to take action to discharge a statutory duty;</p>
“Step-Out Date”	has the meaning given in Clause 30.5(b) (<i>Step-In Rights</i>);
“Step-Out Notice”	has the meaning given in Clause 30.5 (<i>Step-In Rights</i>);
“Step-Out Plan”	has the meaning given in Clause 30.6 (<i>Step-In Rights</i>);
“Strategic Supplier”	means those suppliers to government listed at https://www.gov.uk/government/publications/strategic-suppliers ;
“Sub-contract”	any contract or agreement (or proposed contract or agreement) between the Supplier (or a Sub-contractor) and any third party whereby that third party agrees to provide to the Supplier (or the Sub-contractor) all or any part of the Services or facilities or services which are material for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof;
“Sub-contractor”	<p>any third party with whom:</p> <p>(a) the Supplier enters into a Sub-contract; or</p> <p>(b) a third party under (a) above enters into a Sub-contract, or the servants or agents of that third party;</p>
“Sub-processor”	any third party appointed to process Personal Data on behalf of the Supplier related to this Contract;
“Subsidiary Performance Indicator”	the performance indicators set out in Paragraph 2 and/or Paragraph 4 of Attachment 2.2 (<i>Key Performance Indicators and Subsidiary Performance Indicators Tables</i>) of the Order Form;
“Subsidiary Undertaking”	has the meaning set out in section 1162 of the Companies Act 2006;
“Successor Body”	has the meaning given in Clause 36.4 (<i>Assignment and Novation</i>);

“Supplier”	means the entity identified as such in the Order Form;
“Supplier Background IPRs”	<p>(a) Intellectual Property Rights owned by the Supplier before the Effective Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/or</p> <p>(b) Intellectual Property Rights created by the Supplier independently of this Contract,</p> <p>which in each case is or will be used before or during the Term for designing, testing implementing or providing the Services but excluding Intellectual Property Rights owned by the Supplier subsisting in the Supplier Software;</p>
“Supplier COTS Background IPRs”	<p>any embodiments of Supplier Background IPRs that:</p> <p>(a) the Supplier makes generally available commercially prior to the date of this Contract (whether by way of sale, lease or licence) on standard terms which are not typically negotiated by the Supplier save as to price; and</p> <p>(b) has a Non-trivial Customer Base;</p>
“Supplier COTS Software”	<p>Supplier Software (including open source software) that:</p> <p>(a) the Supplier makes generally available commercially prior to the date of this Contract (whether by way of sale, lease or licence) on standard terms which are not typically negotiated by the Supplier save as to price; and</p> <p>(b) has a Non-trivial Customer Base;</p>
“Supplier Equipment”	the hardware, computer and telecoms devices and equipment used by the Supplier or its Sub-contractors (but not hired, leased or loaned from the Buyer) for the provision of the Services;
“Supplier Group”	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
“Supplier Non-COTS Background IPRs”	any embodiments of Supplier Background IPRs that have been delivered by the Supplier to the Buyer and that are not Supplier COTS Background IPRs;
“Supplier Non-COTS Software”	Supplier Software that is not Supplier COTS Software;

“Supplier Non-Performance”	has the meaning given in Clause 31.1 (<i>Buyer Cause</i>);
“Supplier Personnel”	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-contractor engaged in the performance of the Supplier’s obligations under this Contract;
“Supplier Profit”	has the meaning given in Schedule 7.1 (<i>Charges and Invoicing</i>);
“Supplier Profit Margin”	has the meaning given in Schedule 7.1 (<i>Charges and Invoicing</i>);
“Supplier Representative”	the representative appointed by the Supplier (as may be changed from time to time in accordance with Clause 11.3, the details of which as at the Effective Date are set out in the Order Form
“Supplier Software”	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, including the software specified as such in Schedule 5 (<i>Software</i>);
“Supplier Solution”	the Supplier's solution for the Services set out in Attachment 4.1 (<i>Supplier Solution</i>) of the Order Form including any Annexes of that Attachment;
“Supplier System”	the information and communications technology system used by the Supplier in implementing and performing the Services including the Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Buyer System);
“Supplier Termination Event”	<ul style="list-style-type: none"> (a) the Supplier’s level of performance constituting a Critical Performance Failure; (b) the Supplier committing a material Default which is irremediable; (c) as a result of the Supplier's Default, the Buyer incurring Losses in any Contract Year which exceed 80% of the value of the aggregate annual liability cap for that Contract Year as set out in Clause 25.6(a) (<i>Financial and other Limits</i>); (d) a Remedial Adviser Failure; (e) a Rectification Plan Failure; (f) where a right of termination is expressly reserved in this Contract, including pursuant to:

	<ol style="list-style-type: none"> 1. Clause 19 (<i>IPRs Indemnity</i>); 2. Clause 39.6(b) (<i>Prevention of Fraud and Bribery</i>); and/or 3. Paragraph 6 of Schedule 7.4 (<i>Financial Distress</i>); 4. Paragraph 12 of Part 2 to Schedule 8.6 (<i>Service Continuity Plan and Corporate Resolution Planning</i>); <p>(g) the representation and warranty given by the Supplier pursuant to Clause 3.2(i) (<i>Warranties</i>) being materially untrue or misleading;</p> <p>(h) the Supplier committing a material Default under Clause 10.10 (<i>Promoting Tax Compliance</i>) or failing to provide details of steps being taken and mitigating factors pursuant to Clause 10.10 (<i>Promoting Tax Compliance</i>) which in the reasonable opinion of the Buyer are acceptable;</p> <p>(i) the Supplier committing a material Default under any of the following Clauses:</p> <ol style="list-style-type: none"> 1. Clause 5.5(j) (<i>Services</i>); 2. Clause 23 (<i>Protection of Personal Data</i>); 3. Clause 22 (<i>Transparency and Freedom of Information</i>); 4. Clause 21 (<i>Confidentiality</i>); and 5. Clause 35 (<i>Compliance</i>); and/or <p>in respect of any security requirements set out in Attachment 2.1 (<i>Services Description</i>) of the Order Form, Schedule 2.4 (<i>Security Management</i>) or the Baseline Security Requirements; and/or</p> <p>in respect of any requirements set out in Schedule 9.1 (<i>Staff Transfer</i>);</p> <p>(j) any failure by the Supplier to implement the changes set out in a Benchmark Report as referred to in Paragraph 5.9 of Schedule 7.3 (<i>Benchmarking</i>);</p> <p>(k) an Insolvency Event occurring in respect of the Supplier or the Guarantor;</p> <p>(l) the Guarantee ceasing to be valid or enforceable for any reason (without the Guarantee being replaced with a comparable guarantee to the satisfaction of the Buyer with the Guarantor or with another guarantor which is acceptable to the Buyer);</p>
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	<p>(m) a change of Control of the Supplier or a Guarantor unless:</p> <ol style="list-style-type: none"> 1. the Buyer has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or 2. the Buyer has not served its notice of objection within 6 months of the later of the date on which the Change of Control took place or the date on which the Buyer was given notice of the Change of Control; <p>(n) a change of Control of a Key Sub-contractor unless, within 6 months of being notified by the Buyer that it objects to such change of Control, the Supplier terminates the relevant Key Sub-contract and replaces it with a comparable Key Sub-contract which is approved by the Buyer pursuant to Clause 15.10 (<i>Appointment of Key Sub-contractors</i>);</p> <p>(o) any failure by the Supplier to enter into or to comply with an Admission Contract under the Annex to either Part A or Part B of Schedule 9.1 (<i>Staff Transfer</i>);</p> <p>(p) the Buyer has become aware that the Supplier should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Contract;</p> <p>(q) a failure by the Supplier to comply in the performance of the Services with legal obligations in the fields of environmental, social or labour law; or</p> <p>(r) in relation to Schedule 2.4 (Security Requirements):</p> <ol style="list-style-type: none"> a. the Buyer has issued two rejection notices in respect of the Risk Management Document Set under Paragraph 4.5.2 (Part A) or Paragraph 6.8.2 (Part B), as the case may be; b. the Supplier fails to implement a change required by the Required Changes Register in accordance with the timescales set out in the Required Changes Register; c. Supplier COTS Software and Third Party COTS Software is not within mainstream support unless the Buyer has agreed in writing; d. the Supplier fails to patch vulnerabilities in accordance with the Security Requirements; and/or, e. the Supplier fails to comply with the Incident Management Process;
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“Supply Chain Transparency Report”	means the report provided by the Supplier to the Buyer in the form set out in Annex 4 of Schedule 8.4 (Reports and Records Provisions);
“Target Performance Level”	the minimum level of performance for a Performance Indicator which is required by the Buyer, as set out against the relevant Performance Indicator in the tables in Paragraphs 1 – 4 (inclusive) of Attachment 2.2 (<i>Key Performance Indicators and Subsidiary Performance Indicators Tables</i>) of the Order Form;
“Term”	the period commencing on the Effective Date and ending on the expiry of the Initial Term or any Extension Period or on earlier termination of this Contract;
“Termination Assistance Notice”	has the meaning given in Paragraph 5.1 of Schedule 8.5 (<i>Exit Management</i>);
“Termination Assistance Period”	in relation to a Termination Assistance Notice, the period specified in the Termination Assistance Notice for which the Supplier is required to provide the Termination Services as such period may be extended pursuant to Paragraph 5.2 of Schedule 8.5 (<i>Exit Management</i>);
“Termination Date”	the date set out in a Termination Notice on which this Contract (or a part of it as the case may be) is to terminate;
“Termination Notice”	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 Contract (or any part thereof) on a specified date and setting out the grounds for termination;
“Termination Payment”	the payment determined in accordance with Schedule 7.2 (<i>Payments on Termination</i>);
“Termination Services”	the services and activities to be performed by the Supplier pursuant to the Exit Plan, including those activities listed in Annex 1 of Schedule 8.5 (<i>Exit Management</i>), and any other services required pursuant to the Termination Assistance Notice;
“Test Issues”	has the meaning given in Schedule 6.2 (<i>Testing Procedures</i>);
“Tests” and “Testing”	any tests required to be carried out under this Contract, as further described in Schedule 6.2 (<i>Testing Procedure</i>) and “Tested” shall be construed accordingly;
“Test Success Criteria”	has the meaning given in Schedule 6.2 (<i>Testing Procedures</i>);

“Third Auditor”	Party	an independent third party auditor as appointed by the Buyer from time to time to confirm the completeness and accuracy of information uploaded to the Virtual Library in accordance with the requirements outlined in Schedule 8.4 (Reports and Records Provisions);
“Third Beneficiary”	Party	has the meaning given in Clause 43.1 (<i>Third Party Rights</i>);
“Third Party COTS IPRs”		Third Party IPRs that: (a) the supplier makes generally available commercially prior to the date of this Contract (whether by way of sale, lease or licence) on standard terms which are not typically negotiated by the supplier save as to price; and (b) has a Non-trivial Customer Base;
“Third Party COTS Software”		Third Party Software (including open source software) that: (a) the supplier makes generally available commercially prior to the date of this Contract (whether by way of sale, lease or licence) on standard terms which are not typically negotiated by the supplier save as to price; and (b) has a Non-trivial Customer base;
“Third Party IPRs”		Intellectual Property Rights owned by a third party but excluding Intellectual Property Rights owned by the third party subsisting in any Third Party Software;
“Third Non-COTS IPRs”	Party	Third Party IPRs that are not Third Party COTS IPRs;
“Third Non-COTS Software”	Party	Third Party Software that is not Third Party COTS Software;
“Third Provisions”	Party	has the meaning given in Clause 43.1 (<i>Third Party Rights</i>);
“Third Software”	Party	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, including the software specified as such in Schedule 5 (<i>Software</i>);
“Transferring Assets”		has the meaning given in Paragraph 6.2(a) of Schedule 8.5 (<i>Exit Management</i>);

“Transferring Buyer Employees”	has the meaning given in Schedule 9.1 (<i>Staff Transfer</i>);
“Transferring Former Supplier Employees”	has the meaning given in Schedule 9.1 (<i>Staff Transfer</i>);
“Transferring Supplier Employees”	has the meaning given in Schedule 9.1 (<i>Staff Transfer</i>);
“Transparency Information”	has the meaning given in Clause 22.1 (<i>Transparency and Freedom of Information</i>);
“Transparency Reports”	has the meaning given in Schedule 8.4 (<i>Reports and Records Provisions</i>);
“UK”	the United Kingdom;
“UK Public Sector Business”	means any goods, service or works provision to UK public sector bodies, including Central Government Departments and their arm's length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police, fire and rescue, education bodies and devolved administrations;
“UK Public Sector / CNI Contract Information”	means the information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraphs 11 to 13 and Appendix II of Part 2 of Schedule 8.6 (<i>Service Continuity Plan and Corporate Resolution Planning</i>);
“Unacceptable KPI Failure”	the Supplier failing to achieve the KPI Service Threshold in respect of more than 50% of the Key Performance Indicators that are measured in that Service Period;
“Unconnected Sub-contract”	any contract or agreement which is not a Sub-contract and is between the Supplier and a third party (which is not an Affiliate of the Supplier) and is a qualifying contract under regulation 6 of The Reporting on Payment Practices and Performance Regulations 2017;
“Unconnected Sub-contractor”	any third party with whom the Supplier enters into an Unconnected Sub-contract;
“Unrecovered Payment”	has the meaning given in Schedule 7.2 (<i>Payments on Termination</i>);

“Updates”	in relation to any Software and/or any Deliverable means a version of such item which has been produced primarily to overcome Defects in, or to improve the operation of, that item;
“Update Requirement”	means the occurrence of an event detailed in Part B of Attachment 8.4 (Transparency Reports and Records to Upload to the Virtual Library) which requires the Supplier to update the relevant information hosted on the Virtual Library;
“Upgrades”	any patch, New Release or upgrade of Software and/or a Deliverable, including standard upgrades, product enhancements, and any modifications, but excluding any Update which the Supplier or a third party software supplier (or any Affiliate of the Supplier or any third party) releases during the Term;
“Valid”	in respect of an Assurance, has the meaning given to it in Paragraph 11.7 of Part 2 to Schedule 8.6 (Service Continuity Plan and Corporate Resolution Planning);
“VAT”	value added tax as provided for in the Value Added Tax Act 1994;
“VCSE”	means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
“Virtual Library”	means the data repository hosted by the Supplier containing the information about this Contract and the Services provided under it in accordance with Schedule 8.4 (Reports and Records Provisions) and Part B of Attachment 8.4 (<i>Transparency Reports and Records to Upload to the Virtual Library</i>) of the Order Form; and
“Working Day”	any day other than a Saturday, Sunday or public holiday in England and Wales.