

Schedules

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Schedule 1: Definitions

1. Definitions

- 1.1 In the Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In the Contract, unless the context otherwise requires:
 - 1.3.1 the singular includes the plural and vice versa;
 - 1.3.2 reference to a gender includes the other gender and the neuter;
 - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated, replaced or re-enacted (including as a consequence of the Retained EU Law (Revocation and Reform) Act 2023) from time to time;
 - 1.3.5 the words “**including**”, “**other**”, “**in particular**”, “**for example**” and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words “**without limitation**”;
 - 1.3.6 references to “**writing**” include typing, printing, lithography, photography, display on a screen, electronic transmission and other modes of representing or reproducing words in a visible form, except facsimile, and expressions referring to writing shall be construed accordingly;
 - 1.3.7 references to “**representations**” shall be construed as references to present facts, to “**warranties**” as references to present and future facts and to “**undertakings**” as references to obligations under the Contract;
 - 1.3.8 references to “**Clauses**” and “**Schedules**” are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
 - 1.3.9 references to “**Paragraphs**” are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided; and
 - 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified.
 - 1.3.11 the headings in the Contract are for ease of reference only and shall not affect

the interpretation or construction of the Contract; and

1.3.12 where the Authority is a Crown Body it shall be treated as contracting with the Crown as a whole.

1.4 Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time):

1.4.1 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 IP Completion 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

1.4.2 any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.

1.5 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 Authority and the Parties shall update this Contract with a reference to the replacement hyperlink.

"Accounting Reference Date" in each year the date to which the Supplier prepares its annual audited financial statements;

"Achieve"

- (a) in respect of a Test, to successfully pass a Test without any Test Issues; and
- (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 17 (*IT Testing Procedures*),

and **"Achieved"** and **"Achievement"** shall be construed accordingly;

"Additional User" means:

- (a) public sector bodies;
- (b) Central Government Bodies;
- (c) private sector bodies;
- (d) third sector/charitable bodies;
- (e) Devolved Administrations,

who on-board to certain of the provisions of this Contract pursuant to Schedule 9 (*Onboarding Additional Users*);

“Additional Agreement”	User	an agreement between the Authority, the Supplier and any Additional User in the form set out in Annex 2 of Schedule 9 (<i>Onboarding Additional Users</i>);
“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;
“Annual Report”	Contract	has the meaning given in Schedule 23 (<i>Financial Reports and Audit Rights</i>);
“Annual Revenue”		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: (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 (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;
“Anticipated Life Profit Margin”	Contract	has the meaning given in the Finance Response Template and also referred to in Schedule 20 (<i>Payments on Termination</i>);
“Assets”		all assets and rights used by the Supplier to provide the Goods and/or Services in accordance with this Contract but excluding the Authority Assets;
“Associated Person”		has the meaning given to it in Section 44(4) of the Criminal Finances Act 2017;
“Associates”		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”		written confirmation from a Relevant Authority to the Supplier that the CRP Information is approved by the Relevant Authority;

“ATP Milestone“	the Milestone linked to Authority to Proceed for the relevant Services set out in the Implementation Plan;
“Audit“	any exercise by the Authority of its Audit Rights pursuant to Clause 12 (<i>Records, Reports, Audit and Open Book Data</i>) and Schedule 23 (<i>Financial Reports and Audit Rights</i>);
“Audit Agents“	(a) the Authority’s internal and external auditors; (b) the Authority’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 Authority 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 23 (<i>Financial Reports and Audit Rights</i>);
“Authority Assets“	the Authority Materials, the Authority infrastructure and any other data, software, assets, equipment or other property owned by and/or licensed or leased to the Authority and which is or may be used in connection with the provision or receipt of the Goods and/or Services;
“Authority Background IPRs“	(a) IPRs owned by the Authority before the Effective Date, including IPRs contained in any of the Authority’s Know-How, documentation, processes and procedures; (b) IPRs created by the Authority independently of this Contract; and/or (c) Crown Copyright which is not available to the Supplier otherwise than under this Contract; but excluding IPRs owned by the Authority subsisting in the Authority Software;
“Authority Cause“	any material breach by the Authority of any of the Authority Responsibilities, except to the extent that such breach is: (a) the result of any act or omission by the Authority to which the Supplier has given its prior consent; or

	(b) caused by the Supplier, any Sub-contractor or any Supplier Personnel;
“Authority IT Strategy“	the Authority’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;
“Authority Materials“	the Government Data together with any materials, documentation, information, programs and codes supplied by the Authority to the Supplier, the IPRs in which: (a) are owned or used by or on behalf of the Authority; and (b) are or may be used in connection with the provision or receipt of the Goods and/or Services, but excluding any Project Specific IPRs, Specially Written Software, Supplier Software, Third Party Software and Documentation relating to Supplier Software or Third Party Software;
“Authority Premises“	premises owned, controlled or occupied by the Authority and/or any Crown Body which are made available for use by the Supplier or its Sub-contractors for provision of the Goods and/or Services (or any of them);
“Authority Representative“	the representative appointed by the Authority pursuant to Clause 11.4 (<i>Representatives</i>);
“Authority Requirements“	the requirements of the Authority set out in Schedule 2 (Goods Description and Services Description), Schedule 3 (Performance Levels), Schedule 4 (Standards, Schedule 7 (Security Management), Schedule 8 (Insurance Requirements, Schedule 16 (Implementation Management Plan), Schedule 27 (Reports and Records Provisions), 28 (Exit Management) and Schedule 29 (Service Continuity Plan and Corporate Resolution Planning);
“Authority Responsibilities“	the responsibilities of the Authority specified in Schedule 10 (Authority Responsibilities);
“Authority Software“	software which is owned by or licensed to the Authority (other than under or pursuant to this Contract) and which is or will be used by the Supplier for the purposes of providing the Goods and/or Services;
“Authority System“	the Authority’s computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Supplier in connection with this Contract which is owned by the Authority or licensed to it by a

third party and which interfaces with the Supplier System or which is necessary for the Authority to receive the Goods and/or Services;

“Authority to Proceed” or “ATP” the authorisation to the Supplier to commence the provision of the relevant Services to the Authority, provided by the Authority in the form of a Milestone Achievement Certificate in respect of the ATP Milestone;

“Baseline Security Requirements” the Authority's baseline security requirements, the current copy of which is contained in Schedule 7, Annex 1 (Security Management), as updated from time to time by the Authority and notified to the Supplier;

“Board” the Supplier's board of directors;

“Board Confirmation” means the written confirmation from the Board in accordance with Schedule 22, Paragraph 8 (Financial Distress);

“Breakage Costs Payment” has the meaning given in Schedule 20 (Payments on Termination);

“Cabinet Office Markets and Suppliers Team” 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;

“Central Government Body” a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:

- (a) government Department;
- (b) non-departmental public body or assembly sponsored public body (advisory, executive, or tribunal);
- (c) non-ministerial Department; or
- (d) executive agency;

“Change” any change to this Contract, other than an Operational Change;

“Change Authorisation Note” a form setting out an agreed Change which shall be substantially in the form of Schedule 25, Annex 2 (Change Control Procedure);

“Change Control Procedure” the procedure for changing this Contract set out in Schedule 25 (Change Control Procedure);

“Change in Law”	any change in Law which impacts on the provision of the Goods and/or performance of the Services which comes into force after the Effective Date;
“Change Request”	a written request for a Change substantially in the form of Schedule 25, Annex 1 (Change Control Procedure);
“Charges”	the Prices and Fees for the provision of the Goods and Services, set out in, or otherwise calculated in accordance with Schedule 19 (Charges and Invoicing);
“Class 1 Transaction”	has the meaning set out in the listing rules issued by the UK Listing Authority;
“CNI”	Critical National Infrastructure;
“Commercially Sensitive Information”	the information listed in Schedule 12 (Commercially Sensitive Information) comprising the information of a commercially sensitive nature relating to: (a) the pricing of the Goods and Services; (b) details of the Supplier’s IPRs; and (c) the Supplier’s business and investment plans, which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss;
“Comparable Supply”	the supply of goods and/or services to another customer of the Supplier that are the same or similar to any of the Goods and/or Services;
“Compensation Payment”	has the meaning given in Schedule 20 (Payments on Termination);
“Condition Precedent”	has the meaning given in Clause 4.2 (<i>Condition Precedent</i>);
“Confidential Information”	(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: (i) the Disclosing Party Group; or (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Disclosing Party Group;

- (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 attention or into the Recipient's possession in connection with this Contract;
- (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
- (d) Information derived from any of the above,

but not including any Information which:

- (i) was in the possession of the Recipient without obligation of confidentiality prior to its disclosure by the Disclosing Party;
- (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;
- (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;
- (iv) was independently developed without access to the Confidential Information; or
- (v) relates to the Supplier's:
 - (1) performance under this Contract; or
 - (2) failure to pay any Sub-contractor as required pursuant to Clause 15.16 (*Supply Chain Protection*);

“Conflict of Interest“	a conflict between the financial or personal duties of the Supplier or the Supplier Personnel and the duties owed to the Authority under the Contract, in the reasonable opinion of the Authority;
“Contract“	the contract between the Authority and the Supplier;
“Contract Report“	Inception the initial financial model in a form agreed by the Supplier and the Authority in writing on or before the Effective Date;
“Contracts Finder“	the online government portal which allows suppliers to search for information about contracts as prescribed by Part 4 of the Public Contract Regulations 2015;
“Contract Year“	(a) a period of 12 months commencing on the Effective Date; or (b) thereafter a period of 12 months commencing on each anniversary of the Effective Date, provided that the final Contract Year shall end on the expiry or termination of the Term;
“Control“	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;
“Controller“	has the meaning given in the UK GDPR or the EU GDPR as the context requires;
“Corporate Event“	Change means: (a) any change of Control of the Supplier or a Parent Undertaking of the Supplier; (b) any change of Control of any member of the Supplier Group which, in the reasonable opinion of the Authority, could have a material adverse effect on the provision of Goods and/or Services; (c) any change to the business of the Supplier or any member of the Supplier Group which, in the reasonable opinion of the Authority, could have a material adverse effect on the provision of Goods and/or Services; (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;

- (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;
- (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;
- (g) an order is made or an effective resolution is passed for the winding up of any member of the Supplier Group;
- (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 member of the Supplier Group;
- (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
- (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;

“Corporate Change Event Grace Period“ a grace period agreed to by the Relevant Authority for providing CRP Information and/or updates to Service Continuity Plan after a Corporate Change Event;

“Corporate Resolvability Assessment (Structural Review)“ part of the CRP Information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraphs 2 and Annex 2: Corporate Resolvability Assessment (Structural Review) Annex 2: Corporate Resolvability Assessment (Structural Review of Schedule 29 (*Service Continuity Plan and Corporate Resolution Planning*));

“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 17 (*IT Testing Procedures*);

“Critical Infrastructure“	National	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: (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 (b) significant impact on the national security, national defence, or the functioning of the UK;
“Critical Contract“	Service	the overall status of the Goods and Services provided under this Contract as determined by the Authority and specified in Paragraph 1.1 of Part B to Schedule 29 (<i>Service Continuity Plan and Corporate Resolution Planning</i>);
“Crown Body“		the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government Departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
“Crown Copyright“		has the meaning given in the Copyright, Designs and Patents Act 1988;
“CRP Information“		the Corporate Resolution Planning Information, together, the: (a) Exposure Information (Contracts List); (b) Corporate Resolvability Assessment (Structural Review); and (c) Financial Information and Commentary;
“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 Data Loss Event;
“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“	Protection	(a) the UK GDPR;

	(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; and (d) (to the extent that it applies) the EU GDPR;
“Data Subject”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“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 or any other deduction which is paid or payable to the Authority under this Contract;
“Default”	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: (a) in the case of the Authority, of its employees, servants, agents; or (b) in the case of the Supplier, of its Sub-contractors or any Supplier Personnel, 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;
“Defect”	(a) any error, damage or defect in the manufacturing of a Deliverable; or (b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or (c) any failure of any Deliverable to provide the performance, features and functionality specified in the Authority 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 (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 Authority 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;
“Delay“		(a) a delay in the Achievement of a Milestone by its Milestone Date; or (b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
“Deliverable“		an item, feature or software 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;
“Delivery“		delivery of the Goods in accordance with Clause 5.9 and Schedule 5 (Delivery);
“Delivered“		the successful Delivery of any Goods in accordance with the provisions of this Contract and is not in Dispute by the Authority;
“Dependent Undertaking“	Parent	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 Goods and/or 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 2 and 3 of Schedule 16 (Implementation Plan);
“Devolved Administrations“		the devolved administrations of Scotland, Wales and Northern Ireland (the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly);
“Disclosing Party“		has the meaning given in Clause 19.1 (<i>Confidentiality</i>);
“Disclosing Group“	Party	(a) where the Disclosing Party is the Supplier, the Supplier and any Affiliates of the Supplier; and (b) where the Disclosing Party is the Authority, the Authority and any Crown Body with which the Authority or the Supplier interacts in connection with this Contract;
“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 Goods and/or 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 26 (Dispute Resolution Procedure);

“Documentation“ descriptions of the Goods, Services and Key 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:

- (a) is required to be supplied by the Supplier to the Authority under this Contract;
- (b) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Authority to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide Services;
- (c) is required by the Supplier in order to provide the Goods and/or Services; and/or
- (d) has been or shall be generated for the purpose of providing the Goods and/or Services;

“DOTAS“ 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 2018“ the Data Protection Act 2018;

“Due Diligence Information”	any information supplied to the Supplier by or on behalf of the Authority prior to the Effective Date;
“EEA”	European Economic Area;
“Effective Date”	the later of: (a) the date on which this Contract 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 (<i>Condition Precedent</i>);
“EIRs”	the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commissioner or any Crown Body in relation to such Regulations;
“Emergency Maintenance”	ad hoc and unplanned maintenance provided by the Supplier where: (a) the Authority reasonably suspects that the IT Environment, the Goods and/or the Services, or any part of the IT Environment, the Goods and/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, the Goods and/or the Services or any part the IT Environment, the Goods and/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: (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; and
		(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;
“End User”		any person (i) authorised by the Authority to use the IT Environment and/or Services; and/or (ii) who is provided with Goods to wear on a Site;
“Entitlement”		the allocation of each item of Goods that an End User can order per Contract Year;
"Environmental and Sustainability Plan"		a plan setting out the Supplier's environmental and sustainability objectives and responsibilities in the context of the provision of the Goods and Services;
“Estimated Charges”	Year	1 the estimated Charges payable by the Authority during the first Contract Year, as set out in the Finance Response Template;
“Estimated Charges”	Initial	the estimated Charges payable by the Authority during the period of 12 months from the Goods Commencement Date and Service Commencement Date, as set out in the Finance Response Template;
“EU GDPR”		Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
“EU”		European Union;

“Exit Management“		services, activities, processes and procedures to ensure a smooth and orderly transition of all or part of the provision of Goods and/or Services from the Supplier to the Authority and/or a Replacement Supplier, as set out or referred to in Schedule 28 (Exit Management);
“Exit Plan“		the plan produced and updated by the Supplier during the Term in accordance with Schedule 28, Paragraph 5 (Exit Management);
“Expedited Timetable“	Dispute	the reduced timetable for the resolution of Disputes set out in Schedule 26, Paragraph 3 (Dispute Resolution Procedure);
“Expert“		has the meaning given in Schedule 26 Dispute Resolution Procedure);
“Expert Determination“		the process described in Schedule 26, Paragraph 6 (Dispute Resolution Procedure);
“Exposure Information (Contracts List)“		part of the CRP Information relating to the Supplier Group to be provided by the Supplier in accordance with Schedule 29, Part B, Paragraph 2 and Annex 1 (Service Continuity Plan and Corporate Resolution Planning);
“Extension Period“		a period of up to 2 (two) years in two tranches of 12 (twelve) months each from the end of the Initial Term;
"Fees"		the fees for the Services, other than the Supplier System element of the Services provision, as listed in the Finance Response Template, as amended from time to time;
“Financial Event“	Distress	the occurrence of one or more of the events listed in Schedule 22, Paragraph 3.1 (Financial Distress);
“Financial Information and Commentary“		part of the CRP Information requirements set out in accordance with Schedule 29, Part B, Paragraph 2 and Annex 3 (Service Continuity Plan and Corporate Resolution Planning);
“Financial Remediation Plan“	Distress	a plan setting out how the Supplier will ensure the continued performance and delivery of the Goods and Services in accordance with this Contract in the event that a Financial Distress Event occurs. This plan should include what the Authority would need to put in place to ensure performance and delivery of the Goods and Services in accordance with this Contract up to and including any Insolvency Event in respect of the relevant FDE Group entity and may refer to the Insolvency Continuity Plan in this regard;

“Finance Template“	Response	has the meaning given in Schedule 23 (Financial Reports and Audit Rights), and as appended at Schedule 19, Annex 1 (Charges and Invoicing);
“Financial Reports“		has the meaning given in Schedule 23 (Financial Reports and Audit Rights);
“Financial Transparency Objectives“		has the meaning given in Schedule 23 (Financial Reports and Audit Rights);
“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 Crown 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 31 (Staff Transfer);
“General Rule“	Anti-Abuse	(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 Law“	Change in	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 Practice“	Industry	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 goods and/or services similar to the Goods and/or

	Services to a customer like the Authority, such supplier seeking to comply with its contractual obligations in full and complying with applicable Laws;
“Goods“	any and all of the goods to be provided by the Supplier under this Contract and any Additional User Agreement, including those set out in the Goods Description in Schedule 2 (<i>Goods Description and Services Description</i>) , and includes Optional Goods/Services, but does not include Inherited Stock;
“Goods Commencement Date“	in relation to the provision of Goods, the date immediately following completion of the Implementation Services in relation to the Goods, or such other date as agreed between the Parties;
“Goods Description“	the IPC, set out in the Goods Description in Schedule 2 (<i>Goods Description and Services Description</i>);
“Goods KPI“	the Goods KPIs set out in the table in Schedule 3, Part B (<i>Performance Levels</i>);
“Goods Persistent Default“	has the meaning given in Schedule 3, Part B, Paragraph 6.1 (<i>Performance Levels</i>);
“Government Data“	(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: (i) supplied to the Supplier by or on behalf of the Authority; and/or (ii) which the Supplier is required to generate, process, store or transmit pursuant to this Contract; or (b) any Personal Data for which the Authority is the Controller;
“Guarantee“	the deed of guarantee in favour of the Authority entered into by the Guarantor on or about the date of this Contract, which is in the form set out in Schedule 32 (Key Personnel), or any guarantee acceptable to the Authority that replaces it from time to time;
“Guarantor“ – Not Used	[insert name], a company registered in [insert country] with company number [insert company number] and whose registered office is at [insert registered address];
“Halifax Principle“	Abuse the principle explained in the CJEU Case C-255/02 Halifax and others;

“Health and Safety Policy“	the health and safety policy of the Authority and/or other relevant Crown 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 25 (Change Control Procedure);
“Implementation Persistent Default“	has the meaning given in Schedule 3, Part A, Paragraph 6.1 (Performance Levels);
“Implementation Plan“	the Initial Implementation Plan or (if and when approved by the Authority pursuant to Paragraph 2 of Schedule 16 (Implementation Plan) the Detailed Implementation Plan as updated in accordance with Paragraph 3 of Schedule 13 (Notified Key Sub-Contractors) 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 Implementation Services, being from the date of Contract Signature by both Parties;
“Implementation Services KPI“	the Implementation Services KPIs set out in the table in Part A of Schedule 3 (Performance Levels);
“Indemnified Person“	the Authority and each and every person to whom the Authority (or any direct or indirect sub-licensee of the Authority) sub-licenses, assigns or novates any Relevant IPRs or rights in Relevant IPRs in accordance with this Contract;
“Independent Controller“	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that 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);

“Inherited Stock“	the Goods which are owned by the Authority at the Effective Date which for the avoidance of doubt have not been supplied pursuant to this Contract;
“Inherited Stock Strategy“	the inherited stock strategy drafted in accordance with Schedule 6 (Inherited Stock Management);
“Initial Implementation Plan“	the initial plan set out at Schedule 13, Annex A (Notified Key Sub-Contractors);
“Initial Term“	the period of four (4) Contract Years from and including the Effective Date;
“Initial Upload Date“	the occurrence of an event detailed in Schedule 27 (Reports and Records Provisions) Annex 3: Records To Upload to Virtual Library which requires the Supplier to provide its initial upload of the relevant information to the Virtual Library;
"Insolvency Continuity Plan"	has the meaning given to it in Schedule 29 (<i>Service Continuity Plan and Corporate Resolution Planning</i>);
“Insolvency Event“	with respect to any person, means: (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: (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;

- (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:
 - (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”

- (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;
	(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
	(c) all other rights having equivalent or similar effect in any country or jurisdiction;
“Intervention Cause“	has the meaning given in Clause 27.1 (<i>Remedial Adviser</i>);
“Intervention Notice“	has the meaning given in Clause 27.1 (<i>Remedial Adviser</i>);
“Intervention Period“	has the meaning given in Clause 27.2.3 (<i>Remedial Adviser</i>);
“Intervention Event“	Trigger (a) any event falling within limb (a), (b), (c), (e), (f) or (g) of the definition of a Supplier Termination Event; (b) a Default by the Supplier that is materially preventing or materially delaying the provision or the Goods and/or performance of the Services or any material part of the Services; (c) the occurrence of an Implementation Persistent Default, Goods Persistent Default and/or Services Persistent Default; and/or (d) the Supplier accruing Service Credits which meet or exceed 40 in any one month or 90 in aggregate over 3 consecutive months;
“Inventory“	the document produced jointly between the Authority and the Supplier which details the volume and category of the Inherited Stock as updated from time to time;
“IPC“	the Initial Product Catalogue, setting out relevant information relating to each item of Goods;
“IP Completion Day“	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
“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 Authority 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 Goods Description or Services Description or the provisions of this Contract;
“IT“	information and communications technology;
“IT Environment“	the Authority System and the Supplier System;
“IT Portal“	the Supplier’s web based IT system which enables End Users to order, track and view Goods and obtain Management Information;
“Joint Controllers“	has the meaning given in Article 26 of the UK GDPR, or EU GDPR, as the context requires;
“Key Performance Indicator“	the key performance indicators set out in Parts A to C of Schedule 3 (<i>Performance Levels</i>) as amended from time to time, including the Implementation Services KPIs, Goods KPIs and Services KPIs;
“Key Personnel“	those persons appointed by the Supplier to fulfil the Key Roles, being the persons listed in Schedule 32 (Key Personnel) 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 Schedule 32 (Key Personnel) 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: (a) which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Goods and/or Services; 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 Finance Response Template);
“Know-How“	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the Goods and/or Services but excluding know how already in the other Party’s possession before this Contract;

"KPI Deliverable"	the required deliverable against each Key Performance Indicator as detailed in the Implementation Services KPI, Goods KPI and Services KPI tables in Parts A to C of Schedule 3 (Performance Levels) ;
"KPI Report"	a monthly report in accordance with the provisions of Schedule 27 (Reports and Records Provisions) which summarises the performance by the Supplier measured against the Implementation KPIs, Goods KPIs or Services KPIs, as applicable;
"Law"	any law, statute, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, 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 (Directive (EU) 2016/680);
"Licensed Software"	all and any Software licensed by or through the Supplier, its Sub-contractors or any third party to the Authority 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 3 (<i>Performance Levels</i>), Schedule 19 (<i>Charges and Invoicing</i>) and Schedule 24 (<i>Governance</i>) to be provided by the Supplier to the Authority;

“Measurement Period“	in relation to a Goods KPI and Services KPI, 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 Services KPIs and/or Implementation Plan which, if applicable, shall be completed by the relevant Milestone Date, as described in Part A of Schedule 3 (<i>Performance Levels</i>) ;
“Milestone Achievement Certificate“	the certificate to be granted by the Authority when the Supplier has Achieved a Milestone, which shall be in substantially the same form as that set out in Schedule 17, Annex 3 (<i>IT Testing Procedures</i>);
“Milestone Date“	the target date set out against the relevant Milestone by which the Milestone must be Achieved;
“Miscellaneous Charges“	charges, costs and expenses which have been pre-approved in writing by the Authority and are not set out in the Finance Response Template or do not form part of the Prices and/or Fees;
“Modern Slavery Assessment Tool“	the modern slavery risk identification and management tool which can be found online at: https://supplierregistration.cabinetoffice.gov.uk/msat];
“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 31 (Staff Transfer) of Schedule 26 (Dispute Resolution Procedure);
“Multi-Party Procedure Initiation Notice“	has the meaning given in Schedule 26, Paragraph 9.2 (Dispute Resolution Procedure);
“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;

“Notifiable Default“	shall have the meaning given in Clause 25.1 (<i>Rectification Plan Process</i>);
“NSM“	non standard measures relating to Goods that are outside the standard Goods which are defined and documented in the Goods Description;
“Object Code“	software and/or data in machine-readable, compiled object code form;
“Occasion of Tax Non-Compliance“	(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of: (i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or (b) any tax return of the Supplier submitted to a Relevant Tax Authority 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;
“Open Book Data“	has the meaning given in Schedule 23 (Financial Reports and Audit Rights);
“Open Licence“	any material that is published for use, with rights to access, copy and modify and publish, by any person for free, under a generally recognised open licence including Open Government Licence as set out at http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ and the Open Standards Principles documented at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles , and includes the Open Source publication of Software;
“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 Authority System and the Sites;
“Operational Change“	any change in the Supplier’s operational procedures which in all respects, when implemented: (a) will not affect the Charges and will not result in any other costs to the Authority; (b) may change the way in which the Goods and/or Services are delivered but will not adversely affect the output of the Goods and/or Services or increase the risks in performing or receiving the Goods and/or Services; (c) will not adversely affect the interfaces or interoperability of the Services with any of the Authority’s IT infrastructure; and (d) will not require a change to this Contract;
“Optional Goods/Services“	the goods/services, which may be described as such in Schedule 2 (<i>Goods Description and Services Description</i>), and which are to be provided by the Supplier if required by the Authority in accordance with Clause 5.13 (<i>Optional Goods/Services</i>);
“Optional Goods/Services Implementation Plan“	the implementation plan to effect the Optional Goods/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 Authority;
“Other Supplier“	any supplier to the Authority (other than the Supplier) which is notified to the Supplier from time to time;
“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 Goods and/or Services as further provided for in Clause 31.2.2 (<i>Termination by the Authority</i>) or 31.3.2 (<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;

“Permitted Maintenance”	has the meaning given in Clause 9.4 (<i>Maintenance</i>);
“Performance Monitoring Report”	has the meaning given in Schedule 3 (<i>Performance Levels</i>) ;
“Performance Points”	the points that are set out against the relevant Key Performance Indicator in the tables in Parts A to C of Schedule 3 (<i>Performance Levels</i>);
“Persistent Default”	an Implementation Persistent Default, Goods Persistent Default and/or Services Persistent Default;
“Personal Data”	has the meaning given in the UK GDPR or the EU GDPR as the context requires;
“Policies”	has the meaning given in Schedule 36 (Authority Policies);
“Preceding Services”	has the meaning given in Clause 5.2.2.1 (<i>Standard of Goods and Services</i>);
“Prescribed Person”	a legal adviser, an MP, or an appropriate body which a whistle-blower may make a disclosure to as detailed in ‘Whistleblowing: list of prescribed people and bodies’, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies , as updated from time to time;
“Prices”	the prices for the Goods, which include the Supplier System element of the Services provision, as listed in the Finance Response Template, as amended from time to time;
“Processor”	has the meaning given to it under the UK GDPR or the EU GDPR as the context requires;
“Processor Personnel”	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;
“Prohibited Act”	(a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or

- (ii) reward that person for improper performance of a relevant function or activity;
- (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;
- (c) an offence:
 - (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
 - (ii) under legislation or common law concerning fraudulent acts; or
 - (iii) defrauding, attempting to defraud or conspiring to defraud the Authority (including offences by the Supplier under Part 3 of the Criminal Finances Act 2017); or
- (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;

- “Project Specific IPRs“**
- (a) Intellectual Property Rights in items, materials or Software 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
 - (b) Intellectual Property Rights arising as a result of the performance of the Supplier’s obligations under this Contract;

but shall not include the Supplier Background IPRs or the Specially Written Software;

- “Protective Measures“**
- appropriate technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation 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, including those outlined in Schedule 7 (Security Management);

“Public Dependent Supplier”	Sector	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;
“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 19.1 (<i>Confidentiality</i>);
“Recall”		a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;
“Records”		has the meaning given in Schedule 27 (Reports and Records Provisions);
“Rectification Plan”		a plan to address the impact of, and prevent the reoccurrence of, a Notifiable Default;
“Rectification Failure”	Plan	(a) the Supplier failing to submit or resubmit a draft Rectification Plan to the Authority within the timescales specified in Clauses 25.4 (<i>Submission of the draft Rectification Plan</i>) or 25.8 (<i>Agreement of the Rectification Plan</i>); (b) the Authority, acting reasonably, rejecting a revised draft of the Rectification Plan submitted by the Supplier pursuant to Clause 25.7 (<i>Agreement of the Rectification Plan</i>); (c) the Supplier failing to rectify a material Default within the later of: (i) 30 Working Days of a notification made pursuant to Clause 25.2 (<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 Persistent Default; and/or (e) following the successful implementation of a Rectification Plan, the same Notifiable Default recurring within a

period of 6 months for the same (or substantially the same) root cause as that of the original Notifiable Default;

“Rectification Process”	Plan	the process set out in Clauses 25.4 (<i>Submission of the draft Rectification Plan</i>) to 25.9 (<i>Agreement of the Rectification Plan</i>);
“Registers”		has the meaning given in Schedule 28 (Exit Management);
“Relevant Authority” or “Relevant Authorities”		the Authority 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 Goods and/or Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Authority 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 Authority Software, the Authority Background IPRs, the Supplier COTS Software, the Supplier COTS Background IPRs, the Third Party COTS Software and/or the Third Party COTS IPRs;
“Relevant Services”	Preceding	has the meaning given in Clause 5.2.2.1 (<i>Standard of Goods and 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 Authority”	Tax	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 29.2 (<i>Authority Cause</i>);
“Remedial Adviser”		the person appointed pursuant to Clause 27.2 (<i>Remedial Adviser</i>);
“Remedial Failure”	Adviser	has the meaning given in Clause 27.6 (<i>Remedial Adviser</i>);
“Replacement Goods”		any goods which are the same as or substantially similar to any of the Goods and which the Authority receives in substitution for any of the Goods following the expiry or termination or Partial

	Termination of this Contract, whether those goods are provided by the Authority internally and/or by any third party;
“Replacement Services“	any services which are the same as or substantially similar to any of the Services and which the Authority 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 Authority internally and/or by any third party;
“Replacement Supplier“	any third party provider of Replacement Goods and/or Replacement Services appointed by the Authority from time to time (or where the Authority is providing replacement Goods and/or Services for its own account, the Authority);
“Request Information“	For a Request for Information under the FOIA or the EIRs;
“Required Action“	has the meaning given in Clause 28.1.1 (<i>Step-In Rights</i>);
“Risk Register“	a register of risks and contingencies relating to the provision of the Goods and Services;
“Sealed Sample“	the quality standard of the Goods supplied to the Authority in compliance with the certificate of compliance, which will be used as the reference goods for sampling and manufactured revisions of the Goods;
“Security Management Plan“	the Supplier’s security plan as defined in Schedule 7 (Security Management) and as subsequently developed and revised pursuant to Paragraphs 3 and 4 of Schedule 7 (Security Management);
“Service Continuity Plan“	any plan prepared pursuant to Schedule 29, Paragraph 2 (Service Continuity Plan and Corporate Resolution Planning) as may be amended from time to time;
“Service Credits“	credits payable by the Supplier when the Supplier incurs one or more Performance Points, calculated in accordance with Schedule 3 (<i>Performance Levels</i>) and Schedule 19 (<i>Charges and Invoicing</i>);
“Service Period“	a calendar month, save that: (a) the first service period shall begin on the Goods Commencement Date and first Services Commencement Date and shall expire at the end of the calendar month in which the Goods Commencement Date first Services Commencement Date falls; and

	(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;
“Services“		any and all of the services to be provided by the Supplier under this Contract and any Additional User Agreement, including those set out in the Services Description in Schedule 2 (<i>Goods Description and Services Description</i>) ;
“Services Commencement Date“		in relation to an Services, the later of: (a) the date identified in the Implementation Plan upon which the Services are to commence, or such other date as agreed between the Parties; and (b) where the Implementation Plan states that the Supplier must have Achieved the relevant ATP Milestone before it can commence the provision of that Service, the date upon which the Supplier Achieves the relevant ATP Milestone;
“Services KPIs“		the Services KPIs set out in the table in Schedule 3, Part C (<i>Performance Levels</i>) ;
“Services Persistent Default“		has the meaning given to it in Schedule 3, Part C Paragraph 6.1 (<i>Performance Levels</i>);
“Service Transfer Date“		has the meaning given in Schedule 31 (Staff Transfer);
“Services Description“		the services description set out in Schedule 2 (<i>Goods Description and Services Description</i>);
“Sites“		any premises (including the Authority Premises, the Supplier’s premises or third party premises): (a) from, to or at which: (i) the Goods and/or Services are (or are to be) provided; or (ii) the Supplier manages, organises or otherwise directs the provision of the Goods or the use of the Services; or (b) where: (i) any part of the Supplier System is situated; or

	(ii)	any physical interface with the Authority System takes place;
“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;
“Software”		Specially Written Software, Supplier Software and Third Party Software;
“Software Supporting Materials”		has the meaning given in Schedule 35, Paragraph 2.1.1 (Intellectual Property Rights) (<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 Authority and which would not affect a Comparable Supply;
“Staffing Information”		has the meaning given in Schedule 31 (Staff Transfer);
“Standards”		the standards, policies and/or procedures identified in Schedule 4 (<i>Standards</i>);
“Step-In Notice”		has the meaning given in Clause 28.1 (<i>Step-In Rights</i>);
“Step-In Trigger Event”	(a)	any event falling within the definition of a Supplier Termination Event;
	(b)	an event set out in Schedule 3, Part A, Paragraph 8, Schedule 3, Part B, Paragraph 6 or Schedule 3, Part C, Paragraph 6;
	(c)	a Default by the Supplier that is materially preventing or materially delaying the provision of the Goods and/or

	performance of the Services or any material part of the Services;
	(d) the Authority considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this Contract;
	(e) the Authority being advised by a regulatory body that the exercise by the Authority of its rights under Clause 27 (<i>Step-In Rights</i>) is necessary;
	(f) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Goods and/or Services; and/or
	(g) a need by the Authority to take action to discharge a statutory duty;
“Step-Out Date”	has the meaning given in Clause 28.5.2 (<i>Step-In Rights</i>);
“Step-Out Notice”	has the meaning given in Clause 28.5 (<i>Step-In Rights</i>);
“Step-Out Plan”	has the meaning given in Clause 28.6 (<i>Step-In Rights</i>);
“Strategic Supplier”	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 Goods and/or Services or facilities or services which are material for the provision of the Goods and/or Services or any part thereof or necessary for the management, direction or control of the provision of the Goods and/or Services or any part thereof;
“Sub-contractor”	any third party with whom: (a) the Supplier enters into a Sub-contract; or (b) a third party under (a) above enters into a Sub-contract, or the servants or agents of that third party;
“Sub-processor”	any third party appointed to process Personal Data on behalf of the Processor related to this Contract;
“Subsidiary Undertaking”	has the meaning set out in section 1162 of the Companies Act 2006;

“Successor Body“	has the meaning given in Clause 34.2 (<i>Assignment and Novation</i>);
“Supplier Background IPRs“	(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 (b) Intellectual Property Rights created by the Supplier independently of this Contract, which in each case is or will be used before or during the Term for designing, testing implementing or providing the Goods and/or Services but excluding Intellectual Property Rights owned by the Supplier subsisting in the Supplier Software;
“Supplier Background IPRs“	COTS Any embodiments of Supplier Background 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;
“Supplier Software“	COTS Supplier 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;
“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 Authority) for the provision of the Goods and/or Services;
“Supplier Group“	the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
“Supplier Background IPRs“	Non-COTS any embodiments of Supplier Background IPRs that have been delivered by the Supplier to the Authority and that are not Supplier COTS Background IPRs;

“Supplier Software”	Non-COTS	Supplier Software that is not Supplier COTS Software;
“Supplier Non-Performance”		has the meaning given in Clause 29.1 (<i>Authority Cause</i>);
“Supplier Personnel”		all directors, officers, employees, workers, 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”		the excess of supply revenue over the cost of the expenses in supplying the Goods and Services in a specified period of time, as set out in the Finance Response Template, or as otherwise agreed between the Parties ;
“Supplier Profit Margin”		the amount of supply revenue over a specified period of time as set out in the Finance Response Template, or as otherwise agreed between the Parties agreed between the Parties;
“Supplier Representative”		the representative appointed by the Supplier pursuant to Clause 11.3 (<i>Representatives</i>);
“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 Goods and/or Services, including the software specified as such in Schedule 15 (<i>Software</i>);
“Supplier Solution”		the Supplier’s solution for the Goods and Services set out in Schedule 11 (<i>Supplier Solution</i>) including any Annexes of that Schedule;
“Supplier System”		the information and communications technology system used by the Supplier in implementing and performing the applicable Services including the IT Portal, the Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Authority System);
“Supplier Termination Event”		(a) the Supplier’s level of performance constituting a Persistent Default; (b) the Supplier committing a material Default which is irremediable; (c) as a result of the Supplier’s Default, the Authority incurring Losses in any Contract Year which exceed 50% of the value of the aggregate annual liability cap for that

Contract Year as set out in Clause 23.6.1 (*Financial and other Limits*);

- (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:
 - (i) Clause 17 (*IPRs Indemnity*);
 - (ii) Clause 33 (*Compliance*);
 - (iii) Clause 37.6.2 (*Prevention of Fraud and Bribery*); and/or
 - (iv) Schedule 22, Paragraph 6 (Financial Distress);
 - (v) Schedule 29, Part B, Paragraph 3 (Service Continuity Plan and Corporate Resolution Planning);
- (g) the representation and warranty given by the Supplier pursuant to Clauses 3.2.7 or 3.2.8 (*Warranties*) being materially untrue or misleading;
- (h) the Supplier committing a material Default under Clause 10.14 (*Promoting Tax Compliance*) or failing to provide details of steps being taken and mitigating factors pursuant to Clause 10.14 (*Promoting Tax Compliance*) which in the reasonable opinion of the Authority are acceptable;
- (i) the Supplier committing a material Default under any of the following Clauses:
 - (i) Clause 5.5.10 (*Services*);
 - (ii) Clause 21 (*Protection of Personal Data*);
 - (iii) Clause 20 (*Transparency and Freedom of Information*);
 - (iv) Clause 19 (*Confidentiality*);
 - (v) Clause 33 (*Compliance*);
 - (vi) in respect of any security requirements or Cyber Essentials obligations set out in Schedule 2 (Goods Description and Services Description), Schedule 7 (Security Management) or the Baseline Security Requirements;

- (vii) in respect of any requirements set out in Schedule 35 (*Intellectual Property Rights*) and/or
- (viii) in respect of any requirements set out in Schedule 31 (*Staff Transfer*);
- (j) any failure by the Supplier to implement the changes set out in a Benchmark Report as referred to in Schedule 21, Paragraph 5.9 (*Benchmarking*);
- (k) an Insolvency Event occurring in respect of the Supplier or the Guarantor;
- (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 Authority with the Guarantor or with another guarantor which is acceptable to the Authority);
- (m) a change of Control of the Supplier or a Guarantor unless:
 - (i) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) the Authority has not served its notice of objection within 6 months of the later of the date on which the Change of Control took place or the date on which the Authority was given notice of the change of Control;
- (n) a change of Control of a Key Sub-contractor unless, within 6 months of being notified by the Authority 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 Authority pursuant to Clause 15.11 (*Appointment of Key Sub-contractors*);
- (o) any failure by the Supplier to enter into or to comply with an Admission Agreement under Schedule 31, Part B (*Staff Transfer*);
- (p) the Authority 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;
- (q) a failure by the Supplier to comply in the provision of the Goods or performance of the Services with legal obligations in the fields of environmental, social or labour law;

- (r) in relation to Schedule 7 (*Security Management*):
 - (i) the Authority has issued two rejection notices in respect of the Security Management Plan under Paragraph 4.5.2 (Part A);
 - (ii) 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;
 - (iii) Supplier COTS Software and Third Party COTS Software is not within mainstream support unless the Authority has agreed in writing;
 - (iv) the Supplier fails to patch vulnerabilities in accordance with the Security Requirements set out in the Annexes to Schedule 7 (*Security Management*); and/or,
 - (v) the Supplier fails to comply with the Incident Management Process;
- (s) the Supplier is in material Default of any Joint Controller Agreement relating to the Contract;
- (t) a Default that occurs and continues to occur on one or more occasions within 6 Months following the Authority serving a warning notice on the Supplier that it may terminate for persistent breach of the Contract; or
- (u) the Supplier or its Affiliates embarrass or bring the Authority into disrepute or diminish the public trust in them;

“Supply Chain Map”

details of (i) the Supplier, (ii) all Subcontractors and (iii) any other entity that the Supplier is aware is in its supply chain that is not a Subcontractor, setting out at least:

- (a) the name, registered office and company registration number of each entity in the supply chain;
- (b) the function of each entity in the supply chain; and

the location of any premises at which an entity in the supply chain carries out a function in the supply chain;

“Supply Chain Transparency Report”

the report provided by the Supplier to the Authority in the form set out in Schedule 27, Annex 4 (*Reports and Records Provisions*);

“Target Performance Level“	the minimum level of performance for a Goods KPI and Services KPI which is required by the Authority, as set out against the relevant Key Performance Indicators in the tables in Schedule 3, Part B and Part C (<i>Performance Levels</i>);
“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 Schedule 28, Paragraph 6 (<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 Schedule 28, Paragraph 6.2 (<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 20 (Payments on Termination);
“Termination Services“	the services and activities to be performed by the Supplier pursuant to the Exit Plan, including those activities listed in Schedule 28, Annex 1 (<i>Exit Management</i>), and any other services required pursuant to the Termination Assistance Notice;
“Test Issues“	has the meaning given in Schedule 17 (<i>IT Testing Procedures</i>);
“Tests“ and “Testing“	any tests required to be carried out under this Contract, as further described in Schedule 17 (<i>IT Testing Procedures</i>) and Schedule 18 (<i>Goods Testing Procedures</i>) and “Tested“ shall be construed accordingly;
“Test Success Criteria“	has the meanings given in Schedule 17 (<i>IT Testing Procedures</i>) and Schedule 18 (<i>Goods Testing Procedures</i>);
“The National Archives“	The National Archives, a non-ministerial government Department;

“Third Party Auditor“	an independent third party auditor as appointed by the Authority 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 27 (<i>Reports and Records Provisions</i>);
“Third Party Beneficiary“	Party has the meaning given in Clause 41.1 (<i>Third Party Rights</i>);
“Third Party IPRs“	COTS 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 Software“	COTS 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, which in any case is, will be or is proposed to be used by the Supplier for the purposes of providing the Goods and/or Services;
“Third Party Non-COTS IPRs“	Third Party IPRs that are not Third Party COTS IPRs;
“Third Party Non-COTS Software“	Third Party Software that is not Third Party COTS Software;
“Third Party Provisions“	Party has the meaning given in Clause 41.1 (<i>Third Party Rights</i>);
“Third Party Software“	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 Goods and/or Services, including the software specified as such in Schedule 15 (<i>Software</i>);

“Total Cost Per Item“	the total cost per item of Goods as set out in the Finance Response Template;
“Transferring Assets“	has the meaning given in Schedule 28, Paragraph 7.2.1 (<i>Exit Management</i>);
“Transferring Authority Employees“	has the meaning given in Schedule 31 (<i>Staff Transfer</i>);
“Transferring Former Supplier Employees“	has the meaning given in Schedule 31 (<i>Staff Transfer</i>) ;
“Transferring Supplier Employees“	has the meaning given in Schedule 31 (<i>Staff Transfer</i>) ;
“Transparency Information“	has the meaning given in Clause 20.1 (<i>Transparency and Freedom of Information</i>);
“Transparency Reports“	has the meaning given in Schedule 27 (<i>Reports and Records Provisions</i>);
“UK“	the United Kingdom;
“UK GDPR“	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4) of the DPA 2018;
“UK Public Sector Business“	any goods, service or works provision to UK public sector bodies, including Crown Bodies 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;
“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“	the occurrence of an event detailed in Schedule 27 (<i>Reports and Records Provisions</i>) (Annex 3: <i>Records To Upload to Virtual Library</i>) 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 Schedule 29, Part B, Paragraph 2.7 (Service Continuity Plan and Corporate Resolution Planning);
“VAT“	value added tax as provided for in the Value Added Tax Act 1994;
“VCSE“	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
“Virtual Library“	the data repository hosted by the Supplier containing the information about this Contract and the Goods and Services provided under it in accordance with Schedule 27 (<i>Reports and Records Provisions</i>);
“Workers“	any one of the Supplier Personnel which the Authority, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Goods and/or Services; and
“Working Day“	any day other than a Saturday, Sunday or public holiday in England and Wales.

Schedule 2 (Goods Description and Services Description)

[Subject to Contract]

Crown Copyright 2023

Schedule 2: Goods Description and Services Description

Goods Description

Specification:

Product Name	Size Range	Colour	Description	Key Points	Care Instructions	Identification
POLLO SHIRT SHORT SLEEVE	SIZES 1 - 14 TYPE 1 TYPE 2	WHITE NAVY BLACK	Short Sleeve Polo Shirt Woven material front and back yoke Knitted main body Classic style collar in woven material Straight hem with side vents Two piece sleeve with ribbed cuffing Upper Sleeve to be woven material Under sleeve to be knitted with additional breathable mesh inset at underarm Front Placket finishing in yoke seam Single woven loop positioned at base of placket Fastened with two press fasteners. Upper fastener to be positioned below collar. Two angled woven material loops positioned on front yoke either side of placket Shoulder epaulettes, painted end, tapered. Woven material. Single press fastening	Fabric composition: Woven - Polyester/ cotton. Knitted - 100% Polyester Colour: White - Pantone 11-0601 TC Colour: Navy Blue Colour: Black All knitted materials to have wicking properties. Material construction to prevent snags, pulls and pilling Material should not be transparent or allow any visibility of undergarments Breathable mesh panel positioned under arm. Woven yoke / loops to be sufficient to hold weight of radio and Body worn camera without drag. All press fasteners to be non-metallic and self coloured The design should allow for increased activity and mobility without restriction Epaulettes to be compatible with epaulettes slider	Woven label with Laundry instructions and fabric content must be provided. Machine washable in domestic environment, at 40°C. Suitable for tumble dry, without dimensional change. Material to be resistant to colour change or discoloration for at least 50 washes Consideration for staining as a result of blood or bodily fluids (refer to ISO16608)	NAVY BLUE colour only UHSAW Breast 1. TAX TAB ONLY 1. Embroidered VCS LOGO WHITE / BLACK 1. TAX TAB ONLY Positioned externally UHSAW side seam 10cm from hem
POLLO SHIRT SHORT SLEEVE	SIZES 1 - 14 TYPE 1 TYPE 2	NAVY	Short Sleeve Polo Shirt Woven material front and back yoke Knitted main body Classic style collar in woven material Straight hem with side vents Two piece sleeve with ribbed cuffing Upper Sleeve to be woven material Under sleeve to be knitted with additional breathable mesh inset at underarm Front Placket finishing in yoke seam Single woven loop positioned at base of placket Fastened with two press fasteners. Upper fastener to be positioned below collar. Two angled woven material loops positioned on front yoke either side of placket NO EPAULETTES REQUIRED	Fabric composition: Woven - Polyester/ cotton. Knitted - 100% Polyester Colour: White - Pantone 11-0601 TC Colour: Navy Blue Colour: Black All knitted materials to have wicking properties. Material construction to prevent snags, pulls and pilling Material should not be transparent or allow any visibility of undergarments Breathable mesh panel positioned under arm. Woven yoke / loops to be sufficient to hold weight of radio and Body worn camera without drag. All press fasteners to be non-metallic and self coloured The design should allow for increased activity and mobility without restriction PLEASE NOTE, PEI NAVY TO BE SUPPLIED WITHOUT EPAULETTES	Woven label with Laundry instructions and fabric content must be provided. Machine washable in domestic environment, at 40°C. Suitable for tumble dry, without dimensional change. Material to be resistant to colour change or discoloration for at least 50 washes Consideration for staining as a result of blood or bodily fluids (refer to ISO16608)	A percentage of garments will require additional embroidery to UHSAW Breast 2. Embroidered TORCH/FITNESS LOGO with Officer ID 1. Embroidered CBR Badge 4. Plain. No additional embroidery
POLLO SHIRT LONG SLEEVE	SIZES 1 - 14 TYPE 1 TYPE 2	WHITE NAVY BLACK	Long Sleeve Polo Shirt Woven material front and back yoke Knitted main body Classic style collar in woven material Straight hem with side vents Two piece sleeve with ribbed cuffing Upper Sleeve to be woven material Under sleeve to be knitted with additional breathable mesh inset at underarm Front Placket finishing in yoke seam Single woven loop positioned at base of placket Fastened with two press fasteners. Upper fastener to be positioned below collar. Two angled woven material loops positioned on front yoke either side of placket Shoulder epaulettes, painted end, tapered. Woven material. Single press fastening	Fabric composition: Woven - Polyester/ cotton. Knitted - 100% Polyester Colour: White - Pantone 11-0601 TC Colour: Navy Blue Colour: Black All knitted materials to have wicking properties. Material construction to prevent snags, pulls and pilling Material should not be transparent or allow any visibility of undergarments Breathable mesh panel positioned under arm. Woven yoke / loops to be sufficient to hold weight of radio and Body worn camera without drag. All press fasteners to be non-metallic and self coloured The design should allow for increased activity and mobility without restriction	Woven label with Laundry instructions and fabric content must be provided. Machine washable in domestic environment, at 40°C. Suitable for tumble dry, without dimensional change. Material to be resistant to colour change or discoloration for at least 50 washes Consideration for staining as a result of blood or bodily fluids (refer to ISO16608)	NAVY BLUE colour only UHSAW Breast 1. TAX TAB ONLY 1. Embroidered VCS LOGO WHITE / BLACK 1. TAX TAB ONLY Positioned externally UHSAW side seam 10cm from hem
TROUSERS WORK	SIZES 1 - 14 TYPE 1 TYPE 2	BLACK	Full Length straight leg trouser Half waist back elastication Front fastening waistband with hook and bar closure. Front zip fastening with fly • Short – 30” • Regular – 31” • Long – 33” • Customised – 30” Belt loops Seam centre front crease to each leg. Slant front pockets Two 7x4 fastening side pockets. Opening of at least 15cm Two Angled welted front key pockets. Opening to be at least 12cm Two welt back hip pockets with pocket flap and two press fastening Patch pocket to each leg positioned centrally to the side seam at upper leg height. With central inverted pleat and external pen pocket on inner edge, pocket flap with two press fasteners. Each patch pocket to contain a further internal pocket positioned on inner edge, of a sufficient size to hold the fish knife securely without movement	Fabric composition: Woven - Polyester / Cotton. Mechanical stretch Weight: 250gsm (w/ 10%) Material construction to prevent snags, pulls and pilling Press fasteners to be non-metallic and self coloured Hook & Bar to be nickel free or non-metallic. Fly Zip to be continuous chain non-metallic, including the puller Side pocket zips to be moulded, NOS, non-metallic, including the puller. Back elastication to be enclosed Back rise stitching to be reinforced. Belt loops to be reinforced and of a sufficient size to hold Leather belt 25mm wide. The design should allow for increased activity and mobility without restriction Pockets should be deep enough to retain contents during increased activity Front welt and zip pockets to start at least 3cm below waistband seam to allow for access when wearing the utility belt.	Woven label with Laundry instructions and fabric content must be provided. Machine washable in domestic environment, at 40°C. Suitable for tumble dry, without dimensional change. Material to be resistant to colour change for at least 50 washes	Tax Tab Only Tax Tab to be positioned in waistband RHSAW to front of slant pocket opening.
TROUSERS WINTER DOG HANDLER BLACK	Sizes 1 - 14 TYPE 1 TYPE 2	BLACK	Full Length straight leg trouser Fleece lined Half waist back elastication Front fastening waistband with hook and bar closure. • Short – 30” • Regular – 31” • Long – 33” Belt loops Seam centre front crease to each leg. Slant front pockets Two 7x4 fastening side pockets. Opening of at least 15cm Two Angled welted front key pockets. Opening to be at least 12cm Two welt back hip pockets with pocket flap and two press fastening Patch pocket to each leg positioned centrally to the side seam at upper leg height. With central inverted pleat and external pen pocket on inner edge, pocket flap with two press fasteners. Each patch pocket to contain a further internal pocket positioned on inner edge, of a sufficient size to hold the fish knife securely without movement	Fabric composition: Outer - woven - Polyester / Cotton, WB Treated Lining - 100% Polyester fleece Weight: Outer 250gsm (w/ 10%). Lining 125Gsm (w/ 10%) Press fasteners to be non-metallic and self coloured Hook & Bar to be nickel free or non-metallic. Fly Zip to be continuous chain non-metallic, including the puller Side pocket zips to be moulded, NOS, non-metallic, including the puller. Back elastication to be enclosed Back rise stitching to be reinforced. Belt loops to be reinforced and of a sufficient size to hold Leather belt 25mm wide. The design should allow for increased activity and mobility without restriction Pockets should be deep enough to retain contents during increased activity Front welt and zip pockets to start at least 3cm below waistband seam to allow for access when wearing the utility belt.	Woven label with Laundry instructions and fabric content must be provided. Machine washable in domestic environment, at 40°C. Suitable for tumble dry, without dimensional change. Material to be resistant to colour change for at least 50 washes	Tax Tab Only Tax Tab to be positioned on UHSAW in seam of patch pocket.
TROUSERS OUTER DOG HANDLER BLACK	Sizes 1 - 14 TYPE 1 TYPE 2	BLACK	Full length waterproof straight leg pull on style for wear over the work trouser Full waist elastication with integral drawcord adjustment Waterproof and breathable Belt Loops Covered side pockets with zip fastening Full length opening along both outer leg seams, with zip fastening and touch & close placket covering	Fabric composition: Outer - woven 50/50 cotton/polyester rip stop or similar Lining - 100% Polyester mesh Weight: Outer 170gsm (w/ 10%). Lining 100gsm (w/ 10%) Waterproof and breathable (EN348:2005, Class 3-3); Taped Seams All zips to be non-metallic, including the puller, with moulded teeth. Size No. 5. Zips should not be continuous chain. Touch & Close to extend the full length of opening positioned parallel to zip, finishing 50cm from hem. Additional touch & Close to be applied horizontally parallel to the hem, with a non-metallic self coloured press fastener for secure closure of trouser hem. Belt loops to be reinforced and of a sufficient size to hold Leather belt 25mm wide. The design should allow for increased activity and mobility without restriction	Woven label with Laundry instructions and fabric content must be provided. User care and maintenance instructions to be provided. Material to be resistant to colour change for at least 50 washes	Tax Tab Only Tax Tab to be positioned on UHSAW in seam at top of leg placket
JUMPER KNITTED	Sizes 1 - 14.	BLACK	V Neck knitted jumper with welt in long sleeves Knitted rib at neck, cuff and hem Straight body design with rib detail at neck, cuff and hem. Woven material reinforced patch at elbow and shoulder. Woven material shoulder epaulettes with touch & close fastening Woven material pen pocket on LH Sleeve as seam. Angled woven material loops positioned on each front shoulder reinforcement patch	Fabric composition: 100% acrylic knit, cottonlike 2/38 12 gauge Woven - Polyester / cotton twill Half Milano knit main body and 2x2 rib at cuff, neck and hem Elbow patch and shoulder reinforcement to be single layer with no visible raw edges. Additional tape reinforcement at shoulder Ribbing at hem to have a depth of 10cm. Cuff Ribbing to have a depth of 10cm, with 15cm reinforcement tape attached at seam. Joined to allow for hunkback of cuff without raw seam being visible	Woven label with Laundry instructions and fabric content must be provided. Machine washable in domestic environment, at 40°C. Suitable for tumble dry, without dimensional change.	Tax Tab Only Tax Tab to be positioned on Front hem UHSAW
FLEECE SOFT SWEAT	SIZES 1 - 14	BLACK NAVY	Long Sleeve jacket style Full length front zip with placket cover Stand Collar Front and back yoke Adjustable shock cord at bottom hem. Shoulder epaulettes with touch & close fastening Shaped front panels, with inset pockets, which are zip fastening Part elasticated cuff with touch & close fastening adjustment strap. Two angled loops on front yoke either side of central zip for attachment of BWC and Radio	Fabric composition: 95% Polyester, 5% Elastane, 100% Polyester backing All zips to be non-metallic, including the puller, with moulded teeth. Size No. 5. Zips should not be continuous chain. Pocket zips to be a minimum 18.5cm in length Front central zip to start at hem and finish at top of the stand collar Two non-metallic cord adjusters positioned at both side seams on inside of garment All seams to be top stitched	Woven label with Laundry instructions and fabric content must be provided. Machine washable in domestic environment, at 40°C. Material to be resistant to colour change for at least 50 washes	A percentage of garments will require additional embroidery to UHSAW Breast BLACK No Additional embroidery required NAVY BLUE 1. Embroidered VCS LOGO 2. Embroidered TORCH LOGO with Officer ID 3. Plain. No additional embroidery Where applicable Tax Tab positioned in side seam UHSAW
JACKET WINDPROOF	SIZES 1 - 14	BLACK NAVY	Fully lined longer length jacket for general outdoor activities. Regular Sleeve Full length zip with storm flap and Touch & close fastening Stand collar with concealed hood. Hood to have shock cord adjustment and touch and close fastening Adjustable shock cord at waist with two cord adjusters, positioned on outside of garment Touch & Close adjustment at outer cuff and inner knitted cuff attached to lining Two cargo style lower pockets with zip fastening and square shape touch & close fastening flap Four covered zip fastening vertical pockets at chest level Two covered zip fastening vents in flap, starting at the waist seam and finishing at hem	Fabric composition: 90% Polyester, 5% Elastane, Tactlon or similar Lining: 100% Polyester mesh. Material to be breathable, tear resistant, showerproof and windproof All zips to be non-metallic, including the puller, with moulded teeth. Size No. 5. Zips should not be continuous chain. Front zip to start at hem and finish at top of the collar	Woven label with Laundry instructions and fabric content must be provided. Machine washable in domestic environment, at 40°C. Material to be resistant to colour change for at least 50 washes	Tax Tab Only Tax Tab positioned in side seam UHSAW
JACKET WATERPROOF 3 IN 1	SIZES 1 - 14	BLACK NAVY	Fully lined jacket and separate fleece jacket, 3-in-1 System. OUTER Set in sleeve Full length zip with storm flap and press fastening closure Deep stand collar with concealed hood. Adjustable shock cord at waist Touch & Close adjustment strap at cuff Two lower cargo style pockets with touch & close fastening flap Two lower pockets with zipged handwarmer Two zippered pockets at chest level FLEECE INNER Stand collar Elasticated cuff Adjustable shock cord at hem Full length front zip fastening Two zip fastening pockets	Fabric composition: 50/50 Cotton/Polyester Rip Stop Fleece: 100% Polyester Waterproof and breathable (EN348: 2005, Class 3-3); Taped Seams All zips to be non-metallic, including the puller, with moulded teeth. Size No. 5. Zips should not be continuous chain. Front zips on outer jacket and fleece to start at hem and finish at top of the collar Press fasteners to be non-metallic and self coloured	Woven label with Laundry instructions and fabric content must be provided. User care and maintenance instructions to be provided	NAVY BLUE 1. Embroidered TORCH LOGO with Officer ID Where applicable Tax Tab to be positioned on Storm Flap seam at hem level.

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SWATSHIRT	SIZES 1-14	BLACK	Crew neck design Set in sleeve Knitted rib cuff, neck and hem. Woven material shoulder epaulettes with touch & close fastening	Fabric Composition: Cotton / Polyester. Brushed back Weight: 120gsm (+/- 5%)	Woven label with Laundry instructions and Fabric content must be provided. Machine washable in domestic environment, at 40°C, Suitable for tumble dry, without dimensional change.	All items will require an embroidered LOGO positioned USAW breast BLACK 1. Embroidered Crown Emblem
SWATSHIRT	SIZES 1-14	NAVY	Crew neck design Set in sleeve Knitted rib cuff, neck and hem. NO EPAULETTES	Fabric Composition: Cotton / Polyester. Brushed back Weight: 120gsm (+/- 5%)	Woven label with Laundry instructions and Fabric content must be provided. Machine washable in domestic environment, at 40°C, Suitable for tumble dry, without dimensional change.	A percentage of garments will require additional embroidery to USAW breast 1. Embroidered TORCH LOGO 2. Embroidered Crown Emblem and Embroidered C&M LOGO R&SAW 3. Plain. No additional embroidery
TROUSERS F&I	SIZES 1-14 TYPE 1 TYPE 2 • Short – 28" • Regular – 31" • Long – 33"	NAVY	Full length tapered trousers Belted waist with adjustment drawcord on inside Side pockets with zip fastening Zip opening at ankle	Fabric Composition: 100% Polyester knit Weight: 210 gsm (+/- 5%) Side pocket opening zip to be minimum 18cm length Side leg zip to be a minimum 30cm length	Woven label with Laundry instructions and Fabric content must be provided. Machine washable in domestic environment, at 40°C, Suitable for tumble dry, without dimensional change.	A percentage of garments will require additional embroidery positioned USAW front leg, 3cm below pocket. 1. Embroidered TORCH LOGO 2. Plain. No additional embroidery Where applicable Tax Tab positioned USAW 3cm below side pocket
LEGGINGS F&I	SIZES 1-14	NAVY	High waisted design with deep waistband Medu pocket Side leg USAW	Fabric Composition: Polyester / Elastane Weight: 200 gsm (+/- 5%)	Woven label with Laundry instructions and Fabric content must be provided. Machine washable in domestic environment, at 40°C, Suitable for tumble dry, without dimensional change.	Tax Tab Only Tax tab to be positioned in waistband seam USAW
SHORTS	SIZES 1-14 TYPE 1 TYPE 2	NAVY	Classic fit short Full elasticated waist with drawcord adjustment Incorporated underwear Two Side pockets Small side vents	Fabric Composition: Outer 100% Polyester, micro touch and wicking Weight: 85gsm (+/- 5%) Lining: 100% Polyester mesh. Weight: 80gsm (+/- 5%) Material to have wicking properties Side vent to be secured with bar tack	Woven label with Laundry instructions and Fabric content must be provided. Machine washable in domestic environment, at 40°C, Suitable for tumble dry, without dimensional change.	A percentage of garments will require additional embroidery positioned USAW, 6cm from side seam and 7cm from hem 1. Embroidered TORCH LOGO 2. Plain. No additional embroidery Where applicable Tax Tab to be positioned USAW at hem.
T-SHIRT SHORT SLEEVE	SIZES 1-14 TYPE 1 TYPE 1 TYPE 2	NAVY	Crew neck style T-Shirt Set in short sleeve Self fabric bound neck and sleeve	Fabric Composition: 100% Polyester, wicking Weight: 150gsm (+/- 5%)	Woven label with Laundry instructions and Fabric content must be provided. Machine washable in domestic environment, at 40°C, Suitable for tumble dry, without dimensional change.	A percentage of garments will require additional embroidery positioned USAW breast 1. Embroidered TORCH LOGO. Officer ID positioned below 2. Plain. No additional embroidery Where applicable Tax Tab to be positioned USAW in side seam 10cm from hem
VEST	SIZES 1-14 TYPE 1 TYPE 2	NAVY	Sleeveless design Scrap front neckline Self fabric bound neck and armholes.	Fabric Composition: 100% Polyester, wicking Weight: 150gsm (+/- 5%) Design should ensure no underwear is visible during wear. Shoulder measurement should be no less than 15cm (including trim) (smallest size) Armhole should be close fitting to under arm.	Woven label with Laundry instructions and Fabric content must be provided. Machine washable in domestic environment, at 40°C, Suitable for tumble dry, without dimensional change.	A percentage of garments will require additional embroidery positioned USAW breast 2. Plain. No additional embroidery Where applicable Tax Tab to be positioned USAW in side seam 10cm from hem
BASEBALL CAP	ONE SIZE	BLACK NAVY	Six panel cap with front Peak, and back size adjuster All panels interlined for support. Pre curved peak Stitched ventilation holes in each panel Self fabric adjuster strap with tri glide buckle	Fabric Composition: 100% Cotton twill Weight: 385 gsm (+/- 5%) Buckle to be non metal	Woven label with Laundry instructions and Fabric content must be provided.	All items will require an embroidered LOGO positioned centre front above the peak. BLACK 1. Embroidered Crown Emblem NAVY A percentage of garments will require additional embroidery positioned centre front above the peak 1. Embroidered TORCH LOGO 2. Embroidered VCS LOGO 3. Plain. No additional embroidery
HAT KNITTED	ONE SIZE	BLACK NAVY	Beanie style knitted hat with turned back cuff Three layer design, with knitted outer, waterproof membrane, and fleece lined Waterproof, breathable and thermal shaped seam Turn back cuff	Fabric Composition: 100% Acrylic Weight: 100gsm (+/- 5%) Circumference to be minimum 45cm relaxed Turn back cuff to measure 8cm minimum Depth 23cm when cuff turned back.	Woven label with Laundry instructions and Fabric content must be provided. Machine washable in domestic environment, at 40°C, Suitable for tumble dry, without dimensional change.	BLACK All items will require an embroidered LOGO positioned centre front on turn back 1. Embroidered Crown Emblem NAVY A percentage of garments will require additional embroidery positioned centre front on turn back. 1. Embroidered TORCH LOGO 2. Embroidered VCS LOGO 3. Plain. No additional embroidery
SCARF FLEECE	ONE SIZE	BLACK NAVY	Scarf with fringe Single thickness	Fabric Composition: 100% Polyester Fleece Weight: 280 gsm (+/- 5%) Length (excluding fringe): 140cm Width: 25cm All raw edges to be overlocked.	Woven label with Laundry instructions and Fabric content must be provided. Machine washable in domestic environment, at 40°C, Suitable for tumble dry, without dimensional change.	TAX TAB ONLY. To be visible from both sides and positioned along length, approx. 3cm from fringe.
GLOVES FLEECE	SMALL - XL	BLACK NAVY	Fleece gloves with elasticated wrist Fully lined Touch screen compatible - desirable Thermal properties. Thinsulate or similar Breathable.	Fabric Composition: Outer - 100% Polyester Fleece. Suprafleece or similar Lining - 100% Polyester Fleece	Woven label with Laundry instructions and Fabric content must be provided.	TAX TAB ONLY. Tax Tab to be applied to both left and right. Positioned on wrist hem, off set away from the body.
GLOVES DOG HANDLER	SMALL - XL	BLACK	Rounded fleece gloves with strap adjuster at wrist Close fitting, waterproof and breathable. Additional grip to palm and fingers. Strap adjuster at wrist with touch & close fastening Enhanced Thermal properties.	Fabric Composition: 100% bonded Polyester Fleece Weight: 280 gsm (+/- 5%) Suitable for extended use in cold and wet conditions Provides enhanced grip even when wet	Woven label with Laundry instructions and Fabric content must be provided.	TAX TAB ONLY. Tax Tab to be applied to both left and right. Positioned on wrist hem, off set away from the body.
BELT UTILITY	SMALL - 5XL	BLACK	Fabric belt with Side Release plastic buckle fastening Touch and Close adjustment Bound edges Two belt retainers with non metallic press fastening closure	Fabric Composition: 100% Nylon textured plain weave. Cordura or similar Width: 50mm All edges to be bound with webbing. Where possible this should be piped/ padded to prevent belt cutting into body during wear. Belt retainers to be constructed from 25mm Webbing Belt should be strong enough to carry multiple items, with a combined weight estimated at 3.4kg Belt should hold these items without movement during wear.	Woven label with Laundry instructions and Fabric content must be provided.	TAX TAB ONLY.
BOOT PPE	SIZE 3-15	BLACK	Plain full grain, breathable leather upper Ankle height Lightweight, ergonomic and flexible Water repellent Lace fastening - eyelet or closed hook (open hook is not acceptable) Cushioned sole (PU or EVA midsole) Padded collar with ankle and foot arch support. Cushioned insole engineered footbed with instep support and high airflow properties Mesh lining with breathable and quick dry properties, for comfort and to prevent heat build up during long periods of wear Clean Grip outside or similar functionality No safety toe cap Non Metallic mid sole and eyelets 1 year shelf life as a minimum	Fabric Composition: 100% leather upper. Synthetic sole maintainable finish to support and retain smart appearance Compliant with: BS EN ISO 20347: Class 1, O2 (without penetration or cleated outsole) ISO 20344:2021. Footwear which has passed the test for slip-resistance A- Anti static E- Energy absorbing WR- No water penetration HRO - Outside resistant to hot contact SR - slip rating	User care and maintenance instructions to be supplied with each pair	
SHOE PPE	SIZE 3-15 including L/2 sizes and wide fit	BLACK	Plain full grain, breathable leather upper Lightweight, ergonomic and flexible Water repellent Lace fastening - eyelet or closed hook (open hook is not acceptable) Cushioned sole (PU or EVA midsole) Padded collar with ankle and foot arch support. Cushioned insole engineered footbed with instep support and high airflow properties Mesh lining with breathable and quick dry properties, for comfort and to prevent heat build up during long periods of wear Clean Grip outside or similar functionality No safety toe cap Non Metallic mid sole and eyelets 1 year shelf life as a minimum	Fabric Composition: 100% leather upper. Synthetic sole maintainable finish to support and retain smart appearance Compliant with: BS EN ISO 20347: Class 1, O2 (without penetration or cleated outsole) ISO 20344:2021. Footwear which has passed the test for slip-resistance A- Anti static E- Energy absorbing WR- No water penetration HRO - Outside resistant to hot contact SR - slip rating	User care and maintenance instructions to be supplied with each pair	
BOOT DOG HANDLER	SIZE 3-15 including L/2 sizes and wide fit	Black	Plain full grain breathable leather upper Synthetic all terrain sole High leg style Lightweight, ergonomic and flexible Water repellent Lace fastening - eyelet or closed hook (open hook is not acceptable) Cushioned all terrain sole (PU or EVA midsole) with good traction and suitable for rough uneven terrain Increased comfort around ankle and heel with ankle and foot arch support, allowing for increased mobility when running or undertaking high activity Mesh lining with waterproof membrane interlining, breathable, high airflow and quick dry properties Clean Grip outside or similar functionality No safety toe cap Non Metallic mid sole and eyelets 1 year shelf life as a minimum Product should be suitable for extended periods of use in cold and wet conditions, and offer protection during adverse weather and rough terrain	Fabric Composition: 100% leather upper. Synthetic sole maintainable finish to support and retain smart appearance Compliant with: BS EN ISO 20347: Class 1, O2 (without penetration or cleated outsole) BS EN ISO 20344: 2021/amd 1:2024 (en) ISO 20346:2021 A- Anti static E- Energy absorbing WR- No water penetration HRO - Outside resistant to hot contact SR - slip rating	User care and maintenance instructions to be supplied with each pair	
EPAULETTE SLIDER	1 STRIPE 2 STRIPE 3 STRIPE	BLACK	Woven material epaulette slider Folded loop with point at one end Crown emblem and M&P's embroidery Officer ID embroidery L 2 or 3 Stripe identifier	Fabric composition: 100% Polyester. Fully interlined and all edges to be overlocked Joining seam on reverse and not visible when worn Finished length to be 12cm Finished width when folded 6cm Must be fully compatible and of a suitable size to fit all garment epaulettes	Woven label with Laundry instructions and Fabric content must be provided.	1. Embroidered crown Positioned 5cm from point edge. 2. M&P's Service Text, 1.4cm
WHISTLE CHAIN	ONE SIZE		Heavyweight metal chain S hook at one end and split ring at the other Figure of 8 style chain links	Composition: Stainless steel, silver colour Chain length - 45cm		
KEY CHAIN	ONE SIZE		Heavyweight metal chain Link Chain, welded	Composition: Stainless steel, silver colour Chain length - 102cm		

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WHISTLE	ONE SIZE	Long cylindrical style whistle split ring attached at base	Composition: Iron, Nickel plated silver Weight: 17g +/- 1g Dimensions: 6.7cm complete length 1.3cm diameter mouth, 2cm diameter at base		
KEY RING 2"	ONE SIZE	Stainless steel welded ring	Composition: Stainless steel, Silver colour Internal dimension: 5cm (2")		
KEY RING 1.5"	ONE SIZE	Stainless steel welded ring	Composition: Stainless steel, Silver colour Internal dimension: 3.8cm (1.5")		
WIRE HOOK & SWIVEL	ONE SIZE	Hook Spring clip with swivel attachment and O loop	Composition: Stainless steel, Silver colour Total length: 9.4cm (3.7")		
SPLIT RING	ONE SIZE	Stainless steel split ring	Composition: Stainless steel, Silver colour Internal dimension: 1.6cm This item links the key chain to the belt. It is designed to be the weakest point and should distort and break if force is applied to the chain		

Schedule 2 (Goods Description and Services Description)

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Product list:

	DESCRIPTION
1	POLO SHIRT SHORT SLEEVE TYPE 1 WHITE/BLACK/NAVY
2	POLO SHIRT SHORT SLEEVE TYPE 2 WHITE/BLACK/NAVY
3	POLO SHIRT SHORT SLEEVE TYPE 1 NAVY YCS
4	POLO SHIRT SHORT SLEEVE TYPE 2 NAVY YCS
5	POLO SHIRT SHORT SLEEVE TYPE 1 NAVY PEI
6	POLO SHIRT SHORT SLEEVE TYPE 2 NAVY PEI
7	POLO SHIRT SHORT SLEEVE TYPE 1 NAVY PEI - TORCH LOGO
8	POLO SHIRT SHORT SLEEVE TYPE 2 NAVY PEI - TORCH LOGO
9	POLO SHIRT SHORT SLEEVE TYPE 1 NAVY PEI - TORCH LOGO & FITNESS
10	POLO SHIRT SHORT SLEEVE TYPE 2 NAVY PEI - TORCH LOGO & FITNESS
11	POLO SHIRT SHORT SLEEVE TYPE 1 NAVY C&R
12	POLO SHIRT SHORT SLEEVE TYPE 2 NAVY C&R
13	POLO SHIRT SHORT SLEEVE TYPE 1 BLACK
14	POLO SHIRT SHORT SLEEVE TYPE 2 BLACK
15	POLO SHIRT LONG SLEEVE TYPE 1 WHITE/BLACK/NAVY
16	POLO SHIRT LONG SLEEVE TYPE 2 WHITE/BLACK/NAVY
17	POLO SHIRT LONG SLEEVE TYPE 1 YCS NAVY
18	POLO SHIRT LONG SLEEVE TYPE 2 YCS NAVY
19	POLO SHIRT LONG SLEEVE TYPE 1 BLACK
20	POLO SHIRT LONG SLEEVE TYPE 2 BLACK
21	TROUSERS, WORK TYPE 1 BLACK
22	TROUSERS WORK TYPE 2 BLACK
23	TROUSERS WINTER DOG HANDLER TYPE 1 BLACK
24	TROUSERS WINTER DOG HANDLER TYPE 2 BLACK
25	TROUSERS OUTER DOG HANDLER TYPE 1 BLACK
26	TROUSERS OUTER DOG HANDLER TYPE 2 BLACK
27	JUMPER KNITTED BLACK
28	EPAULETTE BLACK - 1/2/3 STRIPE
29	FLEECE SOFT SHELL BLACK
30	FLEECE SOFT SHELL YCS NAVY
31	FLEECE SOFT SHELL PEI NAVY
32	FLEECE SOFT SHELL PEI NAVY - TORCH LOGO
33	JACKET WINDPROOF BLACK
34	JACKET WINDPROOF NAVY
35	JACKET WATERPROOF 3-IN-1 BLACK
36	JACKET WATERPROOF 3-IN-1 PEI NAVY - TORCH LOGO
37	SWEATSHIRT PEI NAVY
38	SWEATSHIRT PEI NAVY - TORCH LOGO
39	SWEATSHIRT NAVY - CROWN BADGE & C&R
40	SWEATSHIRT BLACK - CROWN BADGE
41	TROUSERS TYPE 1 PEI NAVY
42	TROUSERS TYPE 2 PEI NAVY
43	TROUSERS TYPE 1 PEI - TORCH LOGO
44	TROUSERS TYPE 2 PEI - TORCH LOGO
45	LEGGINGS PEI NAVY
46	SHORTS PEI TYPE 1 NAVY
47	SHORTS PEI TYPE 2 NAVY
48	SHORTS PEI TYPE 1 NAVY - TORCH LOGO
49	SHORTS PEI TYPE 2 NAVY - TORCH LOGO
50	T SHIRT SHORT SLEEVE PEI TYPE 1 NAVY
51	T SHIRT SHORT SLEEVE PEI TYPE 2 NAVY
52	T SHIRT SHORT SLEEVE PEI TYPE 1 NAVY - TORCH LOGO
53	T SHIRT SHORT SLEEVE PEI TYPE 2 NAVY - TORCH LOGO
54	VEST PEI TYPE 1 NAVY
55	VEST PEI TYPE 2 NAVY
56	VEST PEI TYPE 1 NAVY - TORCH LOGO
57	VEST PEI TYPE 2 NAVY - TORCH LOGO
58	BASEBALL CAP BLACK - CROWN BADGE
59	BASEBALL CAP NAVY - YCS
60	BASEBALL CAP NAVY
61	BASEBALL CAP PEI NAVY - TORCH LOGO
62	HAT KNITTED BLACK - CROWN EMBLEM
63	HAT KNITTED NAVY
64	HAT KNITTED NAVY YCS LOGO
65	HAT KNITTED PEI NAVY - TORCH LOGO
66	SCARF FLEECE BLACK
67	SCARF FLEECE NAVY
68	GLOVES BLACK
69	GLOVES DOG HANDLER BLACK
70	GLOVES FLEECE NAVY
71	BELT UTILITY
72	BOOTS PPE UNISEX
73	BOOTS PPE DOG HANDLER UNISEX
74	SHOES PPE UNISEX
75	WHISTLE CHAIN
76	KEY CHAIN
77	WHISTLE
78	KEY RING 2"
79	CHAIN RING 1.5"
80	WIRE HOOK & SWIVEL
81	SPLIT RING 16MM

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Sizing guidelines:

SIZE				TYPE 1 - FITTED			TYPE 2 - COMFORT			OVER TROUSERS			UTILITY BELT	
	COMPARISON SIZES			All measurements in inches										
UNIFORM	UK DRESS SIZE	DUAL SIZING	COLLAR	CHEST	WAIST	HIP	CHEST	WAIST	HIP	DUAL SIZING	WAIST	HIP	DUAL SIZING	WAIST to fit up to
1	6	XS	13.5	30	24	34	32	26	33	2XS	23	37	S	31
2	8	S	14	32	26	36	34	28	35	XS	27	41	M	35
3	10	S	14.5	34	28	38	36	30	37	S	31	45	L	39
4	12	M	15	36	30	40	38	32	39	M	33	47	XL	43
5	14	M	15.5	38	32	42	40	34	41	L	35	49	2XL	47
6	16	L	16	40	34	44	42	36	43	XL	39	53	3XL	53
7	18	L	16.5	42	36	46	44	38	45	2XL	43	57		
8	20	XL	17	44	38	48	46	40	47	3XL	47	61		
9	22	XL	17.5	46	40	50	48	42	49	4XL	51	65		
10	24	2XL	18	48	42	52	50	44	51					
11	26	2XL	18.5	50	44	54	52	46	53					
12	28	3XL	19	52	46	56	54	48	55					
13	30	3XL	19.5	54	48	58	56	50	57					
14	32	4XL	20	56	50	60	58	52	59					

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Allocation:

ITEMS	ANNUAL ALLOCATION		THREE YEAR ALLOCATION	
	2023/24	2024/25	2023/24	2024/25
ITEMS	1	1	1	1
ITEMS	2	2	2	2
ITEMS	3	3	3	3
ITEMS	4	4	4	4
ITEMS	5	5	5	5
ITEMS	6	6	6	6
ITEMS	7	7	7	7
ITEMS	8	8	8	8
ITEMS	9	9	9	9
ITEMS	10	10	10	10
ITEMS	11	11	11	11
ITEMS	12	12	12	12
ITEMS	13	13	13	13
ITEMS	14	14	14	14
ITEMS	15	15	15	15
ITEMS	16	16	16	16
ITEMS	17	17	17	17
ITEMS	18	18	18	18
ITEMS	19	19	19	19
ITEMS	20	20	20	20
ITEMS	21	21	21	21
ITEMS	22	22	22	22
ITEMS	23	23	23	23
ITEMS	24	24	24	24
ITEMS	25	25	25	25
ITEMS	26	26	26	26
ITEMS	27	27	27	27
ITEMS	28	28	28	28
ITEMS	29	29	29	29
ITEMS	30	30	30	30
ITEMS	31	31	31	31
ITEMS	32	32	32	32
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ITEMS	38	38	38	38
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ITEMS	92	92	92	92
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ITEMS	94	94	94	94
ITEMS	95	95	95	95
ITEMS	96	96	96	96
ITEMS	97	97	97	97
ITEMS	98	98	98	98
ITEMS	99	99	99	99
ITEMS	100	100	100	100

Services Description

Specification Section 1: Product Management Requirements

Requirement Section Scope

Includes for Product General requirements, QA, Continuous Improvement, Non- Standard measures

Reference	Sub-Section	Description
Sub Section 1.1 Product Management		
1.1.1	Supply of Uniform Products: Initial	From the Operational Service Commencement date, the Supplier shall make available for purchase by the Authority all of the Uniform Products in the Initial Product Catalogue to the specified standards and requirements set out by the Authority and by Law.
1.1.2	Supply of Uniform Products: Alternative	Where required by the Authority the Supplier shall provide Alternative Products. Alternative Products must be comparable to the standards set out in the Initial Product Catalogue and continue to meet all applicable Authority, industry and legal standards. The Authority shall have sole discretion as to which Alternative Products, if any, it opts to incorporate into the Initial Product Catalogue during the Term of the Agreement
1.1.3	Supply of Uniform Products: Alternative	In producing Alternative Products, the Supplier may deviate from this Specification where it can. demonstrate additional value for money (e.g. in cost, comfort, design, durability) in accordance. with Schedule 19 Charges and Invoicing
Reference	Sub-Section	Description
Sub Section 1.1 Product Management		
1.1.4	Identification Products	The Supplier shall provide all Identification Products (which includes badges and epaulettes) as required by the Authority and as defined in the Goods Description - Initial Product Catalogue (see Schedule 2).

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1.1.5	Adaptation to Authority requirements	The Supplier shall, from time to time, be required to introduce new Authority specific products or adapt products specified in the Initial Product Catalogue.
1.1.6	Product Specification Management and Contract Seals	Throughout the Term the Supplier shall be responsible for managing the Initial Product Catalogue, ensuring they are compliant with Authority, industry and legal standards and the provisions of this Contract. The process for managing specifications shall be through approval of Contract Seals, which shall be held by the Supplier and the Authority. At their own cost, the Supplier shall keep a full and up to date database of all specifications. The Contract Seal(s) are subject to approval by the Authority prior to production or sourcing and shall include (but not be limited to): • Agreed construction specification, performance standards and packaging details • Agreed Production Instructions. This shall include, but is not limited to, each Uniform Product's construction, the Sizing Chart, agreed production tolerances, labelling and parameters for quality assurance controls; • Pattern information for all finished products, including but not limited to, pattern blocks, pattern markers, gradings; • A Sealed Sample conforming to the standards agreed in the technical requirements and Production Instructions. The Authority requires 1 (one) full set of Sealed Samples prior to the first production. Each full set of Sealed Samples consists of a sample of each product (with colour variations dependent on Authority demand). Any subsequent change to the Contract Seal(s) must be subject to appropriate management processes (including version control in accordance with Schedule 25 Change Control Procedure. All Uniform Products supplied to the Authority shall be manufactured in accordance with and shall be identical in all respects to the corresponding 'Contract Seal'. The Supplier shall maintain its own copy of Sealed Samples for reference Quality Assurance purposes.

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Reference	Sub-Section	Description
Sub Section 1.1 Product Management		
1.1.7	Specialist equipment	The Authority reserves the right to approve any specialist equipment it has requested, before production and issue, through user and technical trials (conducted by the Authority) in accordance with Schedule 17 IT Testing Procedures and Schedule 18 Goods Testing Procedures. The purpose of the trial is to ensure that the equipment is compliant with Authority, industry and legal standards and is compatible with other equipment used by the Authority including Uniform Products set out in the Initial Product Catalogue.
Sub Section 1.2 Quality Assurance		
1.2.1	Product Standards	The Supplier shall ensure that each Uniform Product meets the minimum mandatory product (e.g. BS/EN/ISO/PPE/CE or equivalent), ethical (e.g. ETI/SA800/WRAP or equivalent) and environmental standards (e.g. Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), Worldwide consistent independent testing & Certification for Raw, semi-finished textiles (Oekotex), ISO14000 or equivalent), which govern the supply of that product.
1.2.2	Testing: General	The Supplier shall be responsible for providing testing and the subsequent Test Reports undertaken by a certified independent laboratory, approved by the Authority, evidencing that a Contract Seal conforms to the standards agreed in the Uniform Product requirements (including on all Non-Standard Measures and products which are developed or amended during the Term for inclusion in the Initial Product Catalogue).
1.2.3	Quality Assurance (General)	The Supplier shall have or shall put in place and maintain its own Quality Management and Quality Assurance processes and independent Quality Assurance processes which, at minimum, conform to ISO9001 (or equivalent). The Supplier shall provide to the Authority details of its Quality Management and Assurance processes and any updates to them throughout the Term of the Agreement.
1.2.4	Testing: Certificate of Compliance	For each Uniform Product, the Supplier shall provide a Certificate of Compliance with delivery of Uniform Product. This to be compliant with requirement (see 1.2.3 - QA General).

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Reference	Sub-Section	Description
Sub Section 1.2 Quality Assurance		
1.2.5	Product Traceability	To ensure full traceability of Uniform Products a batch code label shall be applied to each item of Uniform Product by the Supplier. This shall include (but is not limited to) the following references: • Uniform item number • Stock Keeping Unit (SKU) • Date of manufacture • Reference numbers of the Entities involved in the manufacture of the uniform item delivered.
1.2.6	Product Traceability	On or before the Operational Services Commencement Date the Supplier shall confirm how they shall meet this requirement or shall offer an alternative solution for Uniform Product traceability (subject to Authority approval).
1.2.7	Supply Chain Inspection Report	The Supplier shall, on request of the Authority, provide as part of the Certificate of Compliance an inspection report according to the Supplier's sampling procedures for inspection by attributes compliant with: • ASTM. D5430-13 (2017 or equivalent for raw material (upon request); • BS ISO 2859-4:2020 or equivalent . The Supplier shall apply the General Inspection (Level II) and the appropriate Acceptable Quality Levels (AQL) • Where the Personal Protective Equipment (PPE) Directive (89/686/EEC) (or later Directive) governs a product specification, the Supplier shall apply the quality assurance parameters stipulated by the most up to date PPE Directive at the time of production.
1.2.8	Product Recall	From the Operational Service Commencement Date, the Supplier shall institute and maintain a comprehensive recall procedure for Uniform Products which is approved by the Authority. This procedure shall be developed and adapted to suit the needs of the Authority.

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Reference	Sub-Section	Description
Sub Section 1.2 Quality Assurance		
1.2.9	Supplier Contingency	From the Effective Date the Supplier shall institute and maintain a comprehensive contingency plan to avoid Uniform Products being out of stock (to include but not limited to Alternative Products). This contingency plan is subject to approval by the Authority.
1.2.10	Sizing change	During Implementation any agreed changes to Uniform Product sizing shall be managed by the Supplier who shall manage any change and transition in sizing so that there is minimal disruption and wastage associated with that change. The Supplier shall communicate such changes to Users.
1.2.11	Sizing Management	The Supplier shall be responsible for the Sizing Chart, reviewing the suitability of the standard sizing regularly and adjusting according to the requirements for non-standard sizing requests/alterations. The sizing range must be in line with the Authority's requirements. Any changes to design, sizing must be carried out in accordance with Schedule 25 (Change Control Procedure).
1.2.12	Sizing Chart & Care Instructions	The Supplier shall provide a Sizing Chart and product care instructions for all Uniform Products, taking into account layering requirements of combined garments. This should be kept up to date with the latest Contract Seal. This should be written in Plain English and be capable of meeting Welsh Language requirements and reasonable accessibility requirements as the Authority may specify.
Reference	Sub-Section	Description
Sub Section 1.2 Quality Assurance		
1.2.13	Supplier Personnel	The Supplier shall ensure that all Supplier Personnel managing the day-to-day storage and distribution functions are suitably trained, equipped and supervised, (and licensed and security cleared if required according to the Authority's security requirements
1.2.14	Complaint Procedure	Supplier to identify how their complaints procedure would operate with reference to: • how complaints are raised • how complaints are managed; and • timescales for complaint resolution
1.2.15	Issue resolution	The Supplier shall be responsible for investigating, managing and resolving all product quality related issues in accordance with (see 1.2.3 Quality General). The Authority reserves the right to review and approve, where appropriate, any remedial plans in resolving the quality issues.

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Sub Section 1.3 - Continuous Improvement		
1.3.1	Continuous Improvement: General	From the Commencement Date the Supplier shall implement a programme of continuous improvement and product development for all Uniform Products, as well as rationalising the range of products provided where possible and in agreement with the Authority.
1.3.2	Continuous Improvement: Input	The Supplier shall proactively seek, log and track issues, challenges and feedback from Users and Authority subject matter experts in order to improve product, service design and performance.
1.3.3	Continuous Improvement: Management	The Supplier shall manage the introduction of new or improved Uniform Products which have not previously been provided to the Authority. This shall include, but is not limited to, the provision of design capabilities as well as testing and trialling of new Uniform Products in accordance with Schedule 18 Goods Testing Procedures. The Supplier shall ensure that all costs related to testing and trialling are fully transparent and approved by the Authority prior to the cost being incurred.
Reference	Sub-Section	Description
Sub Section 1.3 - Continuous Improvement		
1.3.4	Product Improvement Point of Contact	The Supplier shall provide appropriate resource capacity and capability, through a point of contact(s), to discuss technical issues relating to new and/or existing products.
1.3.5	Value for money assessment	Commencing twelve months from the Operational Service Commencement Date the Supplier shall undertake an assessment of the service forecasting actual and potential savings in accordance with Schedule 21 Benchmarking. This assessment should include (but may not be limited to): product improvement, cost reduction, standardisation, recycling program / process and product range (stock keeping units (SKU)) rationalisation). Following the first assessment the Supplier shall incorporate value for money assessments into its Continuous Improvement Plan.
Sub Section 1.4 -Tax Tabbing		
1.4.1	Tax Tabbing	In order to comply with minimum requirements relating to personal taxation, a selection of garments (in accordance with HMRC guidelines any other relevant Law) shall be affixed with a 'tax tab' label as required by the Authority.

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Sub Section 1.5 Non-Standard Measures		
1.5.1	Non-Standard Measures Service	The Supplier shall provide a Non-Standard Measures Service for the supply of all Uniform Products listed in the Initial Product Catalogue for Users whose requirements cannot be reconciled with the Uniform Products in the standard size range. The Supplier shall capture all sizing variations from the made-to-measure requirements and use these to review the Sizing Chart and shall propose adjustments to the Sizing Chart to minimise the need for Non-Standard Measures.
Reference	Sub-Section	Description
Sub Section 1.5 Non-Standard Measures		
1.5.2	Non-Standard Measures Provision and Demand	The Supplier shall manage the demand and production of Non-Standard Measures through the Supplier IT Solution including (but not limited to): • linking requests to the User Profile • managing any approvals required by Authority Personnel (to be defined in relation to establishment or central responsibilities) The Supplier shall control and, where possible reduce, costs of Non-Standard Measures while maintaining compliance with target KPIs for their delivery.
Sub Section 1.6 Product Design		
1.6.1	Product Design Capability	Supplier to be able to provide directly or indirectly a product design capability. Supplier should provide their approach to design/redesign, indicate speed of concept to final garment production, link to fashion high street designs, ease of manufacture, where innovation to material has increased durability or enhanced wearability.

Specification Section 2: Supply Chain Management

Requirement Section Scope		
includes for; Transfer and management of inherited stock, distribution and delivery of uniform products, supply chain management		
Reference	Sub section	Descriptor
Sub Section 2.1 Inherited Stock Management		
2.1.1	Inherited Stock Management	Following the Effective Date, during Implementation, the Supplier shall make an assessment of the Inherited Stock held by the incumbent supplier which shall include: • Identifying the volumes of each Uniform Product by (SKU and/or sizes) • Review demand forecasting data as provided by the incumbent supplier
2.1.2	Inherited Stock Management	The Supplier shall during the implementation Period, provide to the Authority in accordance with Schedule 6 Inherited Stock Management an updated strategy "Inherited Stock Strategy". This strategy shall need final approval from the Authority and shall set out (but not be limited to): • when and how Inherited Stock shall be received from incumbent supplier to the Supplier's Premises • Any dependencies on the Authority • how the Supplier shall manage stock once under its management (including how stock shall be prioritised) • how returns and defects relating to Inherited Stock shall be processed • estimated timescales for running down and ending Uniform Product lines • options for what would trigger the cessation of issuing Inherited Stock • options for environmental, sustainable and value for money (including the potential for generating revenue) for recycling or disposal of Inherited Stock where low volumes remain beyond an agreed period Within the Implementation Management Plan or Agreed Implementation Management Plan the Authority shall review the Inherited Stock Strategy and may request amendments

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Reference	Sub section	Descriptor
Sub Section 2.1 Inherited Stock Management		
2.1.3	Inherited Stock Management	The Supplier shall manage Inherited Stock in keeping with the Inherited Stock Strategy as set out in Schedule 6 (Inherited Stock Management) and updated with changes as agreed between the Parties, in accordance with Schedule 25 (Change Control Procedure).
2.1.4	Inherited Stock Management	If during the Implementation Period the Supplier or the Authority identifies a potential shortfall in specific stock lines of Uniform Products then the Authority may instruct the Supplier to source a purchase of comparable Uniform Product(s). The Supplier shall ensure that all relevant quality, technical and security requirements can be demonstrated (e.g. ethical supply) (see 3.5.1- 3.5.7) and is subject to the relevant terms of Schedule 19 (Charges and Invoicing) and Schedule 11 (Supplier Solution).
2.1.5	Inherited Stock Management	The Supplier shall ensure that there is segregation between Inherited Stock and Uniform Products sourced directly by the Successful Supplier. The Supplier shall ensure that Inherited Stock is exhausted before supplying Uniform Products that it has sourced.
2.1.6	Inherited Stock Management - Insurance	The Supplier shall ensure that Inherited Stock shall be covered by their insurance policies from the point that Uniform Products are received from the incumbent supplier until receipt by the Authority at the Authority's Sites is complete. The Supplier's Insurance policy for Inherited Stock shall reflect the Authority's interest in the Inherited Stock. The Suppliers insurance shall include but not limited to storage, distribution and any products returned to the Supplier's Premises. The title of goods remains with the Authority.
Reference	Sub section	Descriptor
Sub Section 2.1 Inherited Stock Management		
2.1.7	Inherited Stock Management	The Supplier's stock management system shall be capable of ensuring that only appropriate Users shall be able to have access to order Uniform Products. However, there must be provision within the Supplier's stock management system to allow Uniform Products to be able to be dispatched to non-Users for either samples or trials following approval by the Authority.
Reference	Sub section	Descriptor

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Sub Section 2.1 Inherited Stock Management		
2.1.8	Inherited Stock Management	When Inherited Stock arrives at the Supplier's warehouse the Supplier shall notify the Authority of any issues regarding the quality of the Uniform Products. Any suspect or out of specification products shall be held in secure area within the Supplier's quarantine area.
Sub Section 2.2 Customisation Service		
2.2.1	Customisation Service	The Supplier shall be capable of customising Uniform Products as defined by the Authority in the Initial Product Catalogue or when new Uniform Products are introduced. Such customisation shall include (but may not be limited to): • Text (multiple fonts, capitals and cursive) • Badges • Designs/logos The method of customisation used by the Supplier shall achieve value for money in cost and durability (e.g. embroidery, printing) in accordance with Schedule 19 (Charging and Invoicing) and Schedule 11 (Supplier Solution).
2.2.2	Customisation Service Provision	The Supplier shall manage the demand and production of customisation through the Supplier IT Solution including (but not limited to): • linking requests to the User Profile • managing any approvals required by Authority personnel (subject to confirmation of this requirement at a local or national level) • limiting: number of requests, types of customisations and wording based on Authority policy requirements

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Reference	Sub section	Descriptor
Sub Section 2.3 Supply Chain Management		
2.3.1	Supply Chain Management	The Supplier shall provide an up-to-date list of all Uniform Product suppliers within the supply chain on request by the Authority ("Supply Chain Entity Disclosure form"). All entities on the Supply Chain Entity Disclosure form shall be assigned a number as soon as they are added to the form and this number shall remain consistent throughout the life of the Agreement. This number shall not be changed be changed once assigned.
2.3.2	Supply Chain Management	The Supplier shall manage the performance of all Sub-Contractors within the supply chain and report on their performance to the Authority as is required by Schedule 24 (Governance).
2.3.3	Supply Chain Management	The Supplier shall consult with the Authority before making any material changes to the supply chain and shall declare the reasons for the change and what impact that has in terms of service and cost improvement. Any change will be in accordance with Schedule 25 (Change Control Procedure).
2.3.4	Supply Chain Management	The Supplier shall have a clearly defined process for managing and resolving issues within its supply chain. The process should include, but not be limited to: • How issues surrounding quality, standards and returns shall be investigated and resolved • who is responsible for managing this process • Timescales for sourcing Alternative Products or new or additional Uniform Products • The escalation process
2.3.5	Supply Chain Management	The Supplier shall produce and manage robust control processes that govern the sourcing, selection and on-going management of ethical and socially responsible supply chains, including continuity of service through the existing supply chain.

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Reference	Sub section	Descriptor
Sub Section 2.3 Supply Chain Management		
2.3.6	Supply Chain Management	Supplier will detail the supply chain ethical checks that they apply to the whole life cycle supply chain sourcing (including but not limited to Raw material through to finished delivered product). Supplier to confirm that they operate to latest ILO, ETI Modern Slavery. Supplier to list which third parties undertake ethical and sustainability checks on their behalf.
2.3.7	Supply Chain Management	Supplier will provide up to 5 references detailing similar supply chains (private or public sector) detailing; size, complexity, contact name (telephone and e mail) value and duration of contract, number of SKU, industry/sector.
Sub Section 2.4 - Additional Users		
2.4.1	Additional Users	The Supplier shall be responsible for on-boarding Additional Users to the Agreement in accordance with schedule 9 Onboarding Additional Users and ensuring a seamless transition of the Services. Any variations to the Agreement proposed by Additional Users shall be agreed and in accordance with Schedule 25 Change Control Process.
2.4.2	Additional Users	The Supplier shall be responsible for maintaining the management of the Service including Authority governance, Additional User governance, escalation and dispute resolution and in providing the reports required and in accordance with Schedule 3 Performance Levels to the Authority which clearly distinguishes between the Authority and Additional Users.

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2.4.3	Additional Users	The Scottish Prison Service (SPS) utilise an annual kit pack allocation process placing orders once per year for all officers with additional contingency orders to support new recruits. Requirements are outlined below. These will be agreed during the Implementation period and through an Additional Users Agreement: • Online ordering portal ○ Annual order window for SPS is generally between February-April. ○ Portal is accessible to Prison Officer staff for direct input, with annual uniform allocations/quantities controlled via the portal set-up to ensure over-ordering is not possible. ○ Additional purchase orders placed for local contingency stock. ○ Distribution of uniform kit-packs and contingency to establishments/central stores generally November/early December. • Uniform provision ○ SPS expected first order via the new contract would be Feb-Apr 2027; • SPS locations, addresses and access restrictions will be provided as part of onboarding • Prohibited Items will be provided as part of onboarding • Compliance ○ Prison and Young Offenders Institutions (Scotland) Rules 2011 ○ https://www.sps.gov.uk/about-us/governance/prison-rules ○ Freedom of Information (Scotland) Act 2002 (FIOSA) ○ https://www.legislation.gov.uk/asp/2002/13/contents
Reference	Sub section	Descriptor
Sub Section 2.4 - Additional Users		
2.4.4	Additional Users	Where an Additional User exercises its right under the Agreement to cease ordering from the Supplier the Supplier shall provide all necessary support to the Authority including, but not limited to, an impact assessment on the Service and on charges in accordance with Schedule 19 Charges and Invoicing.

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Sub Section 2.5 - Service Support		
2.5.1	Service Support	The Supplier shall provide a support and sales service to handle queries and returns, and actively gather and respond to feedback from Users. At the Operational Services Commencement Date, the availability of the service shall be Monday-Friday 8am- 6pm (UK time).
2.5.2	Service Support	Where the Supplier provides telephone support to Users this must be available at a cost no greater than local call rates.
2.5.3	Service Support	On or before the Operational Services Commencement Date the Supplier shall set out a proposed account management structure to support the delivery of the Service, manage Authority account(s) and provide a structure for handling issues, complaints and queries raised by the Authority and Users effectively. A finalised structure shall be agreed by the Parties during Implementation.
2.5.4	Service Support	The Supplier shall provide such materials (electronic and physical) as required by the Authority to support the Service in communicating with Users upcoming changes and actions that Users need to follow.
2.5.5	Service Support	The Supplier shall provide such support materials as required by the Authority which may include but is not limited to: Frequently Asked Questions (FAQs), User Guides and Product Guides, including sizing. All such support information shall be approved by the Authority before it is distributed to Users. These materials shall be reviewed periodically with User feedback solicited periodically, at a frequency to be agreed by the Parties to identify improvements in quality and accessibility.

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Reference	Sub section	Descriptor
Sub Section 2.6 -Stock & Demand Management		
2.6.1	Stock & Demand Management	The Supplier shall be responsible for managing stock, supply and issue of Uniform Products. The Supplier shall retain sufficient stock to fulfil orders placed by the Authority in full and on time. The Supplier shall maintain stock levels to meet this demand based on data supplied on or before the Operational Service Commencement Date in addition to its own analysis and expertise and through information gathered.
2.6.2	Stock & Demand Management	The Supplier shall forecast the forward orders of Uniform Products in line with the current numbers of Users levels and expected recruitment volumes supplied by the Authority on or before the Operational Service Commencement Date. The Supplier shall use this information from the Authority to forecast future orders.
2.6.3	Stock & Demand Management	The Supplier shall use all available data to forecast production and plan strategic activity: procurement of raw materials, production of fabric, garment manufacture and bulk shipping. The Supplier shall also take advantage of non-peak periods and favourable International Commercial Terms (Incoterms).
2.6.4	Stock & Demand Management	The Supplier shall list countries where it has operations/partnerships/JV clearly identifying its relationship and % of holding in any relationship with a third party
2.6.5	Stock & Demand Management	The Supplier shall maximise production and delivery efficiencies and to minimise cost through bulk procurement of raw materials while acknowledging that it does so at its own risk.

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Reference	Sub section	Descriptor
Sub Section 2.6 -Stock & Demand Management		
2.6.6	Stock & Demand Management	With the exception of Inherited Stock, the Supplier shall own all stock ordered until it is Received by the Authority in accordance with Schedule 6 Inherited Stock Management Schedule. The Authority shall not be liable for stock levels held in excess of 12 months of the forecasted volumes.
2.6.7	Stock & Demand Management	The Supplier shall effectively manage the lifecycle of Uniform Product(s) including the phase in and phase out stages minimising any excess and obsolete stock to Authority and industry standards.
2.6.8	Stock & Demand Management	The Supplier shall dispose of and/or recycle Unusable Stock in line with the Authority policy on recycling in the most cost effective and secure way, and disposal. The Supplier shall be responsible for the management and integrity of this process.
2.6.9	Stock & Demand Management	By agreement with the Authority the Supplier shall aggregate demand and forecast to maximise production, deliver efficiencies and to minimise cost through procurement of raw materials.
Sub Section 2.7- Order Options		
2.7.1	Order options	The Supplier shall provide a solution that manages the entitlement for each user. Entitlement is based on job role and grade and the frequency of issue for individual items, for example, annually or tri annually. In addition, the Supplier shall need to provide a solution for consolidation of Uniform Products for large volume intakes. Information on Entitlement shall be fed into the IT Solution or a combination of these two options.

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Reference	Sub section	Descriptor
Sub-Section 2.8 - Supplier Premises		
2.8.1	Supplier Premises	The Supplier shall utilise secure facilities for cross-docking of Uniform Products supplied. Upon request by the Authority the Supplier shall provide additional storage capacity to the Authority to support their individual requirements should the Authority wish to hold higher stocks of products. Any change will be in accordance with Schedule 25 Change Control Procedure.
2.8.2	Supplier Premises	The Supplier's Premises shall comply with all relevant Law. The Supplier's facilities shall meet all applicable standards and policies in relation to security and fire safety. The Supplier shall provide a storage environment, recording media and access control which is appropriate to the Uniform Products which is, or may be, held by it.
2.8.3	Supplier Premises	The Supplier's solution as detailed in Schedule 11 must also have in place processes to manage receipt, checking, location, identification, maintaining condition of equipment/item, stock management, pick and pack, packaging, loading and issue.
2.8.4	Supplier Premises	At the Operational Service Commencement Date, the Supplier shall ensure that there is a process for making a clear visual distinction between Authority orders once packaged.
2.8.5	Supplier Premises	The Supplier shall ensure and have in place that only security vetted personnel shall have access to Authority stock.

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Reference	Sub section	Descriptor
Sub-Section 2.9- Logistics & Delivery		
2.9.1	Logistics & Delivery	As part of the agreed quality assurance process, the Supplier shall perform checks in accordance with AQL General Inspection II (or equivalent), before despatching Uniform Products.
2.9.2	Logistics & Delivery	For both distribution and collection, the Supplier shall provide a transportation solution that includes suitable vehicle(s) with licensed driver(s) fit for road movement, loaded safely, secured, dispatched to nominated location to load/unload, in timelines and conditions specified by the Authority. Suppliers are to ensure all drivers are compliant with requirements as detailed in the Drivers Handbook.
2.9.3	Logistics & Delivery	For both distribution and collection, the Supplier shall deliver all products into the Authority's premises or nominated delivery site on the agreed/scheduled delivery date. Where applicable, deliveries shall be made in efficient batches defined by the delivery site in agreement with the Authority(s). All deliveries into the Authority's Premises shall be made within the normal business hours for those locations (to be defined by the Authority). The Supplier shall factor in Authority Premises constraints and ensure that they have appropriate modes of delivery which the Authority Premises is capable of receiving and unloading. Site visits and surveys can be completed to identify operational constraints.
2.9.4	Logistics & Delivery	When agreeing each delivery, the Supplier shall check whether the Authority Premises is capable of receiving and unloading most delivery methods including carton, cages and pallets if required. The Supplier can at no time revise or make amendments to the Delivery Schedule without prior consultation and approval by the Authority.
2.9.5	Logistics & Delivery	The Supplier shall ensure that all delivery drivers comply with the Drivers Handbook at all times to ensure all risks associated with deliveries are mitigated to an acceptable level.

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2.9.6	Logistics & Delivery	Where the Authority is not able to accept Delivery (e.g. unplanned operational issues) of a previously agreed time window, the Supplier shall return the Uniform Products to the Supplier's Premises and re-arrange Delivery as an Express Delivery.
2.9.7	Logistics & Delivery	The Supplier to ensure that any delivery vehicle complies with the Establishment access provisions as detailed in the Appendix (Prison Access). Supplier to confirm that it will have in place a robust positive communication policy, that drivers are made aware of any security requirements at any Establishment, how they would have detailed scheduled deliveries to Establishments, how they would instruct 3rd party drivers to adhere to any security requirements
2.9.8	Logistics & Delivery	The Supplier shall use its expertise to ensure deliveries are conducted in the most economically advantageous manner.
2.9.9	Logistics & Delivery	At the Operational Service Commencement Date, the Supplier shall have in place a cost-effective process (barcode, POD) electronic point of delivery receipting system that clearly identifies and records, time and point of delivery, receipting agent and appropriate evidence on POD.
2.9.10	Logistics & Delivery	Delivery of Uniform Products shall be made no later than: • 10 working days from the date of order (standard Delivery); or • 48 hours from the date of order (express Delivery) The Supplier shall report to the Authority the frequency of usage of the standard and express Delivery.

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Sub-section 2.10 - Ad-Hoc Ordering		
2.10.1	Ad-hoc ordering	The Supplier shall provide a service to the Authority where Users have a need to replace Uniform Products on an ad-hoc basis, outside of any agreed entitlement allocation and an Express Delivery service for unplanned provision of standard Uniform Products.
2.10.2	Ad-hoc ordering	As part of the Solution the Supplier shall provide a stock management service to meet the reactive needs, including effective management of stock levels, lead times, and stock holding locations.
Sub-Section 2.11- Returns		
2.11.1	Returns	The Supplier shall manage an efficient process to allow Users to return any Uniform Products which they are unable to use (e.g. incorrect order, wrong size, no longer required). The User shall be able to raise a return notice via the IT Portal and shall be notified when and where the product(s) shall be collected from.
2.11.2	Returns	Upon receipt of returned products into the Supplier's Premises, the Supplier shall assess the products and arrange for the User's account to be appropriately credited.
2.11.3	Returns	The Supplier shall ensure that any items to be reused shall be checked to make sure they continue to meet the standards as specified for the Initial Product Catalogue.
2.11.4	Returns	Items for recycling or disposal shall have all items of identification removed and stored or disposed of securely.
2.11.5	Returns	The Supplier shall ensure that all items disposed are fully deconstructed and recycled where possible to include as minimum: fabric, metal, plastics and recyclable other materials. The Supplier shall use reasonable endeavours to create an income for the Authority from the recycling of materials.
2.11.6	Returns	The Supplier shall dispose of all items, or elements of items, which cannot be recycled/part-recycled, in line its Environmental & Sustainability Plan, which shall minimise environmental impact through the Term.
2.11.7	Returns	The Supplier shall provide a full audit trail of disposal and recycling activity.

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Reference	Sub section	Descriptor
Sub -Section 2.12- Sourcing Standards Compliance		
2.12.1	Sourcing Standards	The Supplier and all its Sub-Contractors used within the supply chain (including but not limited to): for manufacturing, raw material production and distribution, subscribe and can demonstrate compliance to the latest Ethical Trading Initiative (ETI) code of practice.
2.12.2	Sourcing Standards	The Supplier and all its Sub-Contractors used within the supply chain (including but not limited to): for manufacturing, raw material production and distribution, subscribe and can demonstrate compliance to the latest International Labour Organisation (ILO) code of practice.
2.12.3	Sourcing Standards	The Supplier and all its Sub-Contractors used within the supply chain (including but not limited to): for manufacturing, raw material production and distribution, subscribe and can demonstrate compliance to the latest standard for Modern Slavery in supply chains.
2.12.4	Sourcing Standards	The Supplier shall confirm and can demonstrate, in particular compliance, that no: • forced, bonded or involuntary prison labour; or • child labour is used within its supply chain.
2.12.5	Sourcing Standards	For any of its supply chain outside of the UK the Supplier shall confirm and can demonstrate in particular compliance that living wages are paid in line with the local demographics.
2.12.6	Sourcing Standards	The Supplier shall confirm and be able to demonstrate in particular compliance that its supply chain audits are undertaken to demonstrate compliance to ILO and ETI whether direct or via a third party.

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Specification Section 3: Corporate Requirements

Requirement Section Scope

includes for; Contract KPI's, Price Management, competitive supply chains, environmental & sustainability, ethics and BCDR

Reference	Sub-Section	Description
Sub Section 3.1 - Performance Management		
3.1.1	Performance Management	The Supplier shall operate the Service and provide Uniform Products to the Service Levels and Key Performance Indicators which are set out in Schedule 3 Performance levels. Achievement of KPIs shall be linked to the accrual of Performance Points and Service Credits as outlined in Schedule 3 Performance Levels.
3.1.2	Performance Management	The Supplier's nominated staff (Contract Managers) shall attend meetings to provide updates on performance and achievement against the KPIs and progress reports as required by Schedule 24 Governance.
3.1.3	Performance Management	During Implementation and for the first 6 months following the Operational Service Commencement Date the KPI reporting frequency shall be at least bi-weekly or as agreed between the Parties.
3.1.4	Performance Management	The Supplier shall provide the required reports in accordance with Schedule 27 (Reports and Records) provisions on performance and achievement against the KPIs. These reports shall be capable of being automatically generated by the Supplier IT Solution and shall be provided by the Supplier in accordance with Schedule 27 Reports and Records Provisions. The Supplier shall provide the information in a format, which shall be specified by the Authority during the Implementation period.

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Reference	Sub-Section	Description
Sub Section 3.2 - Price Management		
3.2.1	Price Management	The Supplier shall establish a clear and robust process for managing Uniform Product Prices throughout the Term of the Agreement. In accordance with the Open Book provisions set out in Schedule 19 (Charges and Invoicing) the Supplier shall be able to demonstrate: • Price management on Uniform Products, as well as all service elements • Cost reduction on Uniform Products during the life of the Contract, through consolidation, product improvement and rationalisation • Value for Money through efficiencies and innovation
3.2.2	Price Management	In accordance with Schedule 19 (Charges and Invoicing) the Supplier shall demonstrate that their provision of the Services is reasonable and continues to provide value for money. The Supplier shall also seek cost savings throughout the Term and shall employ appropriate methods to do so. These could include (but are not limited to) the following: • Uniform Product standardisation • Uniform Product range rationalisation • Improvement to manufacturing process • Recycling income • Reduced inventory • Improved efficiency in warehousing processes • Improved efficiency in Delivery
3.2.3	Price Management	The Supplier shall provide a completed Financial Model which is compliant with the terms of Schedule 19 Charging and Invoicing as part of the ITT and will be documented in Schedule 11 Supplier Solution.
3.2.4	Price Management	In accordance with Schedule 23 (Financial Reports and Audit Rights) the Supplier will provide to the Authority an Open Book accounting model for Uniform Products. The Supplier's Price Model shall include (but not be limited to) a breakdown of the following costs: Raw materials, manufacturing, shipping, storage, distribution, Overheads, margin, resource costs, software and hardware.
3.2.5	Price Management	In accordance with Schedule 19 Charging and Invoicing, Price Review, appropriate commodity trackers will be agreed during Implementation
Reference	Sub-Section	Description

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Sub Section 3.3 - Competition Requirements		
3.3.1	Competition requirements	The Supplier shall be responsible for procurement of all Uniform Products. All procurement should be competitive and conducted in a fair and transparent manner which delivers demonstrable financial value for the Authority.
3.3.2	Competition requirements	Where a new or alternative Uniform Product is required by the Authority, which may be bespoke or specialist in nature, the Authority may instruct the Supplier to undertake a Competitive Sourcing Exercise for Uniform Products.
3.3.3	Competition requirements	Where requirements 3.3.1 and 3.3.2 apply and a new product is sourced from outside of the Supplier's existing Supply Chain the Supplier shall on-board, integrate and manage the Sub-Contractor in line with this Specification, Terms and Conditions and Schedules.
Sub Section 3.4 - Environmental & Sustainability		
3.4.1	Environmental & Sustainability	On the Effective Date the Supplier shall provide to the Authority, for the Authority's approval, an Environmental Sustainability Plan that is compliant with ISO14001 (or equivalent), Eco Management and Audit Scheme (EMAS) and REACH and conforms to the Authority's ethical and environmental policies as amended and updated from time to time. The supplier should check on current standards post Brexit by accessing; http://www.hse.gov.uk/brexit/index.htm
3.4.2	Environmental & Sustainability	The Environmental Sustainability Plan shall also be compliant with the Government Buying Standards (GBS): https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs and the Green Public Procurement (GPP) and the 2009/567/EC Commission Decision of 9 July 2009 establishing the ecological criteria for the award of the Community Ecolabel for textile products: http://ec.europa.eu/environment/index_en.htm
3.4.3	Environmental & Sustainability	The Supplier shall not use any materials, components, dyes, chemicals or packaging that involve a disproportionately adverse effect on the natural environment. On behalf of the Authority, the Supplier shall take responsibility for the environmental impact of all the entities listed on the Supply Chain Entities Disclosure form.

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3.4.4	Environmental & Sustainability	The Supplier's Environmental Sustainability Plan shall incorporate procedures to manage the whole Uniform Product life cycle impact under 4 classifications: • Inputs into the manufacturing process. Referencing international (REACH) and each entities' local mandatory standards, the Supplier shall detail policies on managing harmful waste, recycling and the treatment of effluent • Finished products from the manufacturing process. Referencing international (REACH, Oekotex) mandatory standards, the Supplier shall detail policies on managing the presence of banned and harmful substances on the products manufactured. • The Control of Chemicals and Hazardous Substances through the presence and maintenance of Material Safety Data Sheets. • End of life cycle recycling and sustainable disposal
3.4.5	Environmental & Sustainability	The Authority expects strict adherence to mandatory standards and shall view any serious non-conformances by the Supplier as a breach of the Supplier's contractual obligations. The Supplier's Environmental Sustainability Plan must set out in detail how the Supplier shall progressively reduce the adverse effect on the natural environment the performance of this contract causes. In particular this plan shall detail what methods the Supplier shall utilise to prevent waste occurring and to reduce it during the Term. These methods shall include but are not limited to, smarter use of packaging and reducing the use of products that have by-products requiring disposal. The Environmental Sustainability Plan shall be formally reviewed and amended by the Authority as part of the annual performance review. The Authority shall on request, be permitted (or permit an Independent Third Party, acting on the Authority's behalf) access to all the Supplier's Premises listed on the Supply Chain Disclosure form to check compliance with the Environmental Sustainability Plan in accordance with Schedule 23 Financial Reports and Audit Rights.

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Sub Section 3.5 - Ethical Standards		
3.5.1	Ethical Standards	The Supplier acknowledges that the Authority has a duty to ensure the integrity of its supply chain in accordance with standards covered by ETI, OLE and therefore shall not act contrary to these standards. For each component of the supply chain, the Supplier shall, without limitation, maintain an up to date Corporate Social Responsibility (CSR) dossier and provide the Authority with all information it requires to demonstrate that the Authority is meeting the required standards.
3.5.2	Ethical Standards	To complete the CSR dossier, the Supplier shall also annually submit an Independent Audit Report and Corrective Action Plan for each Cut & Sew production site carried out by an IRCA approved auditor. This should evidence that the Supplier's supply chain is operating according to the internationally accepted standard set out in the Ethical Trading Initiative (ETI) Base Code, SEDEX, the Worldwide Responsible Apparel Production (WRAP) or such equivalent as approved by the Authority.
Reference	Sub-Section	Description
Sub Section 3.5 - Ethical Standards		
3.5.3	Ethical Standards	The Supplier shall be a member of the Supplier Ethical Data Exchange (SEDEX) or equivalent approved by the Authority. If the Supplier is not a member, it shall need to demonstrate that it has applied for membership, and this is being processed prior to the Commencement Date. The Supplier shall maintain its membership throughout the Contract Term. The Supplier shall provide to the Authority copies of all relevant reports submitted to SEDEX or the equivalent body.
3.5.4	Ethical Standards	The Internal Audit, undertaken by the Supplier, shall be completed prior to the Independent Audit, and the findings monitored for consistency. Authority Representatives shall check these audit consistencies as part of ongoing due diligence. The Supplier shall submit updated audit documentation annually consisting of (but not limited to): 1. Any deadline set in the Corrective Action Plan which then takes precedence. The update shall be submitted immediately following the completion of the corrective action. 2. If any adverse audit information comes to light the Supplier must notify the Authority

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		immediately. 3. If there is an amendment or addition to the Supply Chain Entities Disclosure form during the Term, the dossier for that production site must be submitted prior to commencement of production.
3.5.5	Ethical Standards	The Authority reserves the right at any time during each Contract Year to select a random sample of up to 50% of the Sub-Contractors on the Supply Chain Entities Disclosure form and request that the Supplier arranges independent Ethical Trading Initiative (ETI) audits, to be carried out by approved IRCA Laboratories, at the Supplier's own cost. Such reports shall be provided to the Authority in full and without delay upon completion.
3.5.6	Ethical Standards	The Authority shall be entitled, either itself or via its servants or agents and at its absolute discretion and at its own expense, to accompany the Supplier or the Supplier's representative, during any internal or independent audit, or to make unannounced visits to any approved facility listed on the Supply Chain Entities Disclosure form.
3.5.7	Ethical Standards	Where any internal or accredited independent third party audit shows that any production facility or approved Sub-contractor engaged in the performance of the Agreement fails to achieve the required standard, or repeatedly fails to comply with the criterion set out in the ETI baseline or Corrective Action Plan such that it irreversibly undermines the confidence of the Authority in the continued performance of the Agreement, the Authority shall be entitled to require the Supplier to remove the entity from its operation and propose an alternative Sub-contractor.

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Sub Section 3.6 - Business Continuity & Disaster Recovery (BCDR)		
3.6.1	BCDR	The Supplier shall put in place a Business Continuity and Disaster Recovery Plan (“BCDR Plan”) to ensure continuity of Service in accordance with Schedule 29 Service Continuity Plan and Corporate Resolution Planning to be approved by the Authority. This shall be reviewed annually by the Authority and any recommendations agreed are to be implemented by the Supplier in an agreed timescale. The BCDR Plan shall be capable of full implementation from the Effective Date. The BCDR Plan must ensure continuity of the Service to the Authority in the event of a breakdown in normal operations. The Supplier’s BCDR Plan shall provide contingency for all Uniform Products and shall: 1. Ensure continuity of the Service in the event of a breakdown in normal operations including but not limited to the following: • Supply Chain disruption or failure; • Failure of Distribution Network; • Loss of Key Supplier Personnel; • IT Failure 2. Detail Supplier Personnel responsible for monitoring and implementing contingency arrangements. 3. Stipulate how the implementation of the arrangements shall be communicated to the Authority.

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Reference	Sub-Section	Description
Sub Section 3.6 - Business Continuity & Disaster Recovery (BCDR)		
3.6.2	BCDR	If, for any reason, the Supplier is unable to provide, in part or in whole, the Service then the Supplier shall contact the Authority's Representative to discuss and agree such action as required. This may include, but is not limited to, the following: (a) Use of additional or alternative sub-contractors; the Supplier shall not use any manufacturer other than those shown in the Supply Chain Entities Disclosure form without the express written consent of the Authority's Representative. In considering any such proposal, the Authority shall require, as a minimum, copies of recent audit and inspection reports and appropriate pre-production samples; (b) Provision of additional Supplier Personnel at the Supplier Premises; (c) Hire of additional transport or external courier services for Delivery; (d) Despatch of the manufactured Uniform Products from their country of origin by air freight; (e) Implementation of the BCDR Plan The costs of any remedial action borne by the Authority shall be calculated and recovered from the Supplier in accordance with Schedule 19 (Charging and Invoicing).
3.6.3	BCDR	The Supplier's BCDR Plan shall cover the entire supply chain and review this with the Authority at the end of each Contract Year or as frequently as requested by the Authority.
Sub Section 3.7 - Corporate Objectives		
3.7.1	Corporate Objectives	The Supplier shall assist the Authority by supporting the Authority's key strategic objectives in the rehabilitation of prisoners. While conforming to any security requirements (as specified by the Authority) the Supplier shall work with the Authority on scoping out and defining opportunities for prisoner's employment or work experience across their Supply Chain. The Supplier shall also ensure and demonstrate that it is compliant with the Armed Forces Covenant.

Specification Section 4: IT & Infrastructure

Requirement Section Scope

Includes the requirements of the Supplier IT Portal and provisions and standards of compliance.

In parallel to this document, please refer to Schedule 2 for the full list of Supplier IT Portal Non-Functional Requirements.

Reference	Sub-Section	Description
Sub Section 4.1 - User Definition		
4.1.1	User Definition	The Supplier IT Solution shall allow Users to log-on securely to view and update their User Profiles (keeping a full audit of all changes made as per 4.6.4.)
4.1.2	User Definition	Each Authority shall work with the Supplier to define the fields of the User Profile. The User Profile shall (unless otherwise agreed with the Authority) provide at minimum: a) MoJo User ID b) User grade/team/manager c) User Sizing (height/chest etc) d) Establishment Data (e.g. Name of Establishment, Address of Establishment storage) e) View User role level (Entitlement) f) Trigger point for reset of Entitlement g) User Epaulette Number h) User contact details i) User order history (if applicable) j) Catalogue specific to role
Reference	Sub-Section	Description
Sub Section 4.1 - User Definition		
4.1.3	User Definition	The Supplier IT Solution shall allow Users access to their Entitlement status and order history. Dependent on the Rules Based Access Rights of the User this shall be restricted to read-only access and shall include, but not be limited to: a) Current Uniform Products allocated to User

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		b) Budget allocation (Admin User or Super-User only) c) Order history at Uniform Product level d) Return /exchange transactions (Pending/Closed/Open) e) Entitlement. f) Print off complete list of Uniform Products allocated to User (along with any associated serial numbers for items) to facilitate the return of Uniform Products when a User is leaving the Authority, changing role or going on career break.
4.1.4	User Definition	Users shall receive confirmations and reminders via the IT Portal which shall include but not be limited to: a) Tasks in progress (order in basket, delivery status) b) Tasks complete (orders delivered to Store, orders returned to Supplier) c) Automated reminders (e.g. entitlement re-set)
4.1.5	User Definition	The Supplier IT Solution may suggest the use alternative innovations including SMS text alerts as a means of notification. However, any suggestions must comply with the Data Protection Legislation and be approved by the Authority.
Reference	Sub-Section	Description
Sub Section 4.2 - Assets administration & Management		
4.2.1	Asset administration and management	The Supplier IT Solution shall be capable of creating and maintaining data required by the Authority on each Uniform Product. This data shall include, but is not limited to: a) Authority and Supplier Item ID b) Short Uniform Product Description c) Long Uniform Product Description d) Unit of Measure e) Unit of Purchase Quantity f) Unit Price g) Minimum Order Quantity h) Maximum Order Quantity i) Quantity Interval j) Lead Time k) Image l) Sizing

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4.2.2	Asset administration and management	The Supplier IT Solution shall support the Authority's Uniform Policy and be capable of providing functionality that supports business rules for Entitlement including (but not limited to): a) Presenting items required (showing where items are out of stock with back-order functionality to support) b) Sizing check/update prompt c) Limits on ordering of items (shown to user) d) Entitlement and product order calculation e) Date of reset of Entitlement f) User profile update request (where User cannot amend fields) including gender over-ride request
Reference	Sub-Section	Description
Sub Section 4.2 - Assets administration & Management		
4.2.3	Asset administration and management	The Supplier IT Solution shall support a User request for a Non-Standard Measures order. This shall include data capture and business rules in support of (but not limited to): a) providing sizing and measurement guidance b) capturing User measurements c) a Supplier validation process (in keeping with requirements 1.5 – Product Management) d) maintain copy of Non-Standard Measures for ease of next order
4.2.4	Asset administration and management	The Supplier IT Solution shall support customisation request(s). This shall include data capture and business rules in support of (but not limited to): a) the User submitting request data including type of customisation required, what customisation is required (wording or logo), business justification b) an approval process within the Establishment, before being passed to the Supplier, which allows further information to be requested or the request to be rejected c) a quotation process from the Supplier based on information provided by User.
4.2.5	Asset administration and management	The Supplier IT Solution shall support User Profile Change request(s). This shall include data capture and business rules in support of (but not limited to): a) the User submitting data change request b) an approval process within the Establishment which allows further information to be requested or the request to be rejected.

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Reference	Sub-Section	Description
Sub Section 4.2 - Assets administration & Management		
4.2.6	Asset administration and management	The Supplier IT Solution shall support User requests for additional Uniform Products beyond Entitlement (an over-ride). This shall include data capture and business rules in support of (but not limited to): a) the User submitting the request data including: Uniform Products required, volume of Uniform Products required (above Entitlement entitlement), business justification, b) an approval process within the [Establishment] which allows further information to be requested or the request to be rejected.
4.2.7	Asset administration and management	The Supplier IT Solution shall support User requests for Establishment Stock Orders. This shall include data capture and business rules in support of (but not limited to): a) the Establishment (and MoJo User ID) submitting the request data including: Uniform Products required, volume of Uniform Products required, business justification, b) an approval process which allows further information to be requested or the request to be rejected. The Supplier IT Solution shall support User requests for Express Delivery. This shall include data capture and business rules in support of (but not limited to): i) the User submitting request data including rationale for why order is required urgently ii) an approval process within the Establishment which allows further information to be requested or the request to be rejected.

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Reference	Sub-Section	Description
Sub Section 4.2 - Assets administration & Management		
4.2.8	Asset administration and management	The Supplier IT Solution shall support User requests for returning items (Returns, supporting requirements in section 2.14). This shall include data capture and business rules in support of (but not limited to) the User submitting the request data including: Uniform Products to be returned, the number of Uniform Products to be returned, rationale for return, preference for replacement or credit of allocation to User Profile.
4.2.9	Asset administration and management	If requested during the Term by the Authority the Supplier IT Solution shall support a User request for a Formal Uniform Hire request (supporting requirements in section 7.1). This shall include data capture and business rules in support of (but not limited to): a) providing sizing and measurement guidance b) capturing User measurements c) duration of Uniform Hire d) calculation of cost based on duration of Uniform Hire e) an approval process within the Establishment which allows further information to be requested or the request to be rejected.
4.2.10	Asset administration and management	The Supplier IT Solution shall allow Super Users and Local Approvers to produce customised reports based on data the Supplier is required to provide to the Authority.
Sub Section 4.3 - Roles & Function		
4.3.1	Roles and Function	The Supplier IT Solution shall allow Super Users the ability to create, amend, archive or delete User profiles either individually or in bulk.
4.3.2	Roles and Function	The Supplier IT Solution shall allow Role Based Access Control (RBAC) for User types including vacation rules and career breaks.
4.3.3	Roles and Function	The Supplier IT Solution shall allow automated, bulk or individual uplift of budgets expressed in units as defined by the Authority (e.g. monetary or points values).
4.3.4	Roles and Function	The Supplier IT Solution shall allow automated or individual upload of business rules or roles. Including approval rules and approvers (if required).

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Reference	Sub-Section	Description
Sub Section 4.3 - Roles & Function		
4.3.5	Roles and Function	The Supplier IT Solution shall allow Users to place orders or view orders which includes the ability to: a) to create/edit/save a shopping cart b) option to submit a shopping cart c) return/checkout a shopping cart d) User Profile updated to reflect order history. e) User Profile updated to reflect any credit as a result of a returned Uniform Products f) Feedback tool for Uniform Products, including (but not limited to) poor performance, faults and sizing errors. As per requirement 4.1 Users shall receive notifications on completion of an order (or returns) process and shall receive a notification where a process is incomplete for a period of time
4.3.6	Roles and Function	The Supplier IT Solution shall allow the Authority to set automatic or scheduled orders based on business rules for selected Uniform Products or User roles.
4.3.7	Roles and Function	The Supplier IT Solution shall allow consolidated orders raised by Super Users on behalf of numerous Users due to business demands. The functionality would need to support to include (but not limited to): a) allowing a Super User to order any item in the IPC b) allow automatic tagging of the various Uniform Products listed within the consolidated order against the numerous individual User Profiles.

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Reference	Sub-Section	Description
Sub Section 4.3 - Roles & Function		
4.3.8	Roles and Function	The Supplier IT Solution shall allow the processing of returned Uniform Products, whether as a result of an individually raised order or for full/part consolidated order return. The User account shall be credited (where appropriate).
4.3.9	Roles and Function	The Supplier IT Solution shall provide User role based access to a dashboard for monitoring Supplier performance and metrics on key metrics (e.g. stock levels, stock outs, KPI fulfilment)
4.3.10	Roles and Function	The Supplier IT Solution shall support the integration of C&R Products as per the requirement at section 7.2.1. Such integration is at the discretion of the Authority.
Sub Section 4.4 - Management Information- Reporting		
4.4.1	Reporting	The Supplier IT Solution shall have functionality to provide Authority defined reports which shall at minimum include the viewing and exporting of data. Report functionality shall be defined by User type and shall, at minimum, include (but not be limited to): a) Consumption by User/Group/Establishment/Authority/Job role b) Consumption vs entitlement by User/Group/Establishment/Authority/Job role c) Uniform Product Entitlement by User/Group/Establishment/Authority d) Asset Register e) Account History for User/Group/Establishment/Authority/Job role f) Spend by User/Group/Establishment/Authority/Job role f) Users by job role/establishment/Group/Authority g) Entitlement refresh dates by User/Group/Establishment/Authority/Job role h) Unused/inactive accounts i) Annual summary of orders by Group/Establishment/Authority/Job role including size breakdown j) Supplier performance against KPIs k) Stock analysis for stock transfers l) Back orders m) sustainability savings n) Pending Bulk orders

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		o) recycling MI Data shall be provided in a format acceptable to the Authority.
Reference	Sub-Section	Description
Sub Section 4.4 - Management Information- Reporting		
4.4.2	Reporting	The Supplier IT Solution shall have the ability for local business hub reporting, CCMD and HR reporting on Supplier performance, Uniform Product demand etc.
4.4.3	Reporting	The Supplier IT Solution shall have functionality to support the measurement and reporting on performance (non-functional requirements) including (but not limited to): a) Concurrent (users + speed) – estimated database size and capacity planning b) Capacity (Supplier Personnel levels and turnover) c) Fault/defect tolerance d) System KPIs.
Sub Section 4.5 - Data Management		
4.5.1	Data Import/Export	The Supplier IT Solution shall have the functionality to generate file extracts containing relevant data to support additional internal reporting capability for the Authority where required.
4.5.2	Data Import/Export	The Supplier shall work with the Authority, as required, to enable data exchanges between the Authority's HR and Finance back-office systems.
4.5.3	Data Import/Export	Subject to the provisions of Schedule 28 (Exit Management), the Supplier shall provide to either the Authority or the new Supplier, via secure electronic transfer, one or more data drops and, subject to confirmation, deltas against the initial data drop (that is the changes in data from one data set to another) in a format specified by the Authority.
Reference	Sub-Section	Description
Sub Section 4.6 - Service Design		
4.6.1	Service Design	There should not be any requirements on the Authority browser other than general HTML standards, and it must not require any other installations on individual workstations.

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		The IT solution must be capable of running on the following Operating System and browser types (as a minimum): • Windows 11, running Microsoft Edge (supported versions only)
4.6.2	Service Design	The Supplier IT Solution must be compatible across a range of devices (Microsoft or Mac PC's, as well as iPhones and Android mobile phones) without the need for amendment.
4.6.3	Service Design	The Supplier IT Solution and accompanying services must: a) provide language support for English and Welsh b) be universally accessible by Microsoft Edge as a minimum. c) have security architecture that takes into account both the rights of the User and the location where the data is accessed. d) not require browser plug-ins to work e) comply with internal Authority password guidance.
4.6.4	Service Design	The Supplier IT Solution shall have an online help facility and feedback function
4.6.5	Service Design	The Supplier shall co-operate with the Authority Representatives in providing system updates and hot fixes where appropriate.
4.6.6	Service Design	The service design as a minimum requirement shall include (as per Schedule 3 (Performance Levels)): a) The service shall provide agreed levels of service availability during core office hours (Monday-Friday 8.00am-6.00pm UK time) b) The service shall provide agreed resilience and back-up/recovery functionality c) The provider shall actively work with the Authority to provide Integration with Authority helpdesk processes d) The provider shall actively partner with the Authority in providing ongoing service enhancements, but these must be agreed by the Authority prior to deployment of any enhancements. e) The provider must provide statistics reports including availability and performance on an agreed schedule.

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4.6.7	Service Design	At the Commencement Date the Supplier shall provide an outline plan of how the Supplier IT Solution shall be implemented. The plan shall be finalised and agreed with the Authority during the Implementation Period.
Reference	Sub-Section	Description
Sub Section 4.6 - Service Design		
4.6.8	Service Design	The Supplier shall propose a Testing Plan which must be agreed with the Authority prior to any configuration, testing or deployment of the Supplier IT Solution.
4.6.9	Service Design	The Supplier shall provide adequate training on the IT solution for all User roles. This shall include (but is not limited to) training materials & guidance and FAQ's. The materials shall be available during the Implementation Period to support Users involved in testing. To maintain value for money the Supplier shall look to use existing training materials as a basis for development where a new Authority is on-boarded. This could include (but may not be limited to): clearly stating phone line support numbers; email support contact details, webforms or instant chat functionality.
4.6.10	Service Design	The Supplier shall provide an outline of what UAT are required and identify the timeline. The Supplier shall indicate the resource support required from the Authority to complete UAT.
4.6.11	Service Design	The IT Portal shall be designed to allow the implementation of a rules-based points based system for Entitlement.
4.6.12	Service Design	The IT Portal design should have the flexibility to allow for different roll out scenarios, such as Big Bang, Regional or phased by Establishment type.
4.6.13	Service Design	The Supplier shall provide the following system (IT Portal) performance information for their existing system used by other users/customers: • System Availability: - o the percentage availability, to users, of the IT portal over the last 12 months, broken down by each month; - o for any unavailability identified, provide a brief description of the reason/cause of that unavailability. • System Reliability: - o the percentage reliability of the system over the last 12 months broken down by each month.

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		NOTE: The information required should be based on a system that has a similar, or at least scalable number of users and transactions to that required for the requested service.

Reference	Sub-Section	Description
Sub Section 4.6 - Service Design		
4.6.14	Service Design	The Supplier shall provide the following details relating to the design, development and use of the existing IT Portal: • System Design: - o A list of the standards (internal, external or international) used in the design and development of the IT Portal. • System Testing: - o A list of the standards (internal, external or international) used in the testing and acceptance into service of the IT solution for other users/customers. • Security Accreditation/Assurance: - o A list of the standards (internal, external or international) used to secure security accreditation/assurance of the IT solution in support of its acceptance into service for other users/customers and/or; - o A list of any current security accreditation/assurances certificates held by the IT Portal system, including when they were issued.
4.6.15	Service Design	Should the Suppliers IT Solution not currently have Security accreditation/Assurance in place, (see 4.6.20 - Security Accreditation/Assurance) or an agreed plan to secure it, the Supplier shall provide a detailed plan outlining how they will secure a National Cyber Security Centre Cyber Essentials certification for their IT solution.
Sub Section 4.7 Software Licences		
4.7.1	Supplier Proprietary Software	The Supplier is to list all supplier Proprietary software proposed or to be used in the support of this contract. The supplier should clearly list the Supplier (or affiliate) and commercial name of software together with;

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		Purpose, Number of Licences, any restrictions, Number of copies and type of licence (COTS or Non- Cots), perpetual or annual costs including any maintenance. This is in accordance with Schedule 15 Software
4.7.2	Third Party Software	The Supplier is to list all third-party software proposed or to be used in the support of this contract. The supplier should clearly list the Supplier and commercial name of software together with; Purpose, Number of Licences, any restrictions, Number of copies and type of licence (COTS or Non- Cots), perpetual or annual costs including any maintenance. This is in accordance with Schedule 15 Software

Specification Section 5: Implementation**Requirement Section Scope**

This section describes the requirements on the Supplier for transitioning the current services into and under the management of the Supplier. Implementation will include for; mobilisation (preparation of activities) and transition (delivering the activities) The Supplier will produce at tender stage an Implementation Plan that complies with the requirements contained in this specification and details the actions, deliverables and milestones to ensure a timely transfer of responsibilities for managing the supply of uniforms. It will clearly define the deliverables and milestones of the Mobilisation and Implementation phases.

Reference	Sub-Section	Description
Sub Section 5.1 - Implementation Management		
5.1.1	Implementation Management Plan	As part of the Tender the Supplier shall provide to the Authority a detailed Implementation Management Plan in accordance with Schedule 16 (Implementation Plan). The Implementation Management Plan shall define the Supplier's strategy and methodology to deliver all aspects of the required outcomes in relation to the two phases that constitute Implementation, those being Mobilisation and Implementation. The outcomes for which are shown at 5.1.2 and 5.1.3 respectively. The Implementation Management Plan shall include, but not be limited to: • The Supplier strategy and methodology to deliver the required Implementation outcomes including the tasks/activities required to support them. This should include, but not be limited to: - o Detailed arrangements for the configuration of the IT Portal. - o Detailed arrangements for the testing, system and user, of the IT Portal. - o Arrangements for security accreditation of the IT Portal. - o Arrangements for user training of the IT Portal. - o Arrangements for the preparation of operational service.

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		- o Detailed arrangements for the service testing of the ordering process using the IT portal. - o A resource profile, including skill sets, for the successful delivery of all aspects of Implementation, broken down by each phase. This should include any Authority resources needed to support the Supplier to deliver the Implementation outcomes. - o Detailed arrangements for how the Supplier will manage and maintain the quality and configuration of the required Implementation outcomes delivered during the Implementation period. - o Supplier organisational structures and governance arrangements for the successful delivery of Implementation. - o Detailed arrangements for how the Supplier will manage Risks, Issues, Assumptions and Dependencies (RAID) during the Implementation period.
5.1.1 (Continued)	Implementation Management Plan	• The Supplier shall detail the distribution process from the Supplier's warehouse to Establishments. The Implementation Management Plan shall be supported by an Implementation Management Schedule and Risk, Issues, Assumptions and Dependencies (RAID) log. (section 5.1.2 and 5.1.3 respectively provides details) Within 5 Working Days of the Effective Date the Supplier shall provide an updated Implementation Management Plan for approval by the Authority this will then become the Agreed Implementation Management Plan in accordance with Schedule 16 Implementation Plan.
5.1.2	Mobilisation	The Mobilisation outcomes in accordance with Schedule 16 Implementation Plan will include but not be limited to: • An Agreed Implementation Management Plan, with supporting documents, for approval by the Authority within 5 Working Days of the Effective Date • An agreed (sealed) design for all Uniform Items in the Initial Product Catalogue (IPC) within 8 weeks of the Effective Date. • Authority agreement of the Supplier inherited Supplier strategy within 4 weeks of the Effective Date.

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		• A fully configured, implemented, security approved and operational (user trained and supported) IT Portal, within 13 weeks of the Effective Date. • A successful system test (using dummy order/data) of the Uniform Product ordering and delivery service via the IT Portal, within 13 weeks of the Effective Date.
5.1.3	Implementation	The Implementation outcomes in accordance with Schedule 16 Implementation Plan will Include but not limited to: • Successful receipt of inherited stock items from the incumbent supplier to the supplier premises; • Supplier provision of a fully operational Uniform Product service, by 'Go Live' date.
Reference	Sub-Section	Description
Sub Section 5.1 - Implementation Management		
5.1.4	Implementation Management Schedule	The Supplier shall provide a detailed Implementation schedule (Gantt Chart) to support the Implementation Management Plan detailed at 5.1.1 above. The schedule shall include: • Clear definition of the key Deliverables including the tasks and activities, required to deliver them and the required outcomes. • Clearly defined testing and acceptance criteria for all outcomes and key deliverable items. • Clearly defined Milestones. • Clearly defined testing and acceptance criteria for all outcomes and key deliverable items. • Deliverables, activities and tasks should be logically linked. • All key activities and tasks should have resources assigned. • Clear identification of critical path items. The schedule shall be provided in MS Project (or equivalent) format. A viewable (i.e. PDF) version of the schedule shall be provided with MS Project (or equivalent) file. The Supplier shall maintain the Schedule through Implementation.

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5.1.5	Implementation Management Reporting	Throughout Implementation the Supplier shall provide progress and status updates to Project Board meetings by means of a Management report. The Management report should include but not limited to the following elements: - o Key activity completed in reporting period. - o Overall delivery confidence RAG status. - o Workstream activity. For each workstream, activities completed and RAG status. - o Key activities to be completed in next reporting period. - o Performance against Implementation KPIs (as set out in Part A of Schedule 3). - o Risks and issues log.
Reference	Sub-Section	Description
Sub Section 5.1 - Implementation Management		
5.1.6	Implementation Management Risks Assumptions Issues and Dependencies (RAID) Log	The Supplier shall provide a RAID log to support the TMP detailed at 5.1.1 above. Risks and issues shall include risk/issue owners, detailed handling procedures including controls and mitigations. Assumptions and Dependencies shall be aligned to the Implementation and Operational Commencement phases of the Service (making the distinction between both phases). The Supplier shall maintain the RAID log throughout the Implementation phase.
Sub section 5.2 Implementation Testing		
5.2.1	Implementation Test preparation	During Implementation the Supplier shall, in conjunction with the Authority, agree the format of User Acceptance Testing (UAT) of the IT Portal that shall be conducted to provide proof of concept of the IT Portal. This shall include but not be limited to; portal design, User interface, developing Business Rules, development of User stories, Outline UAT scripts, details of when and who shall be involved in UAT and drafting acceptance criteria.
5.2.2	Implementation: KPIs	The Supplier shall report against the Implementation KPIs as part of the formal reporting cycle.

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5.2.3	Implementation: Testing	During Implementation and prior to the Operational Service Commencement Date, the Supplier shall carry out an agreed number of 'dummy' trial orders, which shall test the service from placing an order via the IT Solution to acknowledgement of delivery and receipt of the order on the IT Portal. The Supplier and Authority shall agree the test criteria by which to measure performance against. The outcome of the trial orders shall be submitted to the Authority in the form of a report which includes but is not limited to: - o Where test criteria was met. - o Where test criteria was not met. This should include the cause of any failures and how and when these failures shall be rectified.
5.2.4	Implementation UAT Scripts	User Acceptance Testing (UAT) test scripts are to be produced by the Supplier and shall be written in such a way that they cover realistic testing of the system, User interfaces and User stories.
5.2.5	Implementation: Acceptance criteria	The Supplier shall provide for Authority approval, prior to actual testing, the acceptance criteria, periods and milestone deliverables.
Reference	Sub-Section	Description
Sub section 5.3 Implementation Training		
5.3.1	Implementation Training	The Supplier shall submit a Training Strategy detailing how training and/or guidance shall be delivered to all Users The training should make distinctions in phases where applicable including Implementation and Operation. The Training Strategy should detail how support for the IT Portal will be provided.
Sub section 5.4 Implementation Readiness Checks		
5.4.1	Implementation Readiness Checks	The Supplier shall produce Authority readiness checks prior to UAT and again prior to Operational Service Commencement to ensure that Go/No Go status can be accurately assessed for approval by the Authority at agreed Project Board.
Sub section 5.5 Implementation Project Team Facilities		

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5.5.1	Implementation: Project Team accommodation (Office)	The Supplier shall advise as part of the Agreed Implementation Management Plan where their project team shall be located. If Authority Sites are required then the Supplier shall confirm what facilities are required to house their project team and the duration this would be required for.
Sub section 5. 6 Operational Commencement of Service Roll Out Scenario Planning		
5.6.1	Operational Commencement: Regional Roll Out scenarios	The Supplier shall propose scenarios for the roll out of the introduction of the Uniform Product service together with supporting evidence and timelines to achieve a complete roll out. Scenarios may include for (but not limited to); Pilot of a limited number of establishments, Regional rollout, Geographic (North/South), Prison Type etc.
5.6.2	Operational Commencement: Big Bang approach	The Supplier shall confirm that they can meet the roll out scenarios for both system readiness and stock allocations. The Supplier shall highlight all risks and/or issues associated with these approaches and include these in the RAID Log's.

Specification Section 6: On Boarding Additional Users

Requirement Section Scope This section describes the requirements to on board Additional Users to the Authority Agreement.		
Reference	Sub-Section	Description
Section 6.1 - On Boarding Additional Users		
6.1.1	On Boarding Additional Users	The Supplier shall develop an On Boarding process for Additional Users as in accordance with Schedule 9 Onboarding of Additional Users. The Suppliers process shall include for the development of an Outline On-Boarding Plan (OOP) to the Authority. The OOP shall detail how each Additional User shall be transitioned from their current service provision to the Service provided under this Agreement. The OOP should be a clear and detailed road map showing all key activities, tasks and milestones required these should include for but not be limited to. • Overall timeline of key activities to On Board Additional User • Drafting and agreement of the Additional Users Agreement • Management of any user Legacy stock.

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		• Introduction of supplier supplied stock. • Volume and price of SKUs • Storage and distribution of Additional User Uniform Products

Specification Section 7: Optional Services (Currently Out of Scope)

Requirement Section Scope		
This section describes the Optional services that the Customer may wish to incorporate into the contract at some point in the future. Note the requirements listed below are for illustration and not exhaustive. This section is for information purposes only		
Reference	Sub-Section	Description
Sub Section 7.1 Formal Uniform Hire Service (currently out of scope)		
7.1.1	Formal Uniform Hire Service	The Supplier maybe required to provide costings for the provision of a formal hire service for Formal Uniform (subject to the Authority confirming it's need for this) whereby items as per above requirement are hired/loaned by Establishments. As part of the requirement the Supplier shall provide: • Storage of Formal Hire Uniform in keeping with Security requirements • Delivery and collection (either as part of the Authority's Delivery Schedule or as part of an Express Delivery Service) • Cleaning/laundrying service • Repair and restoration of minor damage or wear and tear has occurred • Replacement

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7.1.2	Formal Uniform Hire: Assessment of current stock	The Supplier will be required to undertake an assessment of the Authority's (legacy Formal Uniform) which results in a report ("Hire Uniform Report"). The Hire Uniform Report shall cover (but may not be limited to): • an assessment of the stock levels held at establishments identified by the Authority of Formal Uniform Items • the condition of the Formal Uniform Items assessed • a recommendation from the Supplier on which items should be: retained (cleaning only), repaired (minor wear and tear with some rectification required), removed from circulation (securely destroyed or recycled) • Recommended design or technical improvements (in line with Authority requirements as set out in the Initial Product Catalogue.)
Reference	Sub-Section	Description
Sub Section 7.2 Integration of C&R and PPE (Currently out of scope)		
7.2.1	C&R Integration	The Authority may, during the Term, engage the Supplier with a view to integrating the supply of Control & Restraint (Public Order or Specialist PPE) Equipment into the solution. As a minimum C&R Suppliers providing goods and services to HMPPS shall be able to integrate their catalogue into the Supplier IT Solution allowing Users (with C&R accreditation) to order all Uniform and C&R equipment through a single portal.
Sub Section 7.3 Non IT Portal projects (Currently out of scope)		
7.3.1	Non-IT Portal products	The Authority may engage the Supplier to provide products outside of this Agreement and not utilising the IT Solution requirements for small batch or one-off orders. This shall be by agreed Schedule 25 Change Control Process.



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Standard Non-Functional Requirements

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Please see the Business Analysis for Demand SharePoint page for more information on our team and our Business Analysis service via this link: [Business Analysis for Demand \(sharepoint.com\)](#)

Purpose: This paper is to **provide 'standard' or generic Non-Functional requirements (NFRs)** for MoJ and related bodies' solutions where a Software as a Service (SaaS) and Commercial Off the Shelf (COTS) solution is the preference. Text highlighted in **yellow** is recommended to review in line with business need.

Contents of Paper

Non-Functional requirements describe the general properties of a system. They are also known as quality attributes often serve as constraints to the solution.

The MoSCoW prioritisation matrix is used in this document. MoSCoW is defined as follows:

- a) **Must** – "Must" requirements are essential to the solution's success and are non-negotiable. If these tasks are missing or incomplete, the solution is deemed a failure or incomplete.
- b) **Should** – "Should" requirements are critical, high-priority tasks that should be met whenever possible. These are highly important but can be delivered in a future phase of the solution if necessary.
- c) **Could** – "Could" requirements are highly desirable but can be left out if there are time or resource constraints.
- d) **Would Like** – "Would Like" requirements are desirable (for example, "Would like to have...") but aren't included in this project. This category also contains for the least critical requirements.
- e) **N/A** – "Not Applicable" is where a requirement has been removed and has no priority

The Non-Functional requirements are broken down into the following areas: Performance, Scalability, Security, Usability and Maintainability. Of which each Non-Functional Requirements area will have table of requirement descriptions.

- 1) Performance: How fast a system should respond to requests
- 2) Scalability: How well a system can handle an increase in users or workload
- 3) Security: How well a system protects against unauthorized access and data breaches
- 4) Usability: How easy a system is to use
- 5) Maintainability: How easy it is to update and modify the system

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1.1.1. NFR01 Performance

No.	Requirement Description	MoSCoW
NFR01N01	The system shall have 100% overall availability outside scheduled maintenance periods	Must
NFR01N03	Data reporting for monitoring of the system shall not affect performance of the production service	Must
NFR01N04	The system shall provide automated performance reports on a monthly basis which provide information on: A. Business transaction volumes B. Computational transaction volumes C. User concurrency D. End-to-end transaction times E. Application availability F. Breakdown of server availability G. Capacity	Must
NFR01N05	The system shall implement logging and monitoring tools to facilitate troubleshooting and performance analysis	Must
NFR01N06	In the event of an error or fault there shall be sufficient information available to enable the root cause of the problem to be identified and tested	Must
NFR01N07	There shall be no unreasonable limit on the number of users using the system simultaneously without any negative effect on performance	Must
NFR01N08	The system shall be able to respond to queries and generate reports within under 1 seconds 99% of the time.	Must
NFR01N09	The system shall be able to successfully complete create, read, update, and delete actions within under 1 seconds 99% of the time.	Must
NFR01N10	The system shall successfully respond to user action within under 1 second 99% of the time	Must
NFR01N11	There shall be no unreasonable limit on storage for the system	Must
NFR01N12	There shall be no unreasonable limit on throughput for the system	Must
NFR01N13	There shall be no unreasonable limit on number of users for the system	Must
NFR01N14	The system shall not have a noticeable negative impact on the performance of other Applications or systems for users	Must
NFR01N15	The system shall continue to operate seamlessly in the event of hardware or software failures	Must

1.1.2. NFR02 Scalability

No.	Requirement Description	MoSCoW
NFR02N01	The system shall have a defined approach which enables the system to respond to a Service Management request to support a temporary increase in service limits	Must
NFR02N02	The system shall be delivered as one of the following: 1. Software as a Service (SaaS) application (as the customer's first preference). SaaS is considered to be multi-tenant and based on subscription billing 2. Be an off the shelf product that can support infrastructure and configuration management through code and automation to be deployed to either the Ministry of Justice's Cloud Platform or Modernisation Platform 3. Be a bespoke product developed such that it is suitable to be deployed to either the Ministry of Justice's Cloud Platform or Modernisation Platform	Must

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	Please see the information about the MOJ Cloud Platform and Modernisation Platform below: A. https://user-guide.cloud-platform.service.justice.gov.uk B. https://user-guide.cloud-platform.service.justice.gov.uk/documentation/concepts/what-is-the-cloud-platform.html C. https://user-guide.modernisation-platform.service.justice.gov.uk D. https://user-guide.modernisation-platform.service.justice.gov.uk/user-guide/our-offer-to-you.html	
NFR02N03	The system shall be able to handle increasing workloads by adding more resources without affecting the availability, performance or consistency of the data	Must
NFR02N04	The system shall support both horizontal (Scale up) and vertical (Scale out) scaling methods and allow for automatic or manual scaling policies	Must
NFR02N05	The system shall also provide mechanisms for load balancing, data replication, and fault tolerance to ensure high reliability and resilience	Must
NFR02N06	The system shall adhere to the principles of cloud-native architecture and design for automation. Government Cloud First policy - GOV.UK (www.gov.uk)	Must
NFR02N07	The system shall adhere to MoJ Hosting guidance. See https://technical-guidance.service.justice.gov.uk/documentation/standards/hosting.html for requirements.	Must
NFR02N08	The system or supplier will enable the transfer any data to the Authority at the end of the contractual period in a safe and secure way	Must

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1.1.3. NFR03 Security

No.	Requirement Description	MoSCoW
NFR03N01	The system shall ensure that all users and relevant employees have their solution access rights revoked on termination of employment	Must
NFR03N02	If the system is not hosted by the MOJ then, all system information, assets and supporting utilities shall be provided appropriate physical protection from internal, external and environment threats	Must
NFR03N03	If the system is not hosted by the MOJ then, the system's supporting utilities (hardware, firmware and software including hosting) shall be maintained and patched up to date, preventing loss or interruption of services	Must
NFR03N04	The system shall have defined, documented, agreement with the Authority and regularly maintain (at least annually) Standard Operating Procedures for solution administration and maintenance	Must
NFR03N05	The system shall have protective monitoring to support the detection of malicious activity. This shall include but not limited to: A. Network enterprise event monitoring B. Hosting Enterprise Event Monitoring C. Applicant Management	Must
NFR03N06	The system shall ensure that users have their access rights periodically reviewed and when a user role changes	Must
NFR03N07	The system shall suspend or shut down its sessions after a pre-defined period of inactivity that can be set by Authority	Must
NFR03N08	The system shall ensure that the solution is appropriately isolated from any of the supplier's customer environments	Must
NFR03N09	The system shall have any technical vulnerabilities identified from a penetration test or IT Health Check treated (reduced, avoided, transferred or accepted) at intervals of not more than 12 calendar months since the last successful tests before any major change to infrastructure goes live. This shall include but is not limited to: A. modifications to functional capability B. implementation C. or hosting any issues identified during Penetration tests or IT Health Check	Must
NFR03N10	The system shall have a documented, implemented and regularly tested and reviewed business continuity arrangements for the supplier's facilities, utilities, and systems	Must
NFR03N12	The system's development and test environments shall not process personal identifiable information as defined by the UK General Data Protection Regulation (GDPR)	Must
NFR03N13	The system shall not process or hold information with the Security classifications of: A. SECRET B. TOP SECRET As defined by Government Security Classifications Policy (GSCP) See Government Classification Scheme - Security Guidance (justice.gov.uk)	Must
NFR03N14	The system shall have an Information Security Policy that reflects the control objectives as specified within the ISO27001 control set	Must
NFR03N15	The system shall ensure that their development and test environments are appropriately separated from the live environment	Must
NFR03N16	The system shall align with NCSC Cloud Security Principles. See Cloud security guidance - NCSC.GOV.UK	Must
NFR03N17	The system shall enforce multi-factor authentication access controls for users and administrators	Must
NFR03N18	All data must be encrypted at rest and in transit	Must
NFR03N19	The system must provide a documented method for data extraction at the conclusion of the current supplier's contract and data deletion using an NCSC	Must

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	approved standards (https://ministryofjustice.github.io/security-guidance/#data-destruction)	
NFR03N20	The system shall provide an audit capability for all Create, Update and Delete user actions which captures: A. User ID B. Username C. Date D. Timestamp E. Action F. If an action failed or completed successfully	Must
NFR03N21	The system shall provide an audit capability for all Read user actions which captures: A. User ID B. Username C. Date D. Timestamp E. Action F. If an action failed or completed successfully	Must
NFR03N22	The system shall have controls that prevent log information from being modified.	Must
NFR03N23	A Data Protection Impact Assessment (DPIA) shall be carried out on the solution	Must
NFR03N24	The default position is that MoJ personal data shall not be transferred to or through, or stored, in the US or elsewhere outside the UK, EEA, or an ADC, other than in exceptional circumstances. See POL.ITAUP.029 - Acceptable Use Policy - Security Guidance (justice.gov.uk)	Must
NFR03N25	The system shall have Single Sign On based on MoJ user accounts or users shall have unique user accounts	Must
NFR03N26	The system shall adhere to MoJ security guidance. See Security Guidance (justice.gov.uk) for requirements	Must
NFR03N27	The system shall adhere to MoJ user clearance guidance requirements. See Minimum User Clearance Requirements Guide - Security Guidance (justice.gov.uk) for requirements	Must
NFR03N28	The system shall adhere to MoJ Vulnerability Scanning and Patch Management guidance. See https://security-guidance.service.justice.gov.uk/vulnerability-scanning-and-patch-management-guide/#vulnerability-scanning-and-patch-management-guide for requirements	Must
NFR03N29	If the system is not hosted by the MOJ then, the system shall Implement demonstrable strict access controls to ensure that only authorized personnel can access the hosting environment	Must
NFR03N30	The system shall have a firewall in place to protect against unauthorized access	Must
NFR03N31	The system shall use tools and mechanisms to detect and prevent unauthorized access or malicious activities	Must
NFR03N32	The system shall be compliant with the ICO (Information Commissioners Office) regulation and guidance. See https://ico.org.uk/for-organisations/	Must
NFR03N33	The service provider shall follow the guidance set out for all MoJ users in the IT Security All Users Policy and also comply with the IT Security Technical Users Policy	Must
NFR03N34	The service provider shall follow the guidance set out for IT suppliers in the Malware Protection Guidance	Must
NFR03N35	All data shall be handled in line with the MOJ Cryptography principles	Must
NFR03N36	MoJ personal data shall not be transferred to or through, or stored, in the United States of America or elsewhere outside the United Kingdom, European Economic Area, or an Adequacy Decision Country, other than in exceptional circumstances. See Acceptable Use Policy - Security Guidance (justice.gov.uk) for more detail	Must
NFR03N37	The system shall comply with the MoJ Access Control Policy	Must
NFR03N38	The system shall allow admin users the ability to set Create, Read, Update or Delete rights to other users for any and all parts of the system	Must
NFR03N39	The system shall allow admin users to view what access rights users have	Must

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NFR03N40	The data held on the system must be owned by MoJ	Must
NFR03N41	The MoJ shall have the right to request access the data held on the system at any time, and the system provider or system shall provide mechanisms to facilitate or enable such requests promptly and efficiently and at no cost to the MoJ.	Must

Schedule 2 (Goods Description and Services Description)

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1.1.4. NFR04 Usability

No.	Requirement Description	MoSCoW
NF04N01	The system shall comply with Web Content Accessibility Guidelines 2.2 AA (known as WCAG)	Must
NF04N02	The system shall comply with Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018	Must
NF04N03	The system shall comply with Equality Act 2010 (or the Disability Discrimination Act 1995 in Northern Ireland)	Must
NF04N04	The system shall have up to date user guides on the functionality of the system	Must
NF04N05	The system shall be capable of validation of data elements against configurable business rules	Must
NF04N06	The system shall apply complete and configurable error logging and reporting functionality	Must
NF04N07	The system shall return useful failure codes in response to errors. All failure codes are returned (as opposed to just the first error detected)	Must
NF04N08	If the system uses an Interface like an API, then the system shall return interface errors to the source service on the same interface used for the original message. These errors relate to failures in the process of exchanging data through interfaces	Must
NF04N09	The system shall ensure compatibility operating systems (Windows 10 and 11)	Must
NF04N10	The standard hours of operation of the system shall be Monday to Friday 08:00 until 18:00.	Must
NF04N11	The system shall be accessible to users via browser and the latest version of Microsoft Edge	Should
NF04N12	The user interface shall have a simple and intuitive design that follows the principles of user-centred design	Must
NF04N13	The user interface shall have a consistent and attractive appearance that follows the brand identity and style of the Authority	Should
NF04N14	The system shall have compatibility with MoJ End User Compute devices	Must
NF04N15	The system shall adhere to the GOV UK Service Manual where applicable. See Service Manual - GOV.UK (www.gov.uk) for requirements	Could
NF04N16	The system shall adhere to the Technology Code of Practice The Technology Code of Practice - GOV.UK (www.gov.uk)	Must
NF04N17	The system shall have an intuitive search option to allow users to view specific records	Must
NF04N18	The system shall have a dynamic data structure and allow users to view records using filters	Must
NF04N19	The system shall allow fields on records to have validation such as requiring a minimum or max number of characters or having a defined drop down list	Must
NF04N20	The system's validation checks shall return to the user a clear and obvious error message, highlighting the field in question where an amendment must be made before content can be saved	Must
NF04N21	The system shall allow users to report any issues with the system	Must
NF04N22	The system shall be in line with Gov UK Data visualisation guidance from the Analysis Function for the use of colours in charts and graphs. See guidance: https://analysisfunction.civilservice.gov.uk/policy-store/data-visualisation-colours-in-charts/	Could
NF04N23	The system shall be in line with Governmental Digital Services style guide for spelling and grammar. See guidance https://www.gov.uk/guidance/style-guide/a-to-z-of-gov-uk-style	Could
NF04N24	The system shall adhere with GOV UK CSV file format guidance. See https://www.gov.uk/guidance/using-csv-file-format	Could

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1.1.5. NFR05 Maintainability

No.	Requirement Description	MoSCoW
NF05N01	The system shall use failure codes with additional information that includes a plain English description to aid diagnosis and resolution, with the following details as a minimum: A. Timestamp at which the fault occurred B. System identifier – identifying the specific IT System component in which the fault occurred, or the originating external party C. Operation or process ID in which the fault was encountered D. Nature of fault	Must
NF05N02	The system shall be developed in a way that minimises bespoke coding and customisation through the use of development frameworks, standards-based development environments, proprietary COTS (Commercial Off-the-Shelf) software and the reuse of proven pre-existing software modules	Must
NF05N03	Availability outside scheduled maintenance periods shall be measured using a declared and agreed method	Must
NF05N04	There shall be a mechanism in place that shall ensure there is no data loss in the event of a network or system failure	Must
NF05N05	In the event of corruption of business-critical data, the service shall be capable of restoring uncorrupted data from back-up to a suitable point to resume processing without loss or duplication	Must
NF05N06	The system shall be able to handle rolling back of transactions in the event of errors, in a manner which ensures integrity and consistency of the solution	Must
NF05N07	The system shall ensure completion and validation of scheduled periodic backups of the data and solution software	Must
NF05N08	The system shall consist of separate concurrent environments to support the different phases of development and test of the solution and future iterations	Must
NF05N09	The system shall have a Unit testing environment. This is the most basic test environment, and it is used to test individual units, such as functions or classes.	Must
NF05N10	The system shall have an Integration testing environment. This environment is used to test how different units work together	Must
NF05N11	The system shall have a System testing environment. This environment is used to test the entire software system, including all of its components and their interactions	Must
NF05N12	The system shall have a User Acceptance testing environment. This environment is used to test the software system from the user's perspective	Must
NF05N13	The system shall have a Staging environment: This environment is used to test the software system in a production-like environment. The staging environment is typically configured to be as similar to the production environment as possible	Must
NF05N14	The system shall have a Production environment: This is the environment where the software system is deployed and used by users	Must
NF05N15	The use of proprietary data formats within the system shall be avoided	Could
NF05N16	The system shall maintain a record of all Updates received and applied	Must
NF05N17	Integration with third-party applications or services shall take place over open standards such as TCP/IP, HTTP, JSON/JSONP or XML	Must
NF05N18	The system shall have a High-Level and Low-Level Design documenting the proposed solution. This shall include: A. Data Dictionary B. Reference to API Schemer C. Security Policy D. Service Level Agreements E. Training Guides F. Evidence of Accreditation of Cyber Essentials Plus (commonly 'CE+') certification	Must
NF05N19	The system shall not have a single point of failure	Must
NF05N20	In the event of a system component failover, the service shall still be capable of supporting the defined peak load	Must

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NF05N21	The system's disaster recovery facility shall be equal to the system's live facility both in terms of access to the data and capacity	Must
NF05N22	The system's backup shall be tested at least once a year through a full backup restoration exercise. Details of the test and results to evidence success shall be agreed with the Authority	Must
NF05N23	The system shall be supplied with and have a maintained comprehensive plan and service for: A. Incident Management B. Problem Management C. Event Management D. Continuity Management E. Availability Management F. Change Management G. Release Management H. Security Management I. Support Management	Must
NF05N24	The user interface shall provide validation and error handling mechanisms to ensure integrity and consistency of the data in the solution	Must
NF05N25	The system shall adhere to MoJ Technical guidance. See MOJ technical guidance - MoJ Technical Guidance (justice.gov.uk) for requirements.	Must
NF05N26	The system shall have artifacts that define and document APIs (Application Programming Interface) for integration with other systems or services	Must
NF05N27	Comprehensive documentation shall be provided for system architecture, configurations, and procedures	Must
NF05N28	The system shall have the capacity to import and export data without ongoing support by the solution provider or the vendors of the solution components. The import/export programming language shall either be open, open standard, or a reliable and flexible data transfer tool integrated with the software to facilitate the secure and reliable transfer of data between multiple and diverse external systems using open standard interfaces. See https://www.gov.uk/government/publications/recommended-open-standards-for-government for recommendations	Must
NF05N29	The system shall provide the ability for authorized users to modify the values of data fields within the system without incurring a cost by the supplier or provider	Must
NF05N30	The system shall provide the ability for authorized users to modify the metadata structure within the system without incurring a cost by the supplier or provider	Must
NF05N31	The system shall comply with Gov UK https://www.gov.uk/guidance/gds-api-technical-and-data-standards	Should
NF05N32	The system shall comply with https://www.gov.uk/guidance/style-guide/technical-content-a-to-z	Could
NF05N33	The system shall format dates and times using the GOV UK standard: Formatting dates and times in data - GOV.UK (www.gov.uk)	Could
NF05N34	The system shall have version control for changes made in the system	Could
NF05N35	There shall be a robust recovery mechanism in place for the system with a Recovery Time Objective agreed between the Supplier and the Authority	Must
NF05N36	There shall be a robust recovery mechanism in place for the system with a Recovery Point Objective agreed between the Supplier and the Authority	Must
NF05N37	The system shall have a regular Service Window for routine maintenance that is agreed by the Supplier and the Authority	Must

Schedule 3: Performance Levels

Part A – Implementation KPIs

1. Key Principles

- 1.1 The Supplier shall provide the Implementation Services promptly, professionally and diligently.
- 1.2 Throughout the provision of the Implementation Services the Supplier shall supply the Implementation Services and the Implementation Plan to a standard that meets or exceeds the standards set out in the Implementation KPIs detailed in this Schedule.
- 1.3 The Supplier shall take corrective action in the event of any failure to meet an Implementation KPI.
- 1.4 The Supplier shall provide KPI Reports related to the Implementation KPIs.
- 1.5 If the level of performance of the Supplier during a Service Period achieves a Milestone in respect of an Implementation KPI, no Performance Points shall accrue to the Supplier in respect of that Implementation KPI. Where the Supplier fails to meet the required performance standard against an Implementation KPI, the Supplier shall accrue Performance Points in accordance with the Implementation KPIs.
- 1.6 Where the number of Performance Points accrued in a specified period exceeds specified levels, as set out in this Schedule, the Supplier may be subject to:
 - 1.6.1 the application of Service Credits by way of adjustment to the Charges by way of the Authority claiming financial compensation due to the Supplier failing to fulfill its service commitments and the Authority incurring loss or damage that the Authority may suffer or incur by reason of such failure;
 - 1.6.2 the preparation and implementation of the Rectification Plan Process;
 - 1.6.3 the exercise of step-in rights by the Authority;
 - 1.6.4 the exercise of termination rights by the Authority; and/or
 - 1.6.5 paying compensation by way of an indemnity for loss, costs and expenses granted by the Supplier in favour of the Authority against any costs or losses incurred as a result of the Supplier failing to achieve any of the Implementation KPIs.
- 1.7 The remedies set out in this Schedule for failure to meet the Implementation KPIs are not intended to be the Authority's exclusive remedy for any such failure and shall be without prejudice to any other right or remedy to which the Authority may be entitled, whether under other express provisions in this Contract, under the general law or otherwise.

2. IMPLEMENTATION KPIs

- 2.1 Each of the Implementation KPIs shall be measured on a monthly basis and accordingly relate to the standard of performance that is required and agreed, in respect of the

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specified tasks or activities, within the KPI Deliverable and Milestone specified for the relevant Implementation KPI.

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Part A Implementation KPIs

Key Performance Indicator	KPI Deliverable (Standard Required)	Measure	Performance Points	
Transition Preparation			Milestone	Number of Performance Points (Monthly)
Transition planning <i>(will require Supplier and Authority to undertake some pre- planning prior to contract signature)</i> Implementation Plan complete and approved to required standard and with agreed detail	A baselined Implementation Plan and supporting documents	Supplier provided Implementation Plan that satisfies requirements defined in specifications.	An approved Implementation Plan within 1 week of Effective Date.	5 Performance Points
Mobilisation				
Uniform sealed design				
Planning Agreed TORs and assessment /design roll out plan	Design user group (Supplier & Authority)	Group operational and tasks assigned	Group operational, TORs, task assignment and deliverable plan agreed within 1 week of Implementation Plan	2 Performance Points
Design user group Final design of Goods identified and agreed	Recommend final design of Goods specification	Supplier and Authority finalise designs	Recommendation of final design specification of Goods within 6 weeks of design user group being set up.	5 Performance Points

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Final Design Supplier provision of design seal to Authority	Approval of final design specification agreement	Both Supplier & Authority have agreed reference Sealed Samples of Goods	Sealed Samples agreed within 8 weeks of design user group being set up.	10 Performance Points
IT portal configuration				
Configuration user group Configuration user group set up	IT Portal design and configuration complies to requirements and has agreed functionality	User group established with agreed membership and TORs and design plan agreed within 2 weeks of Effective Date	Configuration group operational within 1 week of Effective Date	2 Performance Points
Approach and Requirements Supplier and Authority agreement of configuration requirements	Working group with approved TORs and agreed design plan	Configuration requirements approved by Authority	Fully configured system within 1 week of configuration working group being set up	5 Performance Points
Configuration demonstrated Configuration of IT Portal meets the functional and non-functional requirements set by the Authority	IT Portal performs to requirements and has agreed functionality	Layout, functionality and ergonomics of all user fields agreed by Authority	Functionality signed off within 2 weeks of approval of configuration requirements. Any outstanding fixes to be completed within 2 weeks.	10 Performance Points

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		MI reports designed, tested, demonstrated and agreed by Authority	All MI reports to be operational within 2 weeks of approval of configuration requirements. Any remaining MI reports to be completed within 2 weeks	10 Performance Points
End User Training				
Approach and Requirements Authority agreement of Supplier provided training strategy, plan and products	Training plan to ensure all End Users will be able to operate efficiently the system	Supplier to provide training materials and roll out plan	Training plan approach to be agreed by Authority within 1 week of the approval of the IT Portal configuration and functionality testing	2 Performance Points
End User training materials Supplier delivery of training materials	Training manuals complete and ready	Delivery to Authority	Full completion of measure within 1 week of approval of training requirements.	5 Performance Points
Phase 1 Initial End User (Super User) Training Successful training of initial Super User	Initial Super User group determined and trained	Identified users proficient in using the IT Portal	All Super User training within 1 week of approval of the IT Portal configuration and functionality testing approval	5 Performance Points

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Phase 2 Full User Training Successful training of initial focus group users (Super Users)	Focus group determined and trained	Identified users proficient in using the IT Portal	70% of End Users proficient in use of IT Portal at the point of service go-live with remainder being proficient no later than 4 weeks after service go-live declared	5 Performance Points
IT (System assurance) Accreditation				
IT Portal System Assurance (Accreditation) Supplier documentation meets requirements of Accreditor	Supplier provision of system design, build, test and operation documentation/certificate s for IT Portal as detailed in specifications	IT Portal gains relevant security accreditation certification to enable system hosting and use in operational service	System achieves full accreditation within 13 weeks of Effective Date	15 Performance Points
UAT Testing				
Planning Service testing user group set up	Approved UAT test plan	User group established and functioning with agreed membership and TORs agreed within 1 week of Effective Date	Full completion of measure within 4 weeks of Effective Date	5 Performance Points
Test scripts Authority agreement of Supplier provided test scripts	Test scripts reflect End User stories	Test scripts approved	Full completion of measure within 7 weeks of Effective Date	5 Performance Points

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Testing Service tests meet requirement of test scripts	Confirmation that system has met all End User requirements and configured to meet End User needs	Series of successive tests, initial, intermediate and final	Initial tests meet a minimum of 50% of final outcome at first pass, within 1 week of approval of test scripts	5 Performance Points
			Intermediate test meets a minimum of 75% of final outcomes at first pass, with 2 weeks of successful completion of initial tests	5 Performance Points
			Final tests meet 100% of final outcomes at first pass, within 3 weeks of successful completion of intermediate tests	5 Performance Points
Implementation				
Inherited Stock in Supplier premises				
Availability of stock to End Users Inherited Stock is at Supplier's premises, is of a serviceable quality and available to order	Detailed transfer plan to ensure Supplier can meet the supply and demand to Sites	Supplier confirmation of KPI	100% of Inherited Stock in Supplier's premises and available to End Users to order	15 Performance Points

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Supplier supply of Goods				
Goods availability Supplier has sufficient volumes of new Goods items available to meet agreed End User demand volumes	No stock out of Goods	Supplier provides evidence to Authority	Supplier has sufficient volumes of new Goods items available to meet demands with no stock outs	15 Performance Points
Goods Available to End Users				
All End Users Goods available to all End Users	Dependent on roll out	Supplier demonstration of Goods availability	All End Users to have login details and to have performed a successful login within 2 weeks of commencement of the provision of Goods	5 Performance Points
Supported IT Portal				
IT Portal Support Supplier to have a IT Portal support/help desk facility in place to support go-live	Supplier provides the support coverage as defined in KPIs	Supplier to provide monthly reports as per business as usual availability requirements	Supplier to have a IT Portal support/help desk facility in place to support go-live	10 Performance Points

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3. REPORTING OBLIGATIONS

- 3.1 The Supplier shall ensure that it has appropriate systems and procedures in place and use all necessary measures and monitoring tools in order to capture and report on compliance with the Implementation KPIs as required by this Schedule.
- 3.2 In advance of each Project Board the Supplier shall deliver to the Authority a KPI Report relating to the applicable Month. The KPI Report shall be included in the monthly report provided to the Project Board and shall:
 - 3.2.1 be in the format reasonably specified by the Authority;
 - 3.2.2 identify any failures to meet a particular Implementation KPI, KPI Deliverable or Milestone, during the relevant Month;
 - 3.2.3 identify where Implementation KPIs are met; and
 - 3.2.4 include relevant explanatory statement in relation to any such failures describing why, in the reasonable opinion of the Supplier, the failure occurred and the steps that the Supplier proposes to take to avoid any recurrence of that failure and to rectify that failure ("**Explanatory Statements**").
- 3.3 In order to verify the accuracy of any KPI Report:
 - 3.3.1 the Supplier shall promptly provide the Authority with such additional information and/or supporting documentation as the Authority may reasonably request from time to time;
 - 3.3.2 if requested to do so, the Supplier shall permit representatives of the Authority to have access to the Supplier's Premises for the purposes of inspecting records and other information held by the Supplier in relation to the Goods and Services.
- 3.4 The Authority may provide representations and/or comments on any Explanatory Statements. The Supplier shall take reasonable account of all such comments and/or representations and, subject to this, shall fully implement any actions set out in the relevant Explanatory Statement.

4. SERVICE CREDITS

- 4.1 Each Performance Point accrued shall have a value of 1% of the Supplier Profit as set out in the Finance Response Template. Where more than 5 (five) Performance Points are accrued in any one Month, the total value of the Performance Points accrued in that Month shall be deducted from the Charges payable to the Supplier for the initial invoice following the Goods Commencement Date and Services Commencement Date ("**Initial Invoice**") and shall be itemised as a Service Credit on the relevant invoice submitted by the Supplier.
- 4.2 Where by the sums owing by the Supplier are in excess of the Initial Invoice then the Authority will deduct Service Credits from subsequent invoices until the amount owing has been paid in full irrespective of how many invoice periods are accounted for.
- 4.3 The Supplier will indemnify the Authority against any costs or losses incurred as a result of the Supplier failing to deliver against the approved Implementation Plan and the Implementation KPIs and Milestones in accordance with Paragraph 5 below.

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- 4.4 The Supplier acknowledges and agrees that the Service Credits are a reasonable method of price adjustment to reflect the value of the poorly performed provision of the Goods and/or Services.
- 4.5 The Supplier acknowledges and agrees that the Service Credits are not an estimate of the loss or damage that the Authority may suffer or incur by reason of a Key Performance Indicator not being met and are not an exclusive remedy for the Authority. Any payment or deduction of Service Credits is without prejudice to the Authority's entitlement to damages that may be claimed from the Supplier under other specific remedies available to the Authority in accordance with this Contract (provided that any claim for damages for a breach or failure where Service Credits have been paid or deducted in respect of the same failure or breach shall be reduced by the amount of those Service Credits).
- 4.6 In all circumstances, where a Key Performance Indicator is not met, the Supplier shall investigate the failure and, to the extent required by the Authority, advise the Authority promptly and within the prescribed timeframe of the remedial actions being taken to minimise the impact of the failure and prevent its reoccurrence.

5. INDEMNITY

- 5.1 From the Effective Date, the Supplier will indemnify the Authority against any costs or losses incurred as a result of the Supplier failing to deliver against the approved Implementation Plan, and the Implementation KPIs and Milestones. The Authority will provide evidence of costs and losses incurred.

6. IMPLEMENTATION PERSISTENT DEFAULT

- 6.1 Where in the case of Implementation KPIs:
 - 6.1.1 the number of Performance Points accrued against a Milestone exceeds 10 (ten); or
 - 6.1.2 the number of Performance Points accrued over any three (3) consecutive Months exceeds 20 (twenty) in aggregate,(each an "Implementation Persistent Default"),
the Supplier, at its cost, shall prepare a formal written Rectification Plan pursuant to Clause 25 of the Contract.

7. STEP-IN RIGHTS

- 7.1 Where in the case of Implementation KPIs:
 - 7.1.1 the number of Performance Points accrued against the Milestone exceeds 20 (Twenty); or
 - 7.1.2 the total number of Performance Points accrued over any three (3) consecutive Months exceeds 40 (forty),then the Authority shall be entitled to exercise a right of step-in under Clause 27 of the Contract.

8. TERMINATION RIGHTS

8.1 Where in the case of Implementation KPIs:

8.1.1 the number of Performance Points accrued against a Milestone exceeds 30 (thirty); or

8.1.2 the total number of Performance Points accrued over any three (3) consecutive Months exceeds 50 (fifty) in aggregate,

then the Authority shall be entitled to treat such failure as a Supplier Termination Event which is not capable of remedy and that accordingly provides grounds under Clause 30.1 for the Authority to terminate all or part of this Contract immediately or as of the date specified in its notice to the Supplier.

Part B Goods KPIs

1. KEY PRINCIPLES

- 1.1 The Supplier shall provide the Goods promptly, professionally and diligently.
- 1.2 After the Goods Commencement Date (or such a date as the Parties may agree) the Supplier shall supply the Goods to a standard that meets or exceeds the standards set out in the Goods KPIs detailed in this Schedule.
- 1.3 The Supplier shall take corrective action in the event of any failure to meet a Goods KPI.
- 1.4 The Supplier shall provide KPI Reports related to the Goods KPIs.
- 1.5 If the level of performance of the Supplier during a Service Period achieves a Target Performance Level in respect of a Goods KPI, no Performance Points shall accrue to the Supplier in respect of that Goods KPI. Where the Supplier fails to meet the required performance standard against a Goods KPI, the Supplier shall accrue Performance Points in accordance with the Goods KPIs.
- 1.6 Where the number of Performance Points accrued in a specified period exceeds specified levels, as set out in this Schedule, the Supplier may be subject to:
 - 1.6.1 the application of Service Credits by way of adjustment to the Charges by way of the Authority claiming financial compensation due to Supplier failing to fulfill its service commitments and the Authority incurring loss or damage that the Authority may suffer or incur by reason of such failure;
 - 1.6.2 the preparation and implementation of the Rectification Plan Process;
 - 1.6.3 the exercise of step-in rights by the Authority;
 - 1.6.4 the exercise of termination rights by the Authority; and/or
 - 1.6.5 an indemnity from the Supplier in favour of the Authority against any reasonable costs or losses incurred as a result of the Supplier failing to achieve any of the Goods KPIs.
- 1.7 The remedies set out in this Schedule for failure to meet the Goods KPIs are not intended to be the Authority's exclusive remedy for any such failure and shall be without prejudice to any other right or remedy to which the Authority may be entitled, whether under other express provisions in this Contract, under the general law or otherwise.

2. GOODS KPIs

- 2.1 Each of the Goods KPIs shall be measured on a monthly basis and accordingly relate to the standard of performance that is required and agreed, in respect of the specified tasks or activities, within the standards required, KPI Deliverable and Target Performance Level specified for the relevant Goods KPI.

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Part B Goods KPIs

Key Performance Indicator	KPI Deliverable (Standard Required)	Target Performance Level	Measure	How is this calculated	Measurement Period	Service Credits / Performance Points	Actual Performance Level	Number of Performance Points (monthly)
Compliance against Specification	Product quality to standards and seal standards. 100% of acceptance of delivered product	100%	Number of reported issues – End User reported, confirmed against Sealed Sample	Number of reported issues against Sealed Sample	Monthly	Yes	100%	Target
							98-99.9%	1 Performance Point
							96-97.9%	2 Performance Points
							94-95.9%	3 Performance Points
							92-93.9%	4 Performance Points
							90-91.9%	5 Performance Points
							80-89.9%	10 Performance Points
Provisions of NSM	Accurate and timely provision of NSM uniforms. 100% NSM are accurate	100%	Supplier report on NSM deliveries and quality, End User/Authority feedback	Number of orders of NSM delivered on time and are accurate against total number of NSM orders	Monthly	Yes	<79.9%	20 Performance Points
Provisions of NSM	Accurate and timely provision of NSM uniforms. 100% NSM are accurate	100%	Supplier report on NSM deliveries and quality, End User/Authority feedback	Number of orders of NSM delivered on time and are accurate against total number of NSM orders	Monthly	Yes	100%	100% supply of NSM
							95-99%	2 Performance Points
							<95%	5 Performance Points

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3. REPORTING OBLIGATIONS

- 3.1 The Supplier shall ensure that it has appropriate systems and procedures in place and use all necessary measures and monitoring tools in order to capture and report on compliance with the Goods KPIs as required by this Schedule.
- 3.2 In advance of each Commercial and Contract Board the Supplier shall deliver a KPI Report relating to the applicable Month. The KPI Report shall be included in the monthly report provided to the Commercial and Contract Board and shall:
 - 3.2.1 be in the format reasonably specified by the Authority;
 - 3.2.2 identify any failures to meet a particular Goods KPI during the relevant Month;
 - 3.2.3 identify where Goods KPIs are met; and
 - 3.2.4 include relevant Explanatory Statements.
- 3.3 In order to verify the accuracy of any KPI Report:
 - 3.3.1 the Supplier shall promptly provide the Authority with such additional information and/or supporting documentation as the Authority may reasonably request from time to time;
 - 3.3.2 if requested to do so, the Supplier shall permit representatives of the Authority to have access to the Supplier's premises for the purposes of inspecting records and other information held by the Supplier in relation to the Services.
- 3.4 The Authority may provide representations and/or comments on any Explanatory Statement. The Supplier shall take reasonable account of all such comments and/or representations and, subject to this, shall fully implement any actions set out in the relevant Explanatory Statement.

4. SERVICE CREDITS

- 4.1 Each Performance Point accrued shall have a value of 1% of the Supplier Profit as set out in the Finance Response Template. Where more than 7 Performance Points are accrued in any one Month, the total value of the Performance Points accrued in that Month shall be deducted from the Charges payable to the Supplier.
- 4.2 The Supplier acknowledges and agrees that the Service Credits are a reasonable method of price adjustment to reflect the value of poorly performed Goods.
- 4.3 The Supplier acknowledges and agrees that the Service Credits are not an estimate of the loss or damage that the Authority may suffer or incur by reason of a Key Performance Indicator not being met and are not an exclusive remedy for the Authority. Any payment or deduction of Service Credits is without prejudice to the Authority's entitlement to damages that may be claimed from the Supplier under other specific remedies available to the Authority in accordance with this Contract (provided that any claim for damages for a breach or failure where Service Credits have been paid or deducted in respect of the same failure or breach shall be reduced by the amount of those Service Credits).
- 4.4 In all circumstances, where a Key Performance Indicator is not met the Supplier shall investigate the failure and, to the extent required by the Authority, advise the Authority

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promptly and within the prescribed timeframe of the remedial actions being taken to minimise the impact of the failure and prevent its reoccurrence.

5. INDEMNITY

5.1 From the Goods Commencement Date, the Supplier will indemnify the Authority and Additional Users against any costs or losses incurred as a result of the Supplier failing to deliver against the Goods KPIs and Target Performance Levels. The Authority will provide evidence of costs and losses incurred. The costs and losses may include, but will not be limited to:

- 5.1.1 any costs of employees, agents, consultants or sub-contractors of the Authority;
- 5.1.2 any costs associated and incurred with purchases of contingency Goods;
- 5.1.3 any costs associated with the storage or distribution of Goods;
- 5.1.4 any costs associated with sourcing alternative Goods;
- 5.1.5 sourcing additional storage facilities; and
- 5.1.6 any other direct costs or losses incurred.

6. GOODS PERSISTENT DEFAULT

6.1 Where in the case of Goods KPIs:

- 6.1.1 the number of Performance Points accrued in a Month exceeds 15 (fifteen); or
- 6.1.2 the number of Performance Points accrued over any three (3) consecutive Months exceeds 35 (thirty five) in aggregate,

(each a "Goods Persistent Default"),

the Supplier at its costs shall prepare a formal written Rectification Plan pursuant to clause 24 of this Contract.

7. STEP-IN RIGHTS

7.1 Where in the case of Goods KPIs:

- 7.1.1 the number of Performance Points accrued against the Month exceeds 40 (forty); or
- 7.1.2 the total number of Performance Points accrued over any three (3) consecutive Months exceeds 90 (ninety),

then the Authority shall be entitled to exercise a right of step-in under Clause 27 of this Contract.

8. TERMINATION RIGHTS

8.1 Where in the case of Goods KPIs:

8.1.1 the number of Performance Points accrued against a Month exceeds 60 (sixty);
or

8.1.2 the total number of Performance Points accrued over any three (3) consecutive Months exceeds 130 (one hundred and thirty) in aggregate,

then the Authority shall be entitled to treat such failure as a Supplier Termination Event which is not capable of remedy and that accordingly provides grounds under Clause 30.1 for the Authority to terminate all or part of this Contract immediately or as of the date specified in its notice to the Supplier.

Part C Services KPIs

1. KEY PRINCIPLES

- 1.1 The Supplier shall provide the Services promptly, professionally and diligently.
- 1.2 After the Services Commencement Date (or such a date as the Parties may agree) the Supplier shall supply the Services to a standard that meets or exceeds the standards set out in the Services KPIs detailed in this Schedule.
- 1.3 The Supplier shall take corrective action in the event of any failure to meet a Services KPI.
- 1.4 The Supplier shall provide KPI Reports related to the Services KPIs.
- 1.5 If the level of performance of the Supplier during a Service Period achieves a Target Performance Level in respect of a Services KPI, no Performance Points shall accrue to the Supplier in respect of that Services KPI. Where the Supplier fails to meet the required performance standard against a Services KPI, the Supplier shall accrue Performance Points in accordance with the Services KPIs.
- 1.6 Where the number of Performance Points accrued in a specified period exceeds specified levels, as set out in this Schedule, the Supplier may be subject to:
 - 1.6.1 the application of Service Credits by way of adjustment to the Charges by way of the Authority claiming financial compensation due to Supplier failing to fulfill its service commitments and the Authority incurring loss or damage that the Authority may suffer or incur by reason of such failure;
 - 1.6.2 the preparation and implementation of the Rectification Plan Process;
 - 1.6.3 the exercise of step-in rights by the Authority;
 - 1.6.4 the exercise of termination rights by the Authority; and/or
 - 1.6.5 an indemnity from the Supplier in favour of the Authority against any reasonable costs or losses incurred as a result of the Supplier failing to achieve any of the Services KPIs.
- 1.7 The remedies set out in this Schedule for failure to meet the Services KPIs are not intended to be the Authority's exclusive remedy for any such failure and shall be without prejudice to any other right or remedy to which the Authority may be entitled, whether under other express provisions in this Contract, under the general law or otherwise.

2. SERVICES KPIs

- 2.1 Each of the Services KPIs shall be measured on a monthly basis and accordingly relate to the standard of performance that is required and agreed, in respect of the specified tasks or activities, within the standards required, the KPI Deliverable and Target Performance Level specified for the relevant Services KPI.

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Part C Services KPIs

Key Performance Indicator	KPI Deliverable (Standard Required)	Target Performance Level	Measure	How is this calculated	Measurement Period	Service Credits / Performance Points	Actual Performance Level	Number of Performance Points (monthly)
Availability of customer support	Full customer service during operating hours (8.00am-6.00pm). This includes for help desk	100%	Measured through End User access at agreed operational coverage times and End User/Authority recording of any inability to access. Supplier to provide data on request	Measured against the hours that should be available in the month and hours unavailable	Monthly	Yes	100% availability:	Target
							95-99% availability:	1 Performance Point
							91-94% availability:	2 Performance Points
							80-90% availability:	5 Performance Points
							<80% availability	10 Performance Points
Call answering	Calls answered promptly during standard operational hours. 95% of calls in 30 secs & monitor drop out rate	95%	Measured through End User access to support. Combination of Supplier & Authority provide data on monthly basis.	MI on caller response through Supplier's system	Monthly	No		
Resolution confirmation time of queries	Response by phone and email. 95% of queries to be acknowledged with confirmed resolution time within 2 days (excludes critical system failures)	95%	Supplier to provide response data as part of the monthly MI reporting, Authority to record delay to response times	Phone and Email logs. Queries log to be supplied as evidence	Monthly	No		
On time delivery	Orders picked, packed and delivered to schedule or required date. 98% full delivery against order, scheduled delivery or	98%	98% of orders on time	Number of orders delivered within target against	Monthly	Yes	98%	Target
							90-94%	5 Performance Points

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	express service (does not include NSM or epaulettes)			total number of orders			85-89%	10 Performance Points
							<84%	15 Performance Points
Stock control	Standard Goods available to order. 99% available, <1% out of stock/back order (does not include NSM or epaulettes)	99%	Volume of back orders or out of stock notes	Number of Goods order that have gone onto back order against total number of Goods ordered	Monthly	Yes	99%	Target
							98%	5 Performance Points
							<98%	10 Performance Points
Return - Supplier error	No returns due to Supplier error <2% orders returned due to Supplier error	98% (Supplier error)	Number of reported issues	Total orders returned due to Supplier error against total number of returns	Monthly	Yes	<2%	Target
							3-5%	5 Performance Points
							>5%	10 Performance Points
Returns - Quality	No returns due to Supplier quality <1% returned due to quality	99% (quality issues)	Number of reported issues	Total orders returned due to quality issues against total number of returns	Monthly	Yes	<1%	Target
							2-5%	5 Performance Points
							>5%	10 Performance Points
Speed of handling returns	Prompt handling of returns and account crediting. 95% of returns credited within 3 days of collection	95%	Number of collections and credit (Supplier to report monthly data and credit summary)	Number of returns credited within 3 days against number of returns	Monthly	Yes	95%	Target
							85-94%	5 Performance Points
							<84%	10 Performance Points

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Supplier System availability	Up-time availability of Supplier System, including IT Portal. 100% availability (excludes scheduled maintenance, which where possible be out of hours)	100%	Up-time End User service availability for the Supplier System and IT Portal 24/7/ 365 (excludes Supplier System and IT Portal system maintenance schedule)	Measured against the hours that should be available in the month and hours unavailable	Monthly	Yes	100%	Target
							98-99.9%	2 Performance Points
							≤97.9%	5 Performance Points
Compliance with security requirements	Full compliance no breach's. 100% compliance	100%	Audit or reported incident	Number of breaches	Monthly	Yes	100%	Target
							≤99.9%	15 Performance Points
Supplier System Support & Incident Management	Resolution time based on classification structure. General request for assistance - Minor (P5) - No impact on the Supplier System. End User requiring general assistance such as logging on, querying how Supplier System operates etc. Low (P4) - Single End User affected. Supplier System failure, unavailability, loss of functionality. Medium (P3) - Single group affected (establishment/job role). Supplier System failure, unavailability, loss of functionality for End User High (P2) - Whole Site/job role can work but severely restricted	P1 - 4 hours P2 - 6 hours P3 - 18 hours P4 - 18 hours P5 - no target	supplier to report on all incidents and resolution times (real time and include in monthly reports).	Number of incidents against each classification and their resolution times.	Monthly	Yes	P1 - outside target	15 Performance Points if outside target
							P2 - outside target	10 Performance Points if outside target
							P3 - outside target	P3 - Acknowledged in 1 Working Day and target to resolve in 18 hours - 5 Performance Points if outside target
							P4 - outside target	P4 - Acknowledged in 1 Working Day and target to resolve in 18 hours - Individual affected - 5 Performance Points if outside target

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	Critical (P1) – Supplier System failure for all End Users/Sites						P5 - no target	P5 - Acknowledged within 1 Working Day and responded and resolution within 2 Working Days as per KPI Supplier Response (Responding to Queries) - No Performance Points
Management and implementation of BCDR	Full implementation of each of the Critical Elements set out in BCDR, Occurrences of events which require implementation in BCDR. 100% implementation, 100% reporting of BCDR incidents	100%	Supplier to report on all incidents and reasons for implementing BCDR (real time and monthly reporting)	Number of implemented elements set out in BCDR against number of elements that require implementation	Monthly	No		
Reporting	Scheduled Reports to cover key areas of service as detailed in MI Reports Schedule of Contract. 100% on time and accurate	100%	Supplier to produce MI Reports as per Schedule in Contract.	Number of reports required within the month against the number of reports received on time and accurate	Monthly	Yes	100%	Target
							90-99%	2 Performance Points
							<89%	5 Performance Points
Social Value - Developing new skills	Number or workforce on apprenticeship and/or other training schemes (Level 2, 3, and 4+) under the Contract. 20% or more to be from under represented groups	20%	Supplier to report on all staff within the workforce being utilised for the Contract and those on apprenticeship and/or other training schemes (Level 2, 3, and 4+), including who is from groups under represented	Total percentage of people from groups under represented in the workforce on apprenticeship and/or other training schemes (Level 2, 3, and 4+) under the contract, as a proportion of the all people on other training schemes (Level 2, 3, and 4+) within the contract workforce	Annual	No		

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3. REPORTING OBLIGATIONS

- 3.1 The Supplier shall ensure that it has appropriate systems and procedures in place and use all necessary measures and monitoring tools in order to capture and report on compliance with the Services KPIs as required by this Schedule.
- 3.2 In advance of each Commercial and Contract Board the Supplier shall deliver to the Authority a KPI Report relating to the applicable Month. The KPI Report shall be included in the monthly report provided to the Commercial and Contract Board and shall:
 - 3.2.1 be in the format reasonably specified by the Authority;
 - 3.2.2 identify any failures to meet a particular Services KPI during the relevant Month;
 - 3.2.3 identify where Services KPIs are met; and
 - 3.2.4 include relevant Explanatory Statements.
- 3.3 In order to verify the accuracy of any KPI Report:
 - 3.3.1 the Supplier shall promptly provide the Authority with such additional information and/or supporting documentation as the Authority may reasonably request from time to time;
 - 3.3.2 if requested to do so, the Supplier shall permit representatives of the Authority to have access to the Supplier's premises for the purposes of inspecting records and other information held by the Supplier in relation to the Services.
- 3.4 The Authority may provide representations and/or comments on any Explanatory Statement. The Supplier shall take reasonable account of all such comments and/or representations and, subject to this, shall fully implement any actions set out in the relevant Explanatory Statement.

4. SERVICE CREDITS

- 4.1 Each Performance Point accrued shall have a value of 1% of the Supplier Profit as set out in the Finance Response Template. Where more than 7 (seven) Performance Points are accrued in any one Month, the total value of the Performance Points accrued in that Month shall be deducted from the Charges payable to the Supplier.
- 4.2 The Supplier acknowledges and agrees that the Service Credits are a reasonable method of price adjustment to reflect the value of poorly performed Services.
- 4.3 The Supplier acknowledges and agrees that the Service Credits are not an estimate of the loss or damage that the Authority may suffer or incur by reason of a Key Performance Indicator not being met and are not an exclusive remedy for the Authority. Any payment or deduction of Service Credits is without prejudice to the Authority's entitlement to damages that may be claimed from the Supplier under other specific remedies available to the Authority in accordance with this Contract (provided that any claim for damages for a breach or failure where Service Credits have been paid or deducted in respect of the same failure or breach shall be reduced by the amount of those Service Credits).
- 4.4 In all circumstances, where a Key Performance Indicator is not met the Supplier shall investigate the failure and, to the extent required by the Authority, advise the Authority

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promptly and within the prescribed timeframe of the remedial actions being taken to minimise the impact of the failure and prevent its reoccurrence.

5. INDEMNITY

5.1 From the Services Commencement Date, the Supplier will indemnify the Authority and Additional Users against any costs or losses incurred as a result of the Supplier failing to deliver against the Services KPIs and Target Performance Levels. The Authority will provide evidence of costs and losses incurred. The costs and losses may include, but will not be limited to:

- 5.1.1 any costs of employees, agents, consultants or sub-contractors of the Authority;
- 5.1.2 any costs associated and incurred with purchases of contingency Services;
- 5.1.3 any costs associated with sourcing alternative Services;
- 5.1.4 sourcing additional storage facilities; and
- 5.1.5 any other direct costs or losses incurred.

6. SERVICES PERSISTENT DEFAULT

6.1 Where in the case of Services KPIs:

- 6.1.1 the number of Performance Points accrued in a Month exceeds 15 (fifteen); or
- 6.1.2 the number of Performance Points accrued over any three (3) consecutive Months exceeds 35 (thirty-five) in aggregate,

(each a "Services Persistent Default"),

the Supplier at its costs shall prepare a formal written Rectification Plan pursuant to clause 24 of this Contract.

7. STEP-IN RIGHTS

7.1 Where in the case of Services KPIs:

- 7.1.1 the number of Performance Points accrued against the Month exceeds 40 (forty); or
- 7.1.2 the total number of Performance Points accrued over any three (3) consecutive Months exceeds 90 (ninety),

then the Authority shall be entitled to exercise a right of step-in under Clause 27 of this Contract.

8. TERMINATION RIGHTS

8.1 Where in the case of Services KPIs:

- 8.1.1 the number of Performance Points accrued against a Month exceeds 60 (sixty); or
- 8.1.2 the total number of Performance Points accrued over any three (3) consecutive Months exceeds 130 (one hundred and thirty) in aggregate,

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then the Authority shall be entitled to treat such failure as a Supplier Termination Event which is not capable of remedy and that accordingly provides grounds under Clause 30.1 for the Authority to terminate all or part of this Contract immediately or as of the date specified in its notice to the Supplier.

Schedule 4: Standards

1. Definitions

1.1 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 Authority’s receipt, of the Goods and/or Services. Any changes to the Standards, including the adoption of any such new or emergent standard, shall be agreed in accordance with the Change Control Procedure.

2.2 Where a new or emergent standard is to be developed or introduced by the Authority, the Supplier shall be responsible for ensuring that the potential impact on the Supplier’s provision, or the Authority’s receipt, of the Goods and/or Services is explained to the Authority (in a reasonable timeframe), prior to the implementation of the new or emergent standard.

2.3 Where Standards referenced conflict with each other or with Good Industry Practice, then the later Standard or best practice shall be adopted by the Supplier. Any such alteration to any Standard(s) shall require the prior written agreement of the Authority and shall be implemented within an agreed timescale.

3. Technology and Digital Services Practice

3.1 The Supplier shall (when designing, implementing and delivering Goods and/or Services) adopt the applicable elements of HM Government’s Technology Code of Practice as documented at <https://www.gov.uk/service-manual/technology/code-of-practice.html>.

4. Open Data Standards & Standards Hub

4.1 The Supplier shall comply to the extent within its control with UK Government’s Open Standards Principles as documented at <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles>, as they relate to the specification of standards for software interoperability, data and document formats in the IT Environment.

4.2 Without prejudice to the generality of Paragraph 2.2, the Supplier shall, when implementing or updating a technical component or part of the Software or Supplier Solution where there is a requirement under this Contract or opportunity to use a new or emergent standard, submit a Suggested Challenge compliant with the UK Government’s Open Standards Principles (using the process detailed on Standards Hub and documented at <http://standards.data.gov.uk/>). Each Suggested Challenge submitted by the Supplier shall

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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 Authority 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 Authority otherwise agrees in writing.

5. Technology Architecture Standards

- 5.1 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

- 6.1 The Supplier shall comply with (or with equivalents to):
- 6.1.1 the World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI) Web Content Accessibility Guidelines (WCAG) 2.1 Conformance Level AA; and
 - 6.1.2 ISO/IEC 13066-1: 2011 Information Technology – Interoperability with assistive technology (AT) – Part 1: Requirements and recommendations for interoperability.

7. Service Management Software & Standards

- 7.1 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 Goods and Services, including the following and/or their equivalents:
- 7.1.1 ITIL v4;
 - 7.1.2 ISO/IEC 20000-1 2018 "Information technology — Service management — Part 1";
 - 7.1.3 ISO/IEC 20000-2 2019 "Information technology — Service management — Part 2";
 - 7.1.4 ISO 10007: 2017 "Quality management systems – Guidelines for configuration management"; and
 - 7.1.5 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.
- 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

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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. Sustainability

- 8.1 The Supplier shall comply with the sustainability requirements set out in Annex 1 to this Schedule 4.

9. Hardware Safety Standards

- 9.1 The Supplier shall comply with those BS or other standards relevant to the provision of the Goods and Services, including the following or their equivalents:
- 9.1.1 any new hardware required for the delivery of the Goods and/or 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;
 - 9.1.2 any new audio, video and similar electronic apparatus required for the delivery of the Goods and/or Services, shall conform to the following standard: BS EN IEC 62368-1:2020+A11:2020 or any subsequent replacements;
 - 9.1.3 any new laser printers or scanners using lasers, required for the delivery of the Goods and/or Services, shall conform to either of the following safety Standards: BS EN 60825-1:2014 or any subsequent replacements; and
 - 9.1.4 any new apparatus for connection to any telecommunication network, and required for the delivery of the Goods and/or 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 provision of the Goods and/or Services, the Supplier shall perform electrical safety checks in relation to all equipment supplied under this Contract, including any applicable Authority Assets unless notified otherwise by the Authority, in accordance with the relevant health and safety regulations.

Annex 1: Sustainability

1. Definitions

1.1 In this Annex 1, 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 this Annex 1;
“Prohibited Items“	means those items which are not permissible under this Contract as set out at Table A of this Annex 1;
“Sustainability Reports“	written reports to be completed by the Supplier containing the information outlined in Table C of this Annex 1; and
“Waste Hierarchy“	means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011: (a) Prevention; (b) Preparing for re-use; (c) Recycling; (d) Other Recovery; and (e) Disposal.

2. Public Sector Equality Duty

2.1 In addition to legal obligations, where the Supplier is providing Goods and/or Services to which the Public Sector Equality duty applies, the Supplier shall support the Authority in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under this Contract in a way that seeks to:

2.1.1 eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and

2.1.2 advance:

(a) equality of opportunity; and

(b) good relations,

between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

2.2 In delivering the Goods and Services, the Supplier will comply with the Authority's equality, diversity and inclusion requirements, to be provided to the Supplier by the Authority.

2.3 The Supplier shall ensure that it fulfils its obligations under the Contract in a way that does

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not discriminate against individuals because of socio-economic background, working pattern or having parental or other caring responsibilities.

3. Environmental Requirements

- 3.1 The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.
- 3.2 The Supplier warrants that it has obtained relevant Environment Management System (EMS) certified to ISO 14001 or an equivalent certification from a UKAS accredited body and shall comply with and maintain certification requirements throughout the Term.
- 3.3 In performing its obligations under the Contract the Supplier shall, where applicable to the Contract, to the reasonable satisfaction of the Authority:
 - 3.3.1 demonstrate low carbon resource efficiency, including minimising the use of resources and responding promptly to the Authority's reasonable questions;
 - 3.3.2 prioritise waste management in accordance with the Waste Hierarchy as set out in Law;
 - 3.3.3 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 by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the law;
 - 3.3.4 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, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal;
 - 3.3.5 in circumstances that a permit, licence 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 Subcontractor until authorisation is obtained from the Environment Agency; 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
 - 3.3.6 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.
- 3.4 In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Authority (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21), publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.
- 3.5 The Supplier shall not provide to the Authority Goods or Deliverables which comprise wholly or partly of Prohibited Items unless such item is a Permitted Item.
- 3.6 The Supplier shall not use anything which comprises wholly or partly of the Prohibited

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Items to provide the Goods and/or Services under this Contract unless:

- 3.6.1 it is a Permitted Item; or
- 3.6.2 the use is primarily related to the management of the Supplier's own facilities or internal operations as opposed to the provision of Goods or Services.
- 3.7 The Supplier must have a documented management system and controls in place to manage the environmental impacts of delivering the Goods and Services.
- 3.8 The Supplier shall ensure that any Goods and Services are designed, sourced and delivered in a manner which is environmentally and socially responsible.
- 3.9 In delivering the Goods and Services, the Supplier must comply with the Authority's sustainability requirements, to be provided to the Supplier by the Authority.
- 3.10 The Supplier shall prepare and maintain throughout the Term an Environmental and Sustainability Plan, that is compliant with ISO 14001 (or equivalent), the Eco-Management and Audit Scheme (EMAS) and the Regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). The Supplier shall issue a copy of its Environmental and Sustainability Plan to the Authority once produced, and promptly following each update of it. Should the Authority propose any reasonable changes, the Supplier shall promptly incorporate the same into the Environmental and Sustainability Plan. The Supplier shall review and update the Environmental and Sustainability Plan as a minimum on an annual basis.
- 3.11 In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Authority achieve continuous improvement in environmental (and social) performance.
- 3.12 The Supplier shall inform the Authority within one Working Day in the event that a permit, licence or exemption to carry or send waste generated under this Contract is revoked.
- 3.13 The Supplier shall meet the applicable Government Buying Standards applicable to Goods and Services which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>.

4. Supplier Code of Conduct

- 4.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with Government which can be found online at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1163536/Supplier_Code_of_Conduct_v3.pdf

- 4.2 The Authority expects to meet, and expects the Supplier and Sub-contractors to meet, the standards set out in that Code.

5. Reporting Requirements

- 5.1 The Supplier shall comply with reasonable requests by the Authority for information evidencing compliance:

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5.1.1 with Paragraphs 2.1, 3.1 to 3.6, 3.10, 3.13 and 4 of this Annex 1 within fourteen (14) days of such request; and

5.1.2 with Paragraphs 2.2, 2.3 and 3.7 to 3.9 and 3.11 to 3.12 of this Annex 1 within thirty (30) days of such request.

5.2 The Supplier shall complete the Sustainability Report in relation to its provision of the Goods and/or Services under this Contract and provide the Sustainability Report to the Authority on the date and frequency outlined in Table C of this Annex 1.

Table A – Prohibited Items

The following consumer single use plastics are Prohibited Items:	
	Packaging (a) Single use plastic packaging from deliveries where avoidable e.g. shrink wrapped packaging from office supplier or facilities products. (a) Single use carrier bags
Authority specific Prohibitions	
Project specific Prohibitions	

Table B – Permitted Items

Authority Permitted Items	
Project Specific Permitted Items	

Table C – Sustainability Reports

Sustainability Report Name	Content of Report	Frequency of Report
[Sustainability - General]	[as proportionate and relevant to the Contract, the key sustainability impacts identified; the sustainability improvements planned or delivered; and the risks to the Goods and/or Services of climate change, including mitigation, adaptation and	[On the anniversary of the Effective Date]

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Sustainability Report Name	Content of Report	Frequency of Report
	continuity plans employed by the Supplier in response to those risks].	
[Waste created]	[By type of material the weight of waste categories by each means of disposal in the Waste Hierarchy with separate figures for disposal by incineration and landfill.]	[Before contract award and on the anniversary of the Effective Date.]
[Waste permits]	[Copies of relevant permits and exemptions for waste, handling, storage and disposal.]	[Before the Effective Date, on the anniversary of the Effective Date and within ten (10) Working Days of there is any change or renewal to license or exemption to carry, store or dispose waste]
[Greenhouse Gas Emissions]	[Detail the Scope 1 and Scope 2 GHG emissions associated with the delivery of the contract. Scope 3 emissions to be reported as required (Optional) Emissions reporting should be in accordance with established best practice and internationally accepted standards. Greenhouse gas reporting from emissions sources (Scope 1, Scope 2 and Scope 3), and specific activities as requested by the Authority. This may include activities such as transportation, energy use and waste disposal.]	[On the anniversary of the Effective Date]
Environmental and Sustainability Plan	[]	To be updated at least annually
[Other]		

Schedule 5: Delivery

1. General

- 1.1 The Supplier shall deliver the Goods:
 - 1.1.1 on the agreed Delivery date;
 - 1.1.2 at the agreed Delivery location; and
 - 1.1.3 within the agreed timeslot.
- 1.2 The Supplier shall ensure that:
 - 1.2.1 the Goods are properly packed and secured in such manner to enable them to reach their destination in good condition;
 - 1.2.2 each Delivery of Goods is accompanied by a delivery note which as a minimum shows the date of the order, the purchase order number, the type and quantity of the Goods, including pack size (including the code number of the Goods, if applicable), delivery address, account number, number of cartons in a consignment, special storage instructions (if any), quantum ID number and, if the Goods are being delivered by agreed instalments, the outstanding balance of Goods remaining to be delivered; and
 - 1.2.3 except where otherwise agreed between the Parties, Delivery includes the unloading and stacking of the Goods by the Supplier's Personnel or carriers at such place as the Authority or duly authorised person reasonably directs.
- 1.3 The Authority is deemed to have accepted the Goods if it expressly states the same in writing.
- 1.4 The issue by the Authority of a receipt note for Delivery of the Goods does not constitute any acknowledgement of the condition, quantity or nature of those Goods or the Authority's acceptance of them.
- 1.5 Any access to the Sites and any labour and equipment provided by the Authority in connection with Delivery is provided without acceptance by the Authority of any liability whatsoever to the extent permitted by law.
- 1.6 The Authority is under no obligation to accept or pay for any Goods supplied earlier than the date for Delivery stated in the purchase order number.
- 1.7 The Authority is under no obligation to accept or pay for any Goods Delivered in excess of the quantity ordered or where Goods are Delivered in error or to the wrong Site.
- 1.8 If the Authority elects not to accept such Goods:
 - 1.8.1 it shall give notice to the Supplier to remove them and to refund to the Authority any expenses incurred by it as a result of such over-Delivery (including but not limited to the costs of moving and storing the Goods), failing which the Authority may dispose of such Goods and charge the Supplier for the costs of such disposal;
 - 1.8.2 where Goods have been Delivered to the wrong Site and they need to be

Schedule 5 (Delivery)

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Delivered to the correct Site, the Supplier will (at their cost) collect the Goods and Deliver them to the correct Site; and

- 1.8.3 the risk in any over-Delivered Goods or incorrectly Delivered Goods remains with the Supplier unless it is accepted by the Authority.
- 1.9 Unless expressly agreed to the contrary, the Authority shall not accept Delivery by instalments. If the Authority specifies or agrees to Delivery by instalments, Delivery of any instalment later than the date specified or agreed for its Delivery shall be, without prejudice to any other rights or remedies of the Authority.
- 1.10 If the Supplier fails to Deliver the Goods within the time promised or specified in the purchase order number, the Authority is released from any obligation to accept and pay for the Goods, without prejudice to any other rights and remedies of the Authority.
- 1.11 All Delivery costs, charges and fees are to be paid for by the Supplier.
- 1.12 Where access to a Site is necessary in connection with Delivery of the Goods, the Supplier, Sub-contractor and Supplier Personnel shall at all times comply with the security requirements of the Authority, which include, but are not limited to:
 - 1.12.1 complying with Schedule 7 (Security Management) and the provisions of this Contract;
 - 1.12.2 complying with the drivers handbook in the Policies;
 - 1.12.3 security checks on vehicles and personnel coming in and out of all Sites;
 - 1.12.4 allowing for the physical size of gates;
 - 1.12.5 agreeing time slots for Delivery and limited access to all Sites;
 - 1.12.6 agreeing Delivery arrangements with individual Sites prior to Delivery of an order;
 - 1.12.7 making a Delivery within the agreed timeslots (the Authority is under no obligation to accept a Delivery outside of these timeslots);
 - 1.12.8 the Supplier contacting the Delivery Site at least 48 hours prior to the day of Delivery to confirm the estimated time of arrival (within the agreed Delivery slot);
 - 1.12.9 the Supplier being aware of and complying with any reasonable requests made by the Authority and complying with any security procedures;
 - 1.12.10 ensuring all Supplier Personnel involved in Delivery carry official photographic identification.
- 1.13 On dispatch of any consignment of the Goods the Supplier shall send the Authority a note ahead of the scheduled Delivery as agreed between the Parties specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume.

2. Non-Delivery

- 2.1 If the Goods are not delivered to the Authority on the agreed date for Delivery, or at all, the

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Authority shall endeavour to, within 10 Working Days of that date, give notice to the Supplier that the Goods have not been delivered and may:

- 2.1.1 request the Supplier to deliver substitute Goods free of charge by a date specified by the Authority;
- 2.1.2 refuse to take any subsequent attempted Delivery; or
- 2.1.3 claim damages for any other costs, expenses or losses resulting from the Supplier's failure to Deliver, including sourcing the Goods from an alternative supplier.

2.2 Where the Supplier claims that Delivery has taken place, the burden of proof shall be on the Supplier to provide proof of delivery establishing that Delivery has been made.

3. Non-compliance

3.1 If any Goods delivered to the Authority do not comply with Clause 5.8.3, or are otherwise not in conformity with the terms of this Contract, then, without affecting any other right or remedy available to it, the Authority may reject those Goods and:

- 3.1.1 require the Supplier to repair or replace the rejected Goods at the Supplier's risk and expense within five (5) Working Days of being requested to do so; or
- 3.1.2 require the Supplier to repay the price of the rejected Goods in full (whether or not the Authority has previously required the Supplier to repair or replace the rejected Goods); and
- 3.1.3 claim damages for any other costs, expenses or losses resulting from the Supplier's Delivery of Goods that do not conform with the terms of this Contract.

3.2 The terms of this Contract shall apply to any repaired or replacement Goods supplied by the Supplier.

3.3 If the Supplier fails to promptly repair or replace rejected Goods in accordance with Paragraph 3.1.1, the Authority may, without affecting its rights under Paragraph 3.1.3, obtain substitute goods from a third party supplier, or have the rejected Goods repaired by a third party, and the Supplier shall reimburse the Authority for the costs it incurs in doing so.

4. Quality, labelling and packaging

4.1 The Authority may inspect the Goods at any time on reasonable notice. The Supplier shall provide at its own cost all such facilities as the Authority may reasonably require for such inspection.

4.2 If, following such inspection the Authority considers that the Goods do not conform or are unlikely to conform with the Standards and/or the Goods Description, the Authority may enforce one or more of its rights pursuant to this Contract.

4.3 Notwithstanding any inspection, the Supplier remains fully responsible for the Goods and any inspection shall not reduce or otherwise affect the Supplier's obligations under this Contract, and the Authority may conduct further inspections after the Supplier has carried out its remedial actions.

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- 4.4 If reasonably requested to do so by the Authority, the Supplier shall co-ordinate its activities in supplying the Goods with those of the Authority and any other contractors engaged by the Authority.
- 4.5 The Supplier hereby guarantees the Goods against faulty materials or workmanship for such period as may be specified in the Goods Description in Schedule 2 (*Goods Description and Services Description*) or, if no period is specified, for a period of 12 months from the date of Delivery to the End User. If the Authority within such period or within 25 Working Days thereafter gives notice to the Supplier of any defect in any of the Goods as may have arisen during such period under proper and normal use, the Supplier shall (without prejudice to any other rights and remedies which the Authority may have) promptly remedy such defects free of charge.
- 4.6 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under this Contract in respect of the Goods.

5. Labelling and packaging

- 5.1 The Supplier shall ensure that the Goods are labelled and packaged in accordance with this Contract and the Goods Description.
- 5.2 The Supplier shall comply with all applicable packaging & packaging waste Law relating to the packaging and waste of packaging relating to the Goods.
- 5.3 The container in which the Goods are held shall be labelled with the Supplier's name, the net, gross and tare weights, and contain a description of its contents. All containers of hazardous Goods (and all documents relating thereto) shall bear prominent and adequate warnings.
- 5.4 Upon receiving such a request from the Authority, the Supplier shall remove and dispose of all packaging materials from the Sites (at the Supplier's cost) within the period specified by the Authority.
- 5.5 The Supplier shall:
 - 5.5.1 use packaging capable of easy recovery for further use or recycling;
 - 5.5.2 packaging materials shall be easily separable by hand into recyclable parts consisting of one material (e.g. cardboard, paper, plastic, textile);
 - 5.5.3 make maximum use of materials taken from renewable sources, if recycled materials are not suitable or not readily available;
 - 5.5.4 review packaging specifications periodically to ensure that no unnecessary limitations on the use of recycled materials exist; and
 - 5.5.5 if requested, provide the Authority with a description of the Goods packaging, and evidence to satisfy the Authority that it is reusing, recycling and reviewing its use of packaging. The evidence should provide proof of compliance with BS EN 13430 on recyclability or BS EN 13429 on reusability, or equivalent, if requested.

Schedule 6 (Inherited Stock Management)

[Subject to Contract]

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Schedule 6 – Inherited Stock Management

1. General

- 1.1 Inherited Stock is subject to the provisions of:
 - 1.1.1 Schedule 2 (*Goods Description and Services Description*);
 - 1.1.2 this Contract;
 - 1.1.3 the Key Performance Indicators for Inherited Stock contained in Schedule 3 (*Performance Levels*).

2. Charges

- 2.1 The charges to be applied to the Inherited Stock are detailed in the Finance Response Template.
- 2.2 The Supplier shall not be required to make any payment for, or in relation to, the Inherited Stock unless they are in breach of the terms of this Contract.
- 2.3 The Authority shall not be required to make any payment for the Inherited Stock save in respect of “handling charges” as detailed in the Finance Response Template.

3. Strategy and Inventory

- 3.1 The Supplier will draft an Inherited Stock Strategy in accordance with the requirements detailed in Schedule 2 (*Goods Description and Services Description*), including the prescribed timeframe.
- 3.2 The Supplier is required to draft and supply to the Authority an Inventory as detailed in Schedule 2 (*Goods Description and Services Description*) and provide a monthly update to the Authority as detailed in Schedule 2 (*Goods Description and Services Description*) and the Implementation Plan.

4. Risk and Title

- 4.1 Risk in the Inherited Stock shall pass to the Supplier upon collection by the Supplier (for the avoidance of doubt this includes the process of collection) of the Inherited Stock from each Site.
- 4.2 Title to the Inherited Stock remains with the Authority.
- 4.3 The Supplier shall comply with any storage provisions detailed in the Goods Description in Schedule 2 (*Goods Description and Services Description*), or as otherwise notified by the Authority.
- 4.4 If any of the Inherited Stock is lost or damaged whilst in the Supplier’s possession such that it cannot reasonably be used, the Supplier shall replace the affected Inherited Stock with Goods of the same quality at no charge or costs to the Authority.

5. Supply

- 5.1 The Supplier shall supply the Inherited Stock to the Authority before supplying the Goods.

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- 5.2 The Supplier can only use the Inherited Stock for supplying the Authority, it cannot be used for any Additional User under this Contract or any other contract without the Authority's written approval.

Schedule 7 Security Management

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”	an event that results, or could result, in: (a) any unauthorised access to or use of the Government Data, the applicable Services and/or the Information Management System; and/or (b) the loss, corruption and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Authority 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;
“Cyber Essentials”	means the Cyber Essentials certificate issued under the Cyber Essentials Scheme;
“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;
“Higher Risk Sub-contractor”	means a Sub-contractor that Processes Government Data, where that data includes either: (a) the Personal Data of 1000 or more individuals in aggregate during the period between the Services Commencement Date and the date on which this Contract terminates in accordance with Clause 4.1.2; or

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- (b) any part of that data includes any of the following:
 - (i) financial information (including any tax and/or welfare information) relating to any person;
 - (ii) any information relating to actual or alleged criminal offences (including criminal records);
 - (iii) any information relating to children and/or vulnerable persons;
 - (iv) any information relating to social care;
 - (v) any information relating to a person's current or past employment; or
 - (vi) Special Category Personal Data; or
- (c) the Authority in its discretion, designates a Sub-contractor as a Higher Risk Sub-Contractor in any procurement document related to this Contract; or
- (d) the Authority considers in its discretion, that any actual or potential Processing carried out by the Sub-contractor is high risk;

“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 Government Data, the Authority, the applicable Services and/or End Users of the applicable 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, Data Loss Events and/or theft and which shall be prepared by the Supplier using the template set out in Annex 3;

“Information Management System”

means:

- (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 applicable Services that require Processing Government Data; and

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- (b) the associated information assets and systems (including organisational structure, controls, policies, practices, procedures, processes and resources);

“Information Security Approval Statement”

means a notice issued by the Authority which sets out the information risks which the Supplier has identified as being associated with using the Information Management System and confirms that:

- (a) the Authority is satisfied that the identified risks have been adequately and appropriately addressed;
- (b) the Authority has accepted the residual risks; and
- (c) the Supplier may use the Information Management System to Process Government Data;

“IT Health Check”

has the meaning given in Paragraph 7.1.1;

“Medium Risk Sub-contractor”

means a Sub-contractor that Processes Government Data, where that data

- (a) includes the Personal Data of between 100 and 999 individuals (inclusive) in the period between the Services Commencement Date and the date on which this Contract terminates in accordance with Clause 4.1.2; and
- (b) does not include Special Category Personal Data;

“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;

“Remediation Action Plan”

has the meaning given in Paragraph 7.3.3(a);

“Required Changes Register”

means 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;

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“Risk Register”	is the risk register within the Information Assurance Assessment which is to be prepared and submitted to the Authority 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 Required Changes Register; and (c) the Incident Management Process;
“Special Category Personal Data”	means the categories of Personal Data set out in article 9(1) and article 10 of the UK 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 applicable Services and performing its other obligations under this Contract to ensure the security of the Government Data and the Information Management System;
- 2.1.2 the Certification Requirements applicable to the Supplier and each of those Sub-contractors which Processes Government 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; and
- 2.1.5 the Supplier’s obligations to:
 - (a) return or destroy Government Data on the expiry or earlier termination of this Contract; and
 - (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 Authority.

3. Principles of Security

- 3.1 The Supplier acknowledges that the Authority places great emphasis on the confidentiality, integrity and availability of the Government Data and, consequently on the security of:
 - 3.1.1 the Sites;
 - 3.1.2 the IT Environment;

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- 3.1.3 the Information Management System; and
 - 3.1.4 the applicable Services.
- 3.2 Notwithstanding the involvement of the Authority in assessing the arrangements which the Supplier implements to ensure the security of the Government 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 Government Data whilst that Government 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 Government Data complies with the Sub-contractor Security Requirements.
- 3.4 The Supplier shall provide the Authority with access to Supplier Personnel responsible for information assurance to facilitate the Authority'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 Services Commencement Date.
- 4.2 The Supplier may not use the Information Management System to Process Government 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; and
 - 4.2.2 the Authority has issued the Supplier with an Information Security Approval Statement in accordance with the process set out in this Paragraph 4.
- 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 Government Data and the Information Management System.
- 4.4 The Supplier shall prepare and submit to the Authority 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; and

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4.4.3 the Incident Management Process.

4.5 The Authority 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 Government Data; or

4.5.2 a rejection notice, which shall set out the Authority's reasons for rejecting the Security Management Plan.

4.6 If the Authority rejects the Supplier's proposed Security Management Plan, the Supplier shall take the Authority's reasons into account in the preparation of a revised Security Management Plan, which the Supplier shall submit to the Authority for review within 10 Working Days or such other timescale as agreed with the Authority.

4.7 The Authority may require, and the Supplier shall provide the Authority 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

4.7.3 such other information and/or documentation that the Authority or its authorised representatives may reasonably require,

to assist the Authority to establish whether the arrangements which the Supplier and its Sub-contractors have implemented in order to ensure the security of the Government 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 Authority 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 Authority 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 Authority, at least once each year and as required by this Paragraph.

5.2 The Supplier shall notify the Authority 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;

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- 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 applicable Services are provided; and/or
 - 5.2.8 an ISO/IEC 27001 (at least ISO/IEC 27001:2013) audit report produced in connection with the Certification Requirements indicates significant concerns.
- 5.3 Within 10 Working Days of such notifying the Authority or such other timescale as may be agreed with the Authority, the Supplier shall make the necessary changes to the Required Changes Register and submit the updated Required Changes Register the Authority 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.
- 5.5 If the Supplier fails to implement a change set out in the Required Changes Register by the date agreed with the Authority, such failure shall constitute a material Default, and where such material Default is capable of remedy, the Supplier shall remedy such material Default within the timescales set by the Authority and, should the Supplier fail to remedy the material Default within such timescales, the Authority may terminate this Contract with immediate effect by issuing a Termination Notice to the Supplier in accordance with Clause 30.1.2.

6. Certification Requirements

- 6.1 The Supplier shall be certified as compliant with:
- 6.1.1 ISO/IEC 27001 (at least ISO/IEC 27001:2013) by a UK Accreditation Service-approved certification body or is included within the scope of an existing certification of compliance with ISO/IEC 27001 (at least ISO/IEC 27001:2013); and
 - 6.1.2 Cyber Essentials PLUS,
- and shall provide the Authority with a copy of each such certificate of compliance before the Supplier shall be permitted to receive, store or Process Government 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 (at least ISO/IEC 27001:2013) by a UK Accreditation Service-approved certification body or is included within the scope of an existing certification of compliance with ISO/IEC 27001 (at least ISO/IEC 27001:2013); or
 - 6.2.2 Cyber Essentials PLUS,
- and shall provide the Authority with a copy of each such certificate of compliance before the Higher-Risk Sub-contractor shall be permitted to receive, store or Process Government Data.
- 6.3 The Supplier shall ensure that each Medium Risk Sub-contractor is certified compliant with Cyber Essentials.

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- 6.4 The Supplier shall ensure that the Supplier and each Sub-contractor who is responsible for the secure destruction of Government Data:
- 6.4.1 securely destroys Government Data only on Sites which are included within the scope of an existing certification of compliance with ISO/IEC 27001 (at least ISO/IEC 27001:2013);
 - 6.4.2 should satisfy the Authority that their data destruction/deletion practices comply with UK GDPR requirements and follows all relevant NCSC guidance; and
 - 6.4.3 must maintain an asset register of all Authority supplied information, data and equipment to ensure Authority assets are returned and/or deleted.
- 6.5 The Supplier shall provide the Authority 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 Government Data.
- 6.6 The Supplier shall notify the Authority 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 Authority, shall or shall procure that the relevant Sub-contractor shall:
- 6.6.1 immediately ceases using the Government Data; and
 - 6.6.2 procure that the relevant Sub-contractor promptly returns, destroys and/or erases the Government Data in accordance with the requirements set out in this Paragraph.
- 6.7 The Authority 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 Authority,
- 7.2 The Supplier shall:
- 7.2.1 complete all of the above security tests before:
 - (a) the Supplier submits the Security Management Plan to the Authority for review in accordance with Paragraph 4; and
 - (b) before the Supplier is given permission by the Authority to Process or manage any Government Data; and
 - 7.2.2 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 Authority for review in accordance with this Paragraph.

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7.3 In relation to each IT Health Check, the Supplier shall:

7.3.1 agree with the Authority 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 Authority 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 Authority (each a **"Remediation Action Plan"**) which sets out in respect of each vulnerability identified in the IT Health Check report:
- (b) how the vulnerability will be remedied;
- (c) unless otherwise agreed in writing between the Parties, the date by which the vulnerability will be remedied, which must be:
- (d) 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";
- (e) 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
- (f) within 7 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";
- (g) the tests which the Supplier shall perform or procure to be performed (which may, at the discretion of the Authority, include a further IT Health Check) to confirm that the vulnerability has been remedied;
- (h) comply with the Remediation Action Plan; and
- (i) conduct such further tests on the Service as are required by the Remediation Action Plan to confirm that the Remediation Action 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 applicable Services and the date, timing, content and conduct of such tests shall be agreed in advance with the Authority.

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 Authority 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

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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 applicable 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 Authority.

7.6 The Supplier shall conduct such further tests of the Supplier System as may be required by the Authority from time to time to demonstrate compliance with its obligations set out this Schedule and the Contract.

7.7 The Supplier shall notify the Authority immediately if it fails to, or believes that it will not, mitigate the vulnerability within the timescales set out in Paragraph 7.3. Any such circumstance shall constitute a material Default and the Authority may by terminate this Contract with immediate effect by issuing a Termination Notice to the Supplier in accordance with Clause 30.1.2.

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;

8.1.3 agree a document which presents the residual security risks to inform the Authority's decision to give approval to the Supplier to Process and transit the Government Data;

8.1.4 monitor security risk impacting upon the operation of the applicable Services;

8.1.5 report Breaches of Security in accordance with the approved Incident Management Process;

8.1.6 agree with the Authority the frequency and nature of the security reports to be prepared and submitted by the Supplier to the Authority 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 maintained on any part of the Information Management System which may Process Government 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.

9.2 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 Government Data, assist each other to mitigate any

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Losses and to restore the applicable Services to their desired operating efficiency.

9.3 Any cost arising out of the actions of the parties taken in compliance with the provisions of Paragraph 9.2 shall be borne by the parties as follows:

9.3.1 by the Supplier where the Malicious Software originates from:

- (a) the Supplier Software;
- (b) the Third Party Software supplied by the Supplier; or
- (c) the Government Data whilst the Government Data is or was under the control of the Supplier,

unless, in the case of the Government Data only, the Supplier can demonstrate that such Malicious Software was present in the Government Data and not quarantined or otherwise identified by the Authority when the Authority provided the Government Data to the Supplier; and

9.3.2 by the Authority, 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:

- (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 Authority full details of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Authority.

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 Authority.

10.4 If the Supplier fails to comply with its obligations set out in this Paragraph 10, such failure shall constitute a material Default, which if not remedied to the satisfaction of the Authority, shall permit the Authority to terminate this Contract in accordance with Clause 30.1.2 with

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immediate effect by issuing a Termination Notice to the Supplier.

Annex 1: Security Requirements

1. Security Classification of Information

- 1.1 If the provision of the applicable Services requires the Supplier to Process Government Data which is classified as:
 - 1.1.1 OFFICIAL-SENSITIVE, the Supplier shall implement such additional measures as agreed with the Authority from time to time in order to ensure that such information is safeguarded in accordance with the applicable Standards; and/or
 - 1.1.2 SECRET or TOP SECRET, the Supplier shall only do so where it has notified the Authority prior to receipt of such Government Data and the Supplier shall implement additional measures as agreed with the Authority 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 must manage, and must ensure that all Sub-contractors manage, all end-user devices used by the Supplier on which Government Data is Processed in accordance the following requirements:
 - 2.1.1 the operating system and any applications that Process or have access to Government Data must be in current support by the vendor, or the relevant community in the case of Open Source operating systems or applications;
 - 2.1.2 users must authenticate before gaining access;
 - 2.1.3 all Government Data must be encrypted using an encryption tool agreed to by the Authority;
 - 2.1.4 the end-user device must lock and require any user to re-authenticate after a period of time that is proportionate to the risk environment, during which the end-user device is inactive;
 - 2.1.5 the end-user device must be managed in a way that allows for the application of technical policies and controls over applications that have access to Government Data;
 - 2.1.6 the Supplier or Sub-contractor, as applicable, can, without physical access to the end-user device, remove or make inaccessible all Government Data on the device and prevent any user or group of users from accessing the device;
 - 2.1.7 all end-user devices are within in the scope of any current Cyber Essentials Plus certificate held by the Supplier, or any ISO/IEC 27001 (at least ISO/IEC 27001:2013) certification issued by a UKAS-approved certification body, where the scope of that certification includes the applicable Services.
- 2.2 The Supplier must comply, and ensure that all Sub-contractors comply, with the recommendations in NCSC Device Guidance, as updated, amended or replaced from time to time, as if those recommendations were incorporated as specific obligations under this Contract.

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- 2.3 Where there any conflict between the requirements of this Schedule 7 (*Security Management*) and the requirements of the NCSC Device Guidance, the requirements of this Schedule will take precedence.

3. Encryption

- 3.1 The Supplier must ensure, and must ensure that all Sub-contractors ensure, that Government Data is encrypted:
- 3.1.1 when stored at any time when no operation is being performed on it; and
 - 3.1.2 when transmitted.
- 3.2 Where the Supplier, or a Sub-contractor, cannot encrypt Government Data the Supplier must:
- 3.2.1 immediately inform the Authority of the subset or subsets of Government Data it cannot encrypt and the circumstances in which and the reasons why it cannot do so;
 - 3.2.2 provide details of the protective measures the Supplier or Sub-contractor (as applicable) proposes to take to provide equivalent protection to the Authority as encryption; and
 - 3.2.3 provide the Authority with such information relating to the Government Data concerned, the reasons why that Government Data cannot be encrypted and the proposed protective measures as the Authority may require.
- 3.3 The Authority, the Supplier and, where the Authority requires, any relevant Sub-contractor shall meet to agree appropriate protective measures for the unencrypted Government Data.
- 3.4 Where the Authority and Supplier reach agreement, the Supplier must update the Security Management Plan to include:
- 3.4.1 the subset or subsets of Government Data not encrypted and the circumstances in which that will occur; and
 - 3.4.2 the protective measure that the Supplier and/or Sub-contractor will put in place in respect of the unencrypted Government Data.
- 3.5 Where the Authority and Supplier do not reach agreement within 40 Working Days of the date on which the Supplier first notified the Authority that it could not encrypt certain Government Data, either party may refer the matter in accordance with the Dispute Resolution Procedure.

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 applicable 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.

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- 4.2 The Authority 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 applicable Services in order to enable the Authority 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 Government Data or data which, if it were Government 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 applicable Services except where the Authority has expressly agreed in writing to the involvement of the named individual in the management and/or provision of the applicable Services.
- 4.4 The Supplier shall ensure that Supplier Personnel are only granted such access to Government 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 Government Data (e.g. they cease to be employed by the Supplier or any of its Sub-contractors), have their rights to access the Government Data revoked within 1 Working Day.
- 4.6 The Supplier shall ensure that Supplier Personnel that have access to the Sites, the IT Environment or the Government Data receive regular training on security awareness that reflects the degree of access those individuals have to the Sites, the IT Environment or the Government Data.
- 4.7 The Supplier shall ensure that the training provided to Supplier Personnel 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 Government 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 applicable 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 Authority on request.

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6. Data Destruction or Deletion

6.1 The Supplier shall:

- 6.1.1 prior to securely sanitising any Government Data or when requested the Supplier shall provide the Government with all Government Data in an agreed format provided it is secure and readable;
- 6.1.2 have documented processes to ensure the availability of Government Data in the event of the Supplier ceasing to trade;
- 6.1.3 securely erase in a manner agreed with the Authority any or all Government Data held by the Supplier when requested to do so by the Authority and certify to the Authority that it has done so unless and to the extent required by Law to retain it other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers;
- 6.1.4 securely destroy in a manner agreed with the Authority all media that has held Government 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 Authority other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers; and
- 6.1.5 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 Government Data.
- 7.2 The Supplier and the Authority 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 Authority and documented in the Security Management Plan.

8. Location of Government Data

- 8.1 The Supplier shall not and shall procure that none of its Sub-contractors Process Government Data outside the UK without the prior written consent of the Authority, which may be subject to conditions.

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9. Vulnerabilities and Corrective Action

- 9.1 The Authority 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 Government Data.
- 9.2 The severity of vulnerabilities for Supplier COTS Software and Third Party 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
 - 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 applicable Services (e.g. because it resides in a Software component which is not involved in running in the applicable 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 applicable Services;
 - 9.4.2 the application of a 'Critical' or 'Important' security patch adversely affects the Supplier's ability to deliver the applicable 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 Authority; or
 - 9.4.3 the Authority 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 Supplier COTS Software and Third Party COTS Software to be kept up to date such that all Supplier COTS Software and Third Party COTS Software are always in mainstream support throughout the Term unless otherwise agreed by the Authority in writing. All

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Supplier COTS Software and Third Party 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;
- (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 applicable Services and information within it;
- (e) “Cloud Security Principle 5: operational security” which, amongst other matters, requires that the applicable 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 Government Data and/or the Authority 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 applicable 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

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other matters, requires the Supplier to make the tools available for the Authority to securely manage the Authority'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 applicable 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 Authority with the audit records it needs to monitor access to the Service and the Government 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.

Annex 2: Security Requirements for Sub-Contractors

1. Application of Annex 2

- 1.1 This Annex 2 applies to all Sub-contractors that Process Government Data.
- 1.2 The Supplier must:
 - 1.2.1 ensure that those Sub-contractors comply with the provisions of this Annex 2;
 - 1.2.2 keep sufficient records to demonstrate that compliance to the Authority; and
 - 1.2.3 ensure that its Implementation Plan includes Deliverables, Milestones and Milestone Dates that relate to the design, implementation and management of any systems used by Sub-contractors to Process Government 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 Authority on the Authority's request.

3. Data Processing, Storage, Management and Destruction

- 3.1 The Sub-contractor must not Process any Government Data outside the UK. The Authority may permit the Sub-contractor to Process Government Data outside the UK 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 when requested to do so by the Authority:
 - 3.2.1 securely destroy Government Data only on Sites which are included within the scope of an existing certification of compliance with ISO/IEC 27001 (at least ISO/IEC 27001:2013);
 - 3.2.2 satisfy the Authority that their data destruction/deletion practices comply with UK GDPR requirements and follows all relevant NCSC guidance; and
 - 3.2.3 maintain an asset register of all Authority supplied information, data and equipment to ensure Authority assets are returned and/or deleted.

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 applicable 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

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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>.

- 4.2 The Sub-contractor must, if the Authority requires, at any time, ensure that one or more of the Sub-contractor's staff obtains Security Check clearance in order to Process Government Data containing Personal Data above certain volumes specified by the Authority, or containing Special Category Personal Data.
- 4.3 Any Sub-contractor staff who will, when performing the applicable 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 Supplier must manage, and must ensure that all Sub-contractors manage, all end-user devices used by the Supplier on which Government Data is Processed in accordance the following requirements:
 - 5.1.1 the operating system and any applications that Process or have access to Government Data must be in current support by the vendor, or the relevant community in the case of Open Source operating systems or applications;
 - 5.1.2 users must authenticate before gaining access;
 - 5.1.3 all Government Data must be encrypted using an encryption tool agreed to by the Authority;
 - 5.1.4 the end-user device must lock and require any user to re-authenticate after a period of time that is proportionate to the risk environment, during which the end-user device is inactive;
 - 5.1.5 the end-user device must be managed in a way that allows for the application of technical policies and controls over applications that have access to Government Data;
 - 5.1.6 the Supplier or Sub-contractor, as applicable, can, without physical access to the end-user device, remove or make inaccessible all Government Data on the device and prevent any user or group of users from accessing the device;
 - 5.1.7 all end-user devices are within in the scope of any current Cyber Essentials Plus certificate held by the Supplier, or any ISO/IEC 27001 (at least ISO/IEC 27001:2013) certification issued by a UKAS-approved certification body, where the scope of that certification includes the applicable Services.
- 5.2 The Supplier must comply, and ensure that all Sub-contractors comply, with the recommendations in NCSC Device Guidance, as updated, amended or replaced from time to time, as if those recommendations were incorporated as specific obligations under this Agreement.
- 5.3 Where there any conflict between the requirements of this Schedule 7 (*Security Management*) and the requirements of the NCSC Device Guidance, the requirements of this Schedule will take precedence.

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6. Encryption

- 6.1 The Supplier must ensure, and must ensure that all Sub-contractors ensure, that Government Data is encrypted:
 - 6.1.1 when stored at any time when no operation is being performed on it; and
 - 6.1.2 when transmitted.
- 6.2 Where the Supplier, or a Sub-contractor, cannot encrypt Government Data the Supplier must:
 - 6.2.1 immediately inform the Authority of the subset or subsets of Government Data it cannot encrypt and the circumstances in which and the reasons why it cannot do so;
 - 6.2.2 provide details of the protective measures the Supplier or Sub-contractor (as applicable) proposes to take to provide equivalent protection to the Authority as encryption; and
 - 6.2.3 provide the Authority with such information relating to the Government Data concerned, the reasons why that Government Data cannot be encrypted and the proposed protective measures as the Authority may require.
- 6.3 The Authority, the Supplier and, where the Authority requires, any relevant Sub-contractor shall meet to agree appropriate protective measures for the unencrypted Government Data.
- 6.4 Where the Authority and Supplier reach agreement, the Supplier must update the Security Management Plan to include:
 - 6.4.1 the subset or subsets of Government Data not encrypted and the circumstances in which that will occur; and
 - 6.4.2 the protective measure that the Supplier and/or Sub-contractor will put in place in respect of the unencrypted Government Data.
- 6.5 Where the Authority and Supplier do not reach agreement within 40 Working Days of the date on which the Supplier first notified the Authority that it could not encrypt certain Government Data, either party may refer the matter in accordance with the Dispute Resolution Procedure.

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 Government Data to any other person unless specifically authorised by the Authority. Such authorisation must be in writing to be effective and may be subject to conditions.

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- 8.2 The Sub-contractor must not, when performing any part of the applicable Services, use any software to Process the Government Data where the licence terms of that software purport to grant the licensor rights to Progress the Government Data greater than those rights strictly necessary for the use of the software.

Annex 3: Security Management Plan Template

Security Management Plan Template

The text has been redacted under the exemptions set out by the Freedom of Information Act

Schedule 8: Insurance Requirements

1. Obligation to Maintain Insurances

- 1.1 Without prejudice to its obligations to the Authority under this Contract, including its indemnity and liability obligations, the Supplier shall for the periods specified in this Schedule take out and maintain, or procure the taking out and maintenance of the insurances as set out in Annex 1 and any other insurances as may be required by applicable Law (together the “Insurances”). The Supplier shall ensure that each of the Insurances is effective no later than the date on which the relevant risk commences.
- 1.2 The Supplier shall ensure that each of its Sub Contractors maintains insurance as may be required by applicable Law.
- 1.3 The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time.
- 1.4 The Insurances shall be taken out and maintained with insurers who are:
 - 1.4.1 of good financial standing;
 - 1.4.2 appropriately regulated;
 - 1.4.3 regulated by the applicable regulatory body and is in good standing with that regulator; and
 - 1.4.4 except in the case of any Insurances provided by an Affiliate of the Supplier, of good repute in the international insurance market.
- 1.5 Where any Insurances are provided by an Affiliate of the Supplier, the Supplier shall provide to the Authority on the Effective Date (or inception of the relevant Insurances if later) and thereafter within 10 Working Days of written request from the Authority evidence of good financial standing of the relevant Affiliate in a form satisfactory to the Authority. In the absence of a Financial Distress Event, the Authority shall not make any such request more than annually, unless it can demonstrate it has sufficient reason to do so.
- 1.6 The Supplier shall ensure that the public and products liability policy shall contain an indemnity to principals clause under which the Authority shall be indemnified in respect of claims made against the Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Contract and for which the Supplier is legally liable.

2. General Obligations

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
 - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to the Goods and Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;

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- 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
- 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3. Failure to Insure

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Supplier has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, the Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances, and the Authority shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

4. Evidence of Insurances

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

5. Insurance for the Required Amount

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained for the minimum limit of indemnity for the periods specified in this Schedule.
- 5.2 Where the Supplier intends to claim under any of the Insurances for an amount or amounts that are significant in the opinion of the Authority for any matters that are not related to the Goods, Services and/or the Contract, where such claim is likely to result in the level of cover available under any of the Insurances being reduced below the minimum limit of indemnity specified in this Schedule, the Supplier shall promptly notify the Authority and provide details of its proposed solution for maintaining the minimum limit of indemnity specified in this Schedule.

6. Cancellation

- 6.1 Subject to Paragraph 6.2, the Supplier shall notify the Authority in writing at least 5 Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 Without prejudice to the Supplier's obligations under Paragraph 4, Paragraph 6.1 shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Schedule.

Schedule 8 (Insurance Requirements)

[Subject to Contract]

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7. Insurance Claims, Premiums and Deductibles

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Goods and/or Services and/or this Contract for which it may be entitled to claim under any of the Insurances. In the event that the Authority receives a claim relating to or arising out of the Goods and/or Services and/or this Contract, the Supplier shall co-operate with the Authority and assist it in dealing with such claims at its own expense including without limitation providing information and documentation in a timely manner.
- 7.2 The Supplier shall maintain a register of all claims under the Insurances in connection with this Contract and shall allow the Authority to review such register at any time.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

Annex 1: Required Insurances

Part A: Insurance Claim Notification

Except where the Authority is the claimant party, the Supplier shall give the Authority notice within 20 Working Days after any insurance claim in excess of £10,000 relating to or arising out of the provision of the Goods and/or Services or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Authority) full details of the incident giving rise to the claim.

Part B: Third Party Public and Products Liability Insurance

1. Insured

- 1.1 The Supplier

2. Interest

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

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

- 2.1.2 loss of or damage to physical property;

happening during the period of insurance (as specified in Paragraph 5) and arising out of or in connection with the provision of the Goods and/or Services and in connection with this Contract.

3. Limit of indemnity

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

4. Territorial limits

United Kingdom and Jersey

5. Period of insurance

- 5.1 From the date of this Contract for the Term and renewable on an annual basis unless agreed otherwise by the Authority in writing.

6. Cover features and extensions

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

Schedule 8 (Insurance Requirements)

[Subject to Contract]

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7. Principal exclusions

- 7.1 War and related perils.
- 7.2 Nuclear and radioactive risks.
- 7.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured arising out of the course of their employment.
- 7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.
- 7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- 7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

8. Maximum deductible threshold

- 8.1 Not to exceed £[100,000] for each and every third party property damage claim (personal injury claims to be paid in full).

Part C: United Kingdom Compulsory Insurances

The Supplier shall meet its insurance obligations under applicable Law in full, including employers' liability insurance and motor third party liability insurance.

Schedule 9: Onboarding Additional Users

1. General

- 1.1 Additional Users shall be onboarded to this Contract by the change process in Schedule 25 (Change Control Procedure) and included in the list at Annex 1 to this Schedule. The list in Annex 1 shall be amended as Additional Users onboard or exit this Contract.
- 1.2 The Authority, the Supplier and any Additional User onboarding this Contract shall enter into an Additional User Agreement in the form at Annex 2 to this Schedule. Should there be any dispute between the terms of this Contract or the Additional User Agreement then this Contract shall take precedence.
- 1.3 The Supplier shall provide all reasonable assistance required by the Authority in order to onboard any Additional User.
- 1.4 The Supplier shall not frustrate, prevent or refuse the onboarding of any Additional User.
- 1.5 The Supplier hereby acknowledges that in addition to the Authority, Additional Users shall be able to place orders for Goods using the IT Portal.

2. Operating Terms

- 2.1 Unless otherwise specified, should any change (whether made by the Change Control Procedure or otherwise) be made to this Contract then the change shall also apply to Additional Users.
- 2.2 Additional Users may make Change Requests under Schedule 25 (Change Control Procedure) solely in relation to their own orders for Goods. Any such Change will not affect any orders or the provisions of the Goods and Services made by other Additional Users or the Authority.
- 2.3 Any Change Requests made shall be approved by the Authority in writing prior to being submitted to the Supplier and such changes shall only relate to orders placed by the relevant Additional User with the Supplier. Such changes shall have no binding effect on the Authority or any other Additional User.
- 2.4 Additional Users may carry out their own Testing of Goods in accordance with the terms of Schedule 18 (Goods Testing Procedures).
- 2.5 Additional Users cannot modify, amend or delete any of the provisions of this Contract except with the Authority's express written approval and only as set out below:
 - 2.5.1 Additional Users may modify Schedule 2 (*Goods Description and Services Description*) as they require and in agreement with the Supplier. Any modifications shall be approved in writing by the Authority, at the Authority's sole discretion. Any modifications shall only apply to the Additional User who requests it. Any such modifications shall not apply to the Authority or any other Additional User.
 - 2.5.2 Additional Users may modify Schedule 3 (Performance Levels) as they require and in agreement with the Supplier. Any modifications shall be approved in writing by the Authority, at the Authority's sole discretion. Any modifications shall

only apply to the Additional User who requests it. Any such modifications shall not apply to the Authority or any other Additional User.

2.5.3 Additional Users may modify Schedule 4 (*Standards*) as they require and in agreement with the Supplier. Any modifications shall be approved in writing by the Authority, at the Authority's sole discretion. Any modifications shall only apply to the Additional User who requests it. Any such modifications shall not apply to the Authority or any other Additional User.

2.6 Additional Users and the Supplier shall maintain a log of all modifications as referred to in Paragraph 8.4. This log shall be added to the Additional User Agreement with the Authority and updated from time to time.

2.7 Additional Users may not:

2.7.1 modify, amend or delete any security principles set out in Schedule 7 (Security Management).

2.7.2 modify, amend or delete any security principles set out in Schedule 15 (Software).

3. Orders and Payment

3.1 Orders placed by Additional Users shall be:

3.1.1 Delivered to the Sites specified in the Additional User Agreement and in accordance with the provisions of Schedule 5 (Delivery). Should any issues arise during Delivery, then Additional Users shall escalate this issue with the Supplier. Should any issues not be resolved then the provisions of Schedule 24 (Governance) and Schedule 26 (Dispute Resolution Procedure) shall apply;

3.1.2 at the same Price as the Authority, save as agreed between the Additional User and the Supplier.

3.2 Additional Users shall provide all necessary information required by the Supplier to facilitate a successful Delivery including accessible times and processes at the Sites.

3.3 Additional Users shall be invoiced directly by the Supplier for any orders placed in accordance with the terms of Schedule 19 (Charges and Invoicing).

3.4 Additional Users shall make payment of invoices in accordance with the terms of Schedule 19 (Charges and Invoicing).

3.5 Additional Users shall raise their own purchase order number and are solely responsible for payment of invoices.

3.6 Should Additional Users fail to make payment in the necessary timescale the Supplier may apply interest on the overdue amount at the rate of two per cent (2%) per annum above the Bank of England's base rate for the time being in force.

3.7 The Authority shall incur no cost as a result of orders placed by any Additional User or by the failure by any Additional User to pay any invoice in full or in part.

3.8 On a frequency specified by the Authority, but no less frequently than an annual basis, each Additional User shall provide to the Authority a 12-month forecast of their spend

under this Contract. The Authority reserves the right to limit this annual spend if the forecasted spend would exceed that permitted under this Contract.

- 3.9 Should any Goods ordered by the Authority erroneously be Delivered to any Additional User then the Additional User shall arrange for the Supplier to collect and re-deliver the Goods to the Authority. The re-Delivery shall be at the Supplier's cost and in accordance with the provisions of Schedule 5 (*Delivery*).
- 3.10 Should any Additional User wish to return any Goods then they shall do so in accordance with Schedule 2 (*Goods Description and Services Description*) or as otherwise specified by the Authority from time to time. Additional Users shall inform the Authority should returns of Goods reach the point of escalation in accordance with Schedule 26 (*Dispute Resolution Procedure*).

4. Schedules

- 4.1 The following schedules are not applicable to Additional Users:

- 4.1.1 Schedule 6 (Inherited Stock Management);
- 4.1.2 Schedule 11 (Supplier Solution);
- 4.1.3 Schedule 12 (Commercially Sensitive Information);
- 4.1.4 Schedule 13 (Notified Key Sub-Contractors);
- 4.1.5 Schedule 14 (Third Party Contracts);
- 4.1.6 Schedule 16 (Implementation Plan);
- 4.1.7 Schedule 16 (Benchmarking) ;
- 4.1.8 Schedule 22 (Financial Distress) ;
- 4.1.9 Schedule 23 (Financial Reports and Audit Rights);
- 4.1.10 Schedule 31 (Staff Transfer) ;
- 4.1.11 Schedule 32 (Key Personnel) ;
- 4.1.12 Schedule 33 (Deed of Guarantee).

- 4.2 The Authority may amend this clause at its own discretion.

5. Financial

- 5.1 As each Additional User joins this Contract the Supplier shall increase the insurance cover it obtains on a pro-rata basis.
- 5.2 Should any Additional User and the Supplier agree any change (whether made by the Change Control Process or otherwise) to this Contract which results in an increase of the Price this change shall only apply to the relevant Additional User.
- 5.3 Should any Additional User and the Supplier agree any change (whether made by the Change Control Process or otherwise) to this Contract which results in a decrease in the Price then the Authority shall be promptly informed of the change.

6. Warranties and Liabilities

- 6.1 The Additional User shall agree separate liability limits with the Supplier to those detailed in Clause 23 (*Limitations on Liability*).
- 6.2 Any claim made by an Additional User shall not affect or impact the liability or liability limits or aggregate liability of the Supplier to the Authority or any other Additional User, including but not limited to those set out at Clause 23 (*Limitations on Liability*).
- 6.3 Any claim made by the Authority shall not affect the liability cap for any Additional User.
- 6.4 Each Additional User repeats the warranties given by the Authority at Clause 3 (*Warranties*) save as agreed by the Authority, the Supplier and the Additional User.

7. Termination and Rectification

- 7.1 Any Additional User who wishes to terminate their Additional User Agreement shall give at least six months written notice to the Authority and the Supplier. No Additional User has the right to terminate this Contract for any reason.
- 7.2 Should the conduct of any Additional User be such that, were they the Authority, the Supplier would have grounds to terminate this Contract then the Supplier can, on twenty (20) Working Days' written notice, refuse to take further orders from the relevant Additional User.

8. Authority Responsibilities

- 8.1 Additional Users shall undertake all reasonable endeavours to assist the Authority in complying with Schedule 10 (Authority Responsibilities).

9. Data Protection and Confidentiality

- 9.1 Additional Users shall comply with the Data Protection provisions in the Additional User Agreement and Data Protection Legislation.
- 9.2 Additional Users shall keep all of the Authority's Confidential Information confidential to the same extent required of the Supplier pursuant to this Contract.

10. IT and Software

- 10.1 The Supplier shall create and maintain a version of the Supplier System suitably modified so that Additional Users can only access their own Supplier System.
- 10.2 The Supplier shall maintain the integrity of the Supplier System such that Additional Users and their agents, servants and employees cannot access any other version of the Supplier System or have any impact upon it.

11. Governance and Policies

- 11.1 Additional Users may establish additional governance boards with the Supplier in addition to those in Schedule 24 (Governance) and may set the rules and locations which regulate those governance boards.
- 11.2 The Authority may request attendance at governance boards established by the Additional User and the Supplier. Attendance by the Authority at such a board can be requested by

either the Additional User or the Supplier.

- 11.3 The Authority may invite representatives of Additional Users to its own governance boards at its own discretion.
- 11.4 Additional Users may request that they attend governance boards arranged by the Authority. The Authority shall permit attendance by Additional Users at its own discretion.
- 11.5 Attendance by Additional Users at governance boards does not grant Additional Users voting rights and their attendance shall not be counted towards the quorate.
- 11.6 Each Additional User shall supply an authorised representative who shall act as a point of contact for the Authority and the Supplier.
- 11.7 Authorised representatives appointed by Additional Users shall update the Authority on performance by the Supplier as requested.

12. Reports and Records

- 12.1 Additional Users are entitled to receive equivalent reports as the Authority is entitled to receive as set out in Schedule 27 (Reports and Records Provisions) in relation to their relationship with the Supplier. Additional Users shall provide all reports that they obtain from the Supplier to the Authority as they are received.
- 12.2 Additional Users may request additional reports from the Supplier to those set out in Schedule 27 (Reports and Records Provisions) from the Supplier as agreed. Additional Users shall provide copies of these additional reports to the Authority at the Authority's request.

13. Exit Management

- 13.1 Additional Users shall undertake all reasonable endeavours to assist the Authority and the Supplier in complying with Schedule 28 (Exit Management).

14. Business Continuity and Disaster Recovery

- 14.1 Upon the onboarding of Additional Users, the Supplier shall suitably amend their Service Continuity Plan to take into account any additional requirements of Additional Users.
- 14.2 The Supplier shall provide an updated version of the Service Continuity Plan to the Authority as each Additional User is onboarded.

15. Costs

- 15.1 The onboarding or exiting of Additional Users or any action taken pursuant to this Schedule 9 (Onboarding Additional Users) shall be at no cost to the Authority and any costs or losses incurred by the Authority shall be at the expense of the onboarding or exiting Additional User.
- 15.2 The Supplier shall meet any cost they incur at the onboarding or exiting of an Additional User pursuant to this Schedule 9 (Onboarding Additional Users).
- 15.3 Additional Users and the Supplier shall use reasonable endeavours to ensure minimal input is required from the Authority as part of the onboarding or exiting process.

16. Dispute Resolution

- 16.1 Should any Additional User be in any dispute with the Supplier they shall follow the provisions of Schedule 26 (Dispute Resolution Procedure).
- 16.2 Should any Additional User and the Supplier enter this process they shall both inform the Authority of the same without delay. Additional Users may not take any action including mediation, arbitration or court proceedings or seek any remedy from the Supplier without the written consent of the Authority.
- 16.3 The Authority reserves the right to assume conduct of any dispute with the Supplier or any third party in place of the Additional User.

17. Intellectual Property

- 17.1 In accordance with the provisions of this Contract any Intellectual Property Rights vested in or belonging to the Supplier prior to the Effective Date shall be retained by the Supplier.
- 17.2 In accordance with the provisions of this Contract any Intellectual Property Rights vested in or belonging to the Authority prior to the Effective Date shall be retained by the Authority.
- 17.3 Any Intellectual Property Rights which belongs to or vest in any Additional Users prior to them entering to an Additional Users Agreement shall be retained by that Additional User.
- 17.4 Any Intellectual Property Rights which are created after the data of an Additional User Agreement shall belong to the Authority.

Annex 1

List of approved Additional Users:

- Scottish Prison Service
- Serco (Private Prison)
- G4S
- Jersey Prison Service

Annex 2

[Additional User Agreement – subject to further comment and comment from Additional User]

Additional User Agreement

Dated

20

Between:

The Secretary of State for Justice

And

[Supplier]

And

[Additional User]

PARTIES:

- (1) **THE SECRETARY OF STATE FOR JUSTICE** of 102 Petty France, London, SW1H 9AJ, acting on behalf of the Crown, (the “Authority”);

AND

- (2) Cooneen Defence Limited a company registered in England and Wales under number NI 049695 whose registered office is 23 Cooneen Road, Fivemiletown, Tyrone BT75 ONE (the “Supplier”)

AND

- (3) [Insert full name of Additional User], whose registered office is [insert address] (the “Additional User”)

(each a “Party“ and together the “Parties“).

Introduction

- A. The Authority and the Supplier entered into a Contract dated [] for the supply of Goods and Services (“**Contract**”).
- B. Pursuant to the Contract, the Additional User wishes to place orders for Goods and/or Services from the Supplier.
- C. The Additional User wishes to source the Goods and/or Services from the Supplier on the basis of the terms of the Contract and as contained in this agreement (“**Additional User Agreement**”).

1. Declaration

- 1.1 The Supplier agrees to make Goods and/or Services available to the Additional User to order and use.
- 1.2 The Authority makes the Contract available to the Additional User under the terms set out in this Additional User Agreement.

2. Definitions and Interpretation

- 2.1 This Additional User Agreement hereby adopts the definitions used in the Contract.
- 2.2 Where any conflict between this Additional User Agreement and the Contract occurs the Contract shall take precedence.
- 2.3 In this Additional User Agreement, unless the context otherwise requires:
- 2.3.1 the singular includes the plural and vice versa;
 - 2.3.2 reference to a gender includes the other gender and the neuter;
 - 2.3.3 references to a person include an individual, company, body corporate,

corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;

- 2.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- 2.4 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“;
- 2.5 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;
- 2.6 the headings are for ease of reference only and shall not affect the interpretation or construction of this Additional User Agreement;
- 2.7 references to Clauses and Schedules are references to the clauses and schedules of the Contract are, unless otherwise provided, references to the paragraphs, parts and annexes of the Schedule or the Part of the Schedule in which the references appear; and
 - 2.7.1 references to the Additional User Agreement are references to the Additional User Agreement as amended from time to time.
 - 2.7.2 References to “Additional User Premises“ means any office or building which an Additional User operates out of pursuant to this Additional User Agreement.

3. The Additional User

- 3.1 The Additional User hereby:
 - 3.1.1 appoints the Supplier to provide Goods and/or Services to it under the terms of the Contract;
 - 3.1.2 agrees to purchase Goods and/or Services only through the formal placing of orders pursuant to this Additional User Agreement and the Contract to pay the Charges set out in the respective Additional Users price list (except where updated as per the Contract) or amended by this Additional User Agreement.

4. The Supplier

- 4.1 The Supplier hereby:
 - 4.1.1 undertakes to ensure that suitable supply arrangements to the same standard as that required pursuant to the Contract are put in place and maintained to enable the Additional User to fulfil its requirements as set out in this Additional User Agreement; and
 - 4.1.2 accepts that the Additional User makes no guarantee of volumes of Goods and/or Services to be purchased under this Additional User Agreement.

5. The Parties

- 5.1 The Parties hereby:

- 5.1.1 undertake to enter into this Additional User Agreement on a collaborative basis with the aim of maximising value for money to the taxpayer;
- 5.1.2 agree to cooperate with one another and to fulfil their respective obligations under this Additional User Agreement;
- 5.1.3 undertake that, should the parties fail to reach agreement on any matter in relation to this Additional User Agreement, that they shall resolve any disagreement swiftly and amicably to avoid any disruption to the service delivery under this Additional User Agreement and in any event will comply with the terms of Schedule 9, Paragraph 16 (*Onboarding Additional Users*) and Schedule 26 (*Dispute Resolution Procedure*).

6. Term

- 6.1 This Additional User Agreement commences from [] until [] (the “Additional User Agreement Term”) unless:
 - 6.1.1 the Contract reaches the end of the Term or is otherwise terminated;
 - 6.1.2 this Additional User Agreement is terminated in accordance with Paragraph 13 of this Additional User Agreement.
- 6.2 The Additional User Agreement Term may be extended by the Additional User giving the Supplier and the Authority ninety (90) days written notice (such period can be shortened by mutual written agreement between the Parties) before the end of the Term.
- 6.3 Where the Contract is terminated this Additional User Agreement shall be terminated on the same date or earlier.
- 6.4 Where the length of the Contract is extended then this Additional User Agreement may be extended on the written agreement of the Parties.

7. Additional User requirements:

- 7.1 The Additional User may modify the following clauses of the Contract in accordance with their requirements:
 - 7.1.1 the Supplier shall make Delivery of Goods and/or provision of the Services to the following Sites or such other premises as are advised by the Additional User pursuant to Schedule 9, Paragraph 3.1 (*Onboarding Additional Users*)
[INSERT]
 - 7.1.2 in addition to (or in replacement of, as specified below) the standards and policies set out in Schedule 10 (Authority Responsibilities) of the Contract, the Supplier shall adhere to the following standards and policies supplied by the Additional User [and annexed at schedule [] to the Contract]:
[INSERT]
 - 7.1.3 In addition to the requirements set out in Schedule 5 (Delivery) of the Contract, the Additional User has the following additional delivery requirements:
[INSERT]

8. Finance

- 8.1 As set out in Schedule 9, Paragraph 3.3 (*Onboarding Additional Users*) of the Contract Additional Users shall be invoiced directly by the Supplier for any orders placed in accordance with the terms of Schedule 19 (*Charges and Invoicing*).
- 8.2 Invoices sent to the Additional User shall comply with the following invoice process:
[INSERT]

9. Additional User liability and insurance

- 9.1 As set out in Schedule 9 , Paragraph 5.1 (*Onboarding Additional Users*) of the Contract the Supplier shall operate a liability cap for each Additional User separate to the Authority. Any claim made by the Additional User in relation to the Additional User Agreement shall not affect or impact the liability or liability limits or aggregate liability of the Supplier to the Authority or any other Additional User, including but not limited to those set out at Clause 23 (*Limitations on Liability*) of the Contract.
- 9.2 The Supplier's liability in respect to supply of the Goods and/or Services to the Additional User is limited to [INSERT VALUE].
- 9.3 At the outset of this Additional User Agreement the Supplier shall increase the insurance cover it obtains in relation to the Contract on a pro-rata basis.

10. Reports and Governance

- 10.1 In addition to the requirements set out in Schedule 25 (Governance) of the Contract, the Additional User requires the following Governance Boards:
[INSERT]
- 10.2 In addition to the requirements set out in Schedule 27 (Reports and Records Provisions) of the Contract, the Additional User requires the following additional reports:
[INSERT]

11. Additional User technical requirements:

- 11.1 As per Schedule 9, Paragraph 2.5.1 (*Onboarding Additional Users*) of the Contract the Additional User may modify the following sections of the Contract in accordance with their technical requirements:
- 11.1.1 the Additional User requires amendments to Schedule 2 (*Goods Description and Services Description*) of the Contract. These are listed in Annex 1 to this Additional User Agreement.
 - 11.1.2 the Additional User requires amendments to Schedule 3 (*Performance Levels*) of the Contract. These are listed in Annex 2 to this Additional User Agreement.
 - 11.1.3 the Additional User requires amendments to Schedule 4 (*Standards*) of the Contract. These are listed in Annex 3 to this Additional User Agreement.

12. Additional User ordering process:

[ADDITIONAL USER IS TO CONFIRM IF IT WILL PLACE ORDERS ON AN AD HOC BASIS OR USING KIT PACKS]

13. Termination

- 13.1 The Additional User may terminate this Additional User Agreement on six months written notice to the Authority and the Supplier.
- 13.2 Should the conduct of any Additional User be such that, were they the Authority, the Supplier would have grounds to terminate the Contract then the Supplier can, on twenty (20) working days' notice, refuse to take further orders from the relevant Additional User.

14. Notices

- 14.1 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 the Contract:

14.1.1 For the Authority:

Contact Name: [insert name];

Address: [insert address]; and

Email: [insert email address].

14.1.2 For the Supplier:

Contact Name: [insert name];

Address: [insert address]; and

Email: [insert email address]

14.1.3 For the Additional User:

Contact Name: [insert name];

Address: [insert address]; and

Email: [insert email address]

15. Additional User IT Requirements

- 15.1 The Supplier shall ensure that the Additional User has access to the Supplier System.
- 15.2 The Additional User requires amendments to the Supplier System. These are listed in Annex 4 to this Additional User Agreement. Such amendments are subject to the written approval of the Authority.

16. Change Process

- 16.1 Should any of the Parties wish to amend this Additional User Agreement they shall do so in accordance with Schedule 25 (Change Control Procedure) of the Contract.

17. Governing Law and Jurisdiction

- 17.1 This Additional User Agreement is governed by and interpreted in accordance with English Law and are subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction does not limit the right of the Authority to take proceedings against the Supplier in any other court of competent jurisdiction, and the taking of proceedings in any other court of competent jurisdiction does not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

IN WITNESS of which the Additional User Agreement is duly executed by the Parties on the date which appears at the head of page 1.

SIGNED for and on behalf of the Secretary of State for Justice

Signature:

Name (block capitals):

Position:

Date:

SIGNED for and on behalf of Cooneen Defence Limited

Signature:

Name (block capitals):

Position:

Date:

SIGNED for and on behalf of the [insert name of Additional User]

Signature:

Name (block capitals):

Position:

Date:

Annex 1

The Additional User requires amendments to Schedule 2 (Goods Description and Services Description) of the Contract.

Additional User to list amendments to Schedule 2 (Goods Description and Services Description)here:

Annex 2

The Additional User requires amendments to Schedule 3 (*Performance Levels*) of the Contract.

Additional User to list amendments to Schedule 3 (*Performance Levels*) here:

Annex 3

The Additional User requires amendments to Schedule 4 (*Standards*) of the Contract. Additional User to list amendments to Schedule 4 (*Standards*) here:

Annex 4

The Additional User requires amendments to the Supplier System.

Such amendments are subject to the written approval of the Authority.

Additional User to list amendments to Supplier System (having obtained written approval from Authority) here:

Schedule 10: Authority Responsibilities

1. Introduction

- 1.1 The responsibilities of the Authority set out in this Schedule shall constitute the Authority Responsibilities under this Contract. Any obligations of the Authority in Schedule 2 (*Goods Description and Services Description*) and Schedule 11 (*Supplier Solution*) shall not be Authority Responsibilities and the Authority shall have no obligation to perform any such obligations unless they are specifically stated to be “Authority Responsibilities” and cross referenced in the table in Paragraph 3 of this Schedule 10 (*Authority Responsibilities*).
- 1.2 The responsibilities specified within this Schedule shall be provided to the Supplier free of charge, unless otherwise agreed between the Parties.

2. General Obligations

- 2.1 The Authority shall:
 - 2.1.1 perform those obligations of the Authority which are set out in the Clauses of this Contract and the Paragraphs of the Schedules (except Schedule 2 (*Goods Description and Services Description*) and Schedule 11 (*Supplier Solution*));
 - 2.1.2 use its reasonable endeavours to provide the Supplier with access to appropriate members of the Authority’s staff, as such access is reasonably requested by the Supplier in order for the Supplier to discharge its obligations throughout the Term and the Termination Assistance Period;
 - 2.1.3 provide sufficient and suitably qualified staff to fulfil the Authority’s roles and duties under this Contract as defined in the Implementation Plan;
 - 2.1.4 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 Authority and is authorised for release by the Authority; and
 - 2.1.5 procure for the Supplier such agreed access and use of the Authority 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 Authority’s normal working hours on each Working Day or as otherwise agreed by the Authority (such agreement not to be unreasonably withheld or delayed).

3. Specific Obligations

- 3.1 The Authority shall, in relation to this Contract perform the Authority’s responsibilities identified as such in this Contract, the details of which are set out in the table below:

Document	Location (Clause/Paragraph)
The Authority shall perform the Authority dependencies included and agreed in the Implementation Plan	Clause 6 of the Terms and Conditions

Schedule 11: Supplier Solution

The following documents are Appendices to this Contract as a separate file

Appendix 1 – 2.6 Quality and Standards
Appendix 2 – 2.7 Continuous Improvement
Appendix 3 – 2.8 Product Design Capability
Appendix 4 – 2.9 Inherited Stock Strategy
Appendix 5 – 2.10 Sourcing, Supply Chain Management and Logistics
Appendix 6 – 2.11 Implementation Management Plan (Please refer to the document submitted as part of the ITT).
Appendix 7 – 2.13 Contingency Planning
Appendix 8 – 2.14 Social Value
Appendix 9 – 2.15 Recycling Service

Additional Documents submitted by Supplier at Tender Stage:

Appendix 10 – 1.2.3 Certificate of Bona Fide Tendering
Appendix 11 – 1.33.4 Anti Slavery & Human Trafficking
Appendix 12 - 1.21.2 SQ7.2(b) Data Protection
Appendix 13 – 1.22.1 SQ7.3(a) Health and Safety
Appendix 14 – 1.20.3 Insurance Requirements Table
Appendix 15 – Verification of Insurance
Appendix 16 – 1.24.2.1 Payments in Contracts above £5m
Appendix 17 – Financial Viability Risk Assessment Tool (Please refer to the document submitted as part of the ITT)
Appendix 18 – 1.19.1 SQ 6.1 Relevant Experience
Appendix 19 – 1.7.1 SQ 1.3 Sub-Contractor Information
Appendix 20 – 2.2.7 Supply Chain Entity Disclosure Form (Please refer to document submitted as part of the ITT)
Appendix 21 – 1.19.3 SQ 6.3 Technical and Professional Ability

Schedule 12: Commercially Sensitive Information

4. In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
5. Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below (please see the column "Duration of Confidentiality").
6. Without prejudice to the Authority's obligation to disclose Information in accordance with FOIA or Clause 19 (*Confidentiality*), the Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

Commercially Sensitive Information

No.	Date	Item(s)	Duration of Confidentiality
1.	27 August 2025	All pricing specific to the delivery of this contract (including product and service pricing).	For the duration of the contract (plus any agreed extensions) + 3 years
2.	27 August 2025	All information relating to the Supplier's third-party subcontractors and supply partners, including names, addresses and related details.	For the duration of the contract (plus any agreed extensions) + 3 years
3.	27 August 2025	Any information regarding the Supplier's internal processes and procedures.	For the duration of the contract (plus any agreed extensions) + 3 years
4.	27 August 2025	All information provided by the Supplier in relation to IT security, proprietary and bespoke software and infrastructure systems required to delivery upon this contract.	For the duration of the contract (plus any agreed extensions) + 3 years
5.	27 August 2025	All employee details, including names, titles/roles and contact details.	For the duration of the contract (plus any agreed extensions) + 3 years

Schedule 13: Notified Key Sub-Contractors

1.
- In accordance with Clause 15.11 (*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.
2.
- The Parties agree that they will update this Schedule periodically to record any Key Sub-contractors appointed by the Supplier with the consent of the Authority after the Effective Date for the purposes of the delivery of the Goods and Services.

Key Sub-contractor name and address (if not the same as the registered office)	Registered office and company number	Related product/Service description	Key Sub-contract price expressed as a percentage of total projected Charges over the Term	Key role in delivery of the Goods and/or Services	Credit Rating Threshold
The text has been redacted under the exemptions set out by the Freedom of Information Act					

Schedule 14: Third Party Contracts

9. The contracts listed in the table below constitute Third Party Contracts entered into exclusively for the purposes of delivering the Goods and/or Services.
10. The Supplier shall be entitled to update this Schedule in accordance with Clause 15.10 (*Appointment of Sub-contractors*).

Third party supplier name and address (if not the same as the registered office)	Registered office and company number	Related product/service description
The text has been redacted under the exemptions set out by the Freedom of Information Act		

Schedule 15: Software

1. The Software

- 1.1 The Software below is licensed to the Authority in accordance with Clause 16 (Intellectual Property Rights) and Schedule 35 (Intellectual Property Rights).
- 1.2 The Parties agree that they will update this Schedule regularly, and in any event no less than every 6 Months from the Effective Date, 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 Goods and/or Services.

2. Supplier Software

- 2.1 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
Uniform Management Portal	N/A	To provide uniform management functionality to the Authority	Unlimited	None	N/A	Non-COTS	N/A Cooneen Product

3. Third Party Software

3.1 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
The text has been redacted under the exemptions set out by the Freedom of Information Act		Platform which the Uniform Management portal resides	Unlimited	None	N.A	COTS	01/09/2028

Annex 1: Form Of Confidentiality Undertaking - NOT USED

Schedule 16: Implementation Plan

1. Introduction

1.1 This Schedule

defines the process for the preparation and implementation of the Initial Implementation Plan and Detailed Implementation Plan.

1.2 Initial Implementation Plan

1.2.1 The Initial Implementation Plan is set out in Annex A.

1.2.2 All changes to the Initial 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 29 (*Authority Cause*)).

2. Approval of the Detailed Implementation Plan

2.1 The Supplier shall submit a draft of the Detailed Implementation Plan to the Authority for approval within 20 Working Days of the Effective Date.

2.2 The Supplier shall ensure that the draft Detailed Implementation Plan:

2.2.1 incorporates all of the Milestones and Milestone Dates set out in the Initial Implementation Plan;

2.2.2 includes (as a minimum) the Supplier's proposed timescales in respect of the following for each of the Milestones:

2.2.2.1 the completion of each design document;

2.2.2.2 the completion of the build phase;

2.2.2.3 the completion of any Testing to be undertaken in accordance with Schedule 17 (IT Testing Procedures) and Schedule 18 (Goods Testing Procedures); and

2.2.2.4 training and roll-out activities;

2.2.3 clearly outlines all the steps required to implement the Milestones to be achieved in the next 15 months, together with a high level plan for the rest of the programme, in conformity with the Authority Requirements;

2.2.4 clearly outlines the required roles and responsibilities of both Parties, including staffing requirements; and

2.2.5 is produced using a software tool as specified, or agreed by the Authority.

2.3 Prior to the submission of the draft Detailed Implementation Plan to the Authority in accordance with Paragraph 2.1, the Authority shall have the right:

2.3.1 to review any documentation produced by the Supplier in relation to the

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development of the Detailed Implementation Plan, including:

- 2.3.2 details of the Supplier's intended approach to the Detailed Implementation Plan and its development;
 - 2.3.3 copies of any drafts of the Detailed Implementation Plan produced by the Supplier; and
 - 2.3.4 any other work in progress in relation to the Detailed Implementation Plan; and
 - 2.3.5 to require the Supplier to include any reasonable changes or provisions in the Detailed Implementation Plan.
- 2.4 Following receipt of the draft Detailed Implementation Plan from the Supplier, the Authority shall:
- 2.4.1 review and comment on the draft Detailed Implementation Plan as soon as reasonably practicable; and
 - 2.4.2 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 Authority.
- 2.5 If the Authority rejects the draft Detailed Implementation Plan:
- 2.5.1 the Authority shall inform the Supplier in writing of its reasons for its rejection; and
 - 2.5.2 the Supplier shall then revise the draft Detailed Implementation Plan (taking reasonable account of the Authority's comments) and shall re-submit a revised draft Detailed Implementation Plan to the Authority for the Authority's approval within 20 Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 2.4 and this Paragraph 2.5 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.
- 2.6 If the Authority approves the draft Detailed Implementation Plan, it shall replace the Initial Implementation Plan from the date of the Authority's notice of approval.

3. Updates to And Maintenance of the Detailed Implementation Plan

- 3.1 Following the approval of the Detailed Implementation Plan by the Authority:
- 3.1.1 the Supplier shall submit a revised Detailed Implementation Plan to the Authority every 3 months starting 3 months from the Effective Date;
 - 3.1.2 without prejudice to Paragraph 3.1.1, the Authority 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 Authority within 20 Working Days of receiving such a request from the Authority (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);

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- 3.1.3 any revised Detailed Implementation Plan shall (subject to Paragraph 3.2) be submitted by the Supplier for approval in accordance with the procedure set out in Paragraph 2; and
 - 3.1.4 the Supplier's performance against the Implementation Plan shall be monitored at meetings of the Project Board (as defined in Schedule 21 (Benchmarking)). In preparation for such meetings, the current Detailed Implementation Plan shall be provided by the Supplier to the Authority not less than 5 Working Days in advance of each meeting of the Project Board.
- 3.2 Save for any amendments which are of a type identified and notified by the Authority (at the Authority'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:
- 3.2.1 any amendments to elements of the Detailed Implementation Plan which are based on the contents of the Initial Implementation Plan shall be deemed to be material amendments; and
 - 3.2.2 in no circumstances shall the Supplier be entitled to alter or request an alteration to any Milestone Date except in accordance with Clause 29 (*Authority Cause*).
- 3.3 Any proposed amendments to the Detailed Implementation Plan shall not come into force until they have been approved in writing by the Authority.

4. Government Reviews

- 4.1 The Supplier acknowledges that the Goods and/or 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.

Annex A: Initial Implementation Plan

Please refer to the Implementation Plan submitted in the ITT at Tender stage. Due to the limitations of being able to embed the document for electronic signature, the Implementation Plan submitted at Tender Stage will be referred to for this Contract.

The document has been redacted under the exemptions set out by the Freedom of Information Act

Schedule 17: IT Testing Procedures

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

“Component“	any constituent parts of the infrastructure for a Service, hardware or Software;
“Material Test Issue“	a Test Issue of Severity Level 1 or Severity Level 2;
“Severity Level“	the level of severity of a Test Issue, the criteria for which are described in Annex 1;
“Test Certificate“	a certificate materially in the form of the document contained in Annex 2 issued by the Authority when a Deliverable has satisfied its relevant Test Success Criteria;
“Test Issue“	any variance or non-conformity of a Deliverable from its requirements (such requirements being set out in the relevant Test Success Criteria);
“Test Issue Threshold“	in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan;
“Test Issue Management Log“	a log for the recording of Test Issues as described further in Paragraph 10.1;
“Test Plan“	a plan: (a) for the Testing of Deliverables; and (b) setting out other agreed criteria related to the Achievement of Milestones, as described further in Paragraph 6;
“Test Reports“	the reports to be produced by the Supplier setting out the results of Tests;
“Test Specification“	the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 8;
“Test Strategy“	a strategy for the conduct of Testing as described further in Paragraph 5;

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“Test Success Criteria” in relation to a Test, the test success criteria for that Test as referred to in Paragraph 7;

“Test Witness” any person appointed by the Authority pursuant to Paragraph 11.1; and

“Testing Procedures” the applicable testing procedures and Test Success Criteria set out in this Schedule.

2. General

2.1 The provisions of this Schedule relate to the testing of the accessibility and functionality of the Supplier System.

3. Risk

3.1 The issue of a Test Certificate, a Milestone Achievement Certificate and/or a conditional Milestone Achievement Certificate shall not:

3.2 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Authority’s requirements for that Deliverable or Milestone; or

3.3 affect the Authority’s right subsequently to reject:

3.3.1 all or any element of the Deliverables to which a Test Certificate relates; or

3.3.2 any Milestone to which the Milestone Achievement Certificate relates.

3.4 Notwithstanding the issuing of any Milestone Achievement Certificate (including the Milestone Achievement Certificate in respect of Authority to Proceed), the Supplier shall remain solely responsible for ensuring that:

3.4.1 the Supplier Solution as designed and developed is suitable for the delivery of the Services and meets the Authority Requirements;

3.4.2 the Services are implemented in accordance with this Contract; and

3.4.3 each applicable Target Performance Level is met from the relevant Services Commencement Date.

4. Testing Overview

4.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, the Test Plans and the Test Specifications.

4.2 The Supplier shall not submit any Deliverable for Testing:

4.2.1 unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;

4.2.2 until the Authority has issued a Test Certificate in respect of any prior, dependent Deliverable(s); and

4.2.3 until the Parties have agreed the Test Plan and the Test Specification relating to

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the relevant Deliverable(s).

- 4.3 The Supplier 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.
- 4.4 Prior to the issue of a Test Certificate, the Authority shall be entitled to review the relevant Test Reports and the Test Issue Management Log.
- 4.5 Any Disputes between the Authority and the Supplier regarding Testing shall be referred to the Dispute Resolution Procedure using the Expedited Dispute Timetable.

5. Test Strategy

- 5.1 The Supplier shall develop the final Test Strategy as soon as practicable after the Effective Date but in any case no later than 20 Working Days (or such other period as the Parties may agree in writing) after the Effective Date.
- 5.2 The final Test Strategy shall include:
 - 5.2.1 an overview of how Testing will be conducted in accordance with the Implementation Plan;
 - 5.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
 - 5.2.3 the method for mapping the expected Test results to the Test Success Criteria;
 - 5.2.4 the procedure to be followed if a Deliverable fails to satisfy the Test Success Criteria or produces unexpected results, including a procedure for the resolution of Test Issues;
 - 5.2.5 the procedure to be followed to sign off each Test;
 - 5.2.6 the process for the production and maintenance of Test Reports and reporting, including templates for the Test Reports and the Test Issue Management Log, and a sample plan for the resolution of Test Issues;
 - 5.2.7 the names and contact details of the Authority's and the Supplier's Test representatives;
 - 5.2.8 a high level identification of the resources required for Testing, including facilities, infrastructure, personnel and Authority and/or third party involvement in the conduct of the Tests;
 - 5.2.9 the technical environments required to support the Tests; and
 - 5.2.10 the procedure for managing the configuration of the Test environments.

6. Test Plans

- 6.1 The Supplier shall develop Test Plans and submit these for the approval of the Authority as soon as practicable but in any case no later than 20 Working Days (or such other period as the Parties may agree in the Test Strategy or otherwise agree in writing) prior to the start date for the relevant Testing (as specified in the Implementation Plan).

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6.2 Each Test Plan shall include as a minimum:

- 6.2.1 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;
- 6.2.2 a detailed procedure for the Tests to be carried out, including:
 - (a) the timetable for the Tests, including start and end dates;
 - (b) the Testing mechanism;
 - (c) dates and methods by which the Authority can inspect Test results or witness the Tests in order to establish that the Test Success Criteria have been met;
 - (d) the mechanism for ensuring the quality, completeness and relevance of the Tests;
 - (e) the format and an example of Test progress reports and the process with which the Authority accesses daily Test schedules;
 - (f) the process which the Authority will use to review Test Issues and the Supplier's progress in resolving these in a timely basis;
 - (g) the Test Schedule;
 - (h) the re-Test procedure, the timetable and the resources which would be required for re-Testing; and
- 6.2.3 the process for escalating Test Issues from a re-test situation to the taking of specific remedial action to resolve the Test Issue.

6.3 The Authority shall not unreasonably withhold or delay its approval of the Test Plans provided that the Supplier shall incorporate any reasonable requirements of the Authority in the Test Plans.

7. Test Success Criteria

7.1 The Test Success Criteria for:

- 7.1.1 each Test that must be Achieved for the Supplier to Achieve either the ATP Milestone or a CPP Milestone are set out in Annex 4; and
- 7.1.2 all other Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 6.

8. Test Specification

8.1 Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days (or such other period as the Parties may agree in the Test Strategy or otherwise agree in writing) prior to the start of the relevant Testing (as specified in the Implementation Plan).

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8.2 Each Test Specification shall include as a minimum:

- 8.2.1 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 Authority and the extent to which it is equivalent to live operational data;
- 8.2.2 a plan to make the resources available for Testing;
- 8.2.3 Test scripts;
- 8.2.4 Test pre-requisites and the mechanism for measuring them; and
- 8.2.5 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.

9. Testing

- 9.1 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
- 9.2 The Supplier 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 11.
- 9.3 The Supplier shall notify the Authority at least 10 Working Days (or such other period as the Parties may agree in writing) in advance of the date, time and location of the relevant Tests and the Authority shall ensure that the Test Witnesses attend the Tests, except where the Authority has specified in writing that such attendance is not necessary.
- 9.4 The Authority may raise and close Test Issues during the Test witnessing process.
- 9.5 The Supplier shall provide to the Authority in relation to each Test:
 - 9.5.1 a draft Test Report not less than 2 Working Days (or such other period as the Parties may agree in writing) prior to the date on which the Test is planned to end; and
 - 9.5.2 the final Test Report within 5 Working Days (or such other period as the Parties may agree in writing) of completion of Testing.
- 9.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
 - 9.6.1 an overview of the Testing conducted;
 - 9.6.2 identification of the relevant Test Success Criteria that have been satisfied;
 - 9.6.3 identification of the relevant Test Success Criteria that have not been satisfied together with the Supplier's explanation of why those criteria have not been met;
 - 9.6.4 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;

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- 9.6.5 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 10.1; and
- 9.6.6 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.

10. Test Issues

- 10.1 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 Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 10.2 The Supplier 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 Supplier shall make the Test Issue Management Log available to the Authority upon request.
- 10.3 The Authority shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. 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 the Expedited Dispute Timetable.

11. Test Witnessing

- 11.1 The Authority may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Authority, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 11.2 The Supplier 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.
- 11.3 The Test Witnesses:
 - 11.3.1 shall actively review the Test documentation;
 - 11.3.2 will attend and engage in the performance of the Tests on behalf of the Authority so as to enable the Authority 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;
 - 11.3.3 shall not be involved in the execution of any Test;
 - 11.3.4 shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
 - 11.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Authority to assess whether the Tests have been Achieved;
 - 11.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
 - 11.3.7 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

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12. Test Quality Audit

- 12.1 Without prejudice to its rights pursuant to Clause 12.2.2 (*Records, Reports, Audits & Open Book Data*), the Authority may perform on-going quality audits in respect of any part of the Testing (each a “**Testing Quality Audit**”) subject to the provisions set out in the agreed Quality Plan.
- 12.2 The focus of the Testing Quality Audits shall be on:
 - 12.2.1 adherence to an agreed methodology;
 - 12.2.2 adherence to the agreed Testing process;
 - 12.2.3 adherence to the Quality Plan;
 - 12.2.4 review of status and key development issues; and
 - 12.2.5 identification of key risk areas.
- 12.3 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 12.4 The Authority will give the Supplier at least 5 Working Days’ written notice of the Authority’s intention to undertake a Testing Quality Audit and the Supplier may request, following receipt of that notice, that any Testing Quality Audit be delayed by a reasonable time period if in the Supplier’s reasonable opinion, the carrying out of a Testing Quality Audit at the time specified by the Authority will materially and adversely impact the Implementation Plan.
- 12.5 A Testing Quality Audit may involve document reviews, interviews with the Supplier Personnel involved in or monitoring the activities being undertaken pursuant to this Schedule, the Authority witnessing Tests and demonstrations of the Deliverables to the Authority. Any Testing Quality Audit shall be limited in duration to a maximum time to be agreed between the Supplier and the Authority on a case by case basis (such agreement not to be unreasonably withheld or delayed). The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Authority to enable it to carry out the Testing Quality Audit.
- 12.6 If the Testing Quality Audit gives the Authority concern in respect of the Testing Procedures or any Test, the Authority shall:
 - 12.6.1 discuss the outcome of the Testing Quality Audit with the Supplier, giving the Supplier the opportunity to provide feedback in relation to specific activities; and
 - 12.6.2 subsequently prepare a written report for the Supplier detailing its concerns, and the Supplier shall, within a reasonable timeframe, respond in writing to the Authority’s report.
- 12.7 In the event of an inadequate response to the Authority’s report from the Supplier, the Authority (acting reasonably) may withhold a Test Certificate (and consequently delay the grant of a Milestone Achievement Certificate) until the issues in the report have been addressed to the reasonable satisfaction of the Authority.

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13. Outcome of Testing

- 13.1 The Authority shall issue a Test Certificate as soon as reasonably practicable when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.
- 13.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Authority shall notify the Supplier and:
- 13.2.1 the Authority may issue a Test Certificate conditional upon the remediation of the Test Issues;
 - 13.2.2 where the Parties agree that there is sufficient time prior to the relevant Milestone Date, the Authority may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or
 - 13.2.3 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 Authority's other rights and remedies, such failure shall constitute a Notifiable Default for the purposes of Clause 25.1 (*Rectification Plan Process*).
- 13.3 The Authority shall be entitled, without prejudice to any other rights and remedies that it has under this Contract, 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 that Deliverable to be satisfied.

14. Issue of Milestone Achievement Certificate

- 14.1 The Authority shall issue a Milestone Achievement Certificate in respect of a given Milestone as soon as is reasonably practicable following:
- 14.1.1 the issuing by the Authority of Test Certificates and/or conditional Test Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
 - 14.1.2 performance by the Supplier to the reasonable satisfaction of the Authority of any other tasks identified in the Implementation Plan as associated with that Milestone (which may include the submission of a Deliverable that is not due to be Tested, such as the production of Documentation).
- 14.2 The grant of a Milestone Achievement Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of Schedule 19 (Charges and Invoicing).
- 14.3 If a Milestone is not Achieved, the Authority shall promptly issue a report to the Supplier setting out:
- 14.3.1 the applicable Test Issues ; and
 - 14.3.2 any other reasons for the relevant Milestone not being Achieved.

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- 14.4 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Authority shall issue a Milestone Achievement Certificate.
- 14.5 Without prejudice to the Authority's other remedies the following shall constitute a Notifiable Default for the purposes of Clause 25.1 (*Rectification Plan Process*) and the Authority shall refuse to issue a Milestone Achievement Certificate where:
- 14.5.1 there is one or more Material Test Issue(s); or
 - 14.5.2 the information required under Schedule 27 (Reports and Records Provisions) (Annex 3: *Records to Upload To Virtual Library*) has not been uploaded to the Virtual Library in accordance with Paragraph 3 of that Schedule.
- 14.6 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Authority may at its discretion (without waiving any rights in relation to the other options) choose to issue a Milestone Achievement Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
- 14.7 any Rectification Plan shall be agreed before the issue of a conditional Milestone Achievement Certificate unless the Authority agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Authority within 10 Working Days of receipt of the Authority's report pursuant to Paragraph 14.3); and
- 14.8 where the Authority issues a conditional Milestone Achievement Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

Annex 1: Test Issues – Severity Levels

1. Severity Levels

- 1.1 **Severity Level 1 Test Issue:** a Test Issue that causes non-recoverable conditions, e.g. it is not possible to continue using a Component, a Component crashes, there is database or file corruption, or data loss;
- 1.2 **Severity Level 2 Test Issue:** a Test Issue for which, as reasonably determined by the Authority, there is no practicable workaround available, and which:
 - 1.2.1 causes a Component to become unusable;
 - 1.2.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
 - 1.2.3 has an adverse impact on any other Component(s) or any other area of the Services;
- 1.3 **Severity Level 3 Test Issue:** a Test Issue which:
 - 1.3.1 causes a Component to become unusable;
 - 1.3.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
 - 1.3.3 has an impact on any other Component(s) or any other area of the Services;but for which, as reasonably determined by the Authority, there is a practicable workaround available;
- 1.4 **Severity Level 4 Test Issue:** a Test Issue 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 Services; and
- 1.5 **Severity Level 5 Test Issue:** a Test Issue 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 Services.

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Annex 2: Test Certificate

To: [Name of Supplier]

From: [Name of Authority]

[Date]

Dear Sirs,

TEST CERTIFICATE

Deliverables: **[insert]** description of Deliverables]

We refer to the agreement (the “**Contract**”) relating to the provision of the Services between the [name of Authority] (the “**Authority**”) and [name of Supplier] (the “**Supplier**”) dated [date].

Capitalised terms used in this certificate have the meanings given to them in Schedule 1 (*Definitions*) or Schedule 17 (IT Testing Procedures) of the Contract.

[We confirm that the Deliverables listed above have been tested successfully in accordance with the Test Plan relevant to those Deliverables.]

OR

[This Test Certificate is issued pursuant to Schedule 17, Paragraph 13.1 (*IT Testing Procedures*) of the Contract on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]*

**delete as appropriate*

Yours faithfully

[Name]

[Position]

acting on behalf of [name of Authority]

Annex 3: Milestone Achievement Certificate

To: [Name of Supplier]

From: [Name of Authority]

[Date]

Dear Sirs,

MILESTONE ACHIEVEMENT CERTIFICATE

Milestone: **[insert]** description of Milestone]

We refer to the agreement (the “**Contract**”) relating to the provision of the Services between the [name of Authority] (the “**Authority**”) and [name of Supplier] (the “**Supplier**”) dated [date].

Capitalised terms used in this certificate have the meanings given to them in Schedule 1 (*Definitions*) or Schedule 17 (IT Testing Procedures) of the Contract.

[We confirm that all the Deliverables relating to Milestone **[number]** have been tested successfully in accordance with the Test Plan relevant to this Milestone [or that a conditional Test Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria.]]*

OR

[This Milestone Achievement Certificate is granted pursuant to Schedule 17, Paragraph 14.1 (*IT Testing Procedures*) of the Contract on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]*

**delete as appropriate*

Yours faithfully

[Name]

[Position]

acting on behalf of [Authority]

Annex 4: Test Success Criteria

1. Tests to be Achieved in order to Achieve the ATP Milestone

Test	Pre-conditions*	Test Success Criteria
[List all Tests relating to ATP Milestone]		

* Note: The Pre-Conditions are that e.g. the Success Criteria for the previous Tests must be satisfied before the ATP Milestone tests are commenced

2. Tests to be Achieved in order to Achieve a CPP Milestone

CPP Milestone Charge No.	Test	Test Success Criteria
	[List all Tests relating to CPP Milestone Charge No.]	

Schedule 18: Goods Testing Procedures

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

‘Test Plan’	a plan drafted by the Supplier relevant to the specific Goods to be Tested;
‘Test Reports’	the reports to be produced by the Authority and/or Supplier setting out the results of Tests;
‘Test Success Criteria’	in relation to a Test, the test success criteria for that Test as referred to in this Schedule;
‘Testing Procedures’	the applicable testing procedures and Test Success Criteria set out in this Schedule.

2. Testing overview

2.1 This Schedule relates to the testing of Goods.

2.2 Before submitting any Goods for Testing the Supplier (at its cost) shall subject the relevant Goods to its own internal quality control measures.

2.3 All Tests conducted by the Supplier shall be conducted in accordance with the Test Plans.

2.4 The Supplier shall not submit any Goods for Testing:

- 2.4.1 unless the Supplier is reasonably confident that it will satisfy the relevant criteria;
- 2.4.2 until the Parties have agreed the Test Plan and the Test Success Criteria relating to the relevant quality requirement.

2.5 The Supplier shall submit each item of Goods for Testing by the date set out in the Testing Plan.

2.6 Any Disputes between the Authority and the Supplier regarding Testing shall be resolved using the escalation procedure as set out in Schedule 26 (Dispute Resolution Procedure).

3. Test Plan

3.1 The Supplier, in conjunction with the Authority or Additional Users, shall develop a Test Plan by the date specified by the Authority and submit these for the approval of the Authority.

3.2 The Test Plan shall include:

- 3.2.1 an overview of how Testing will be conducted;
- 3.2.2 the process to be used to capture and record Test results;
- 3.2.3 the procedure to be followed if an item of Goods fails to satisfy the Test Success Criteria;

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- 3.2.4 the procedure to be followed to sign off each Test;
 - 3.2.5 the process for the production and maintenance of Test Reports and reporting, including templates for the Test Reports;
 - 3.2.6 a high-level identification of the resources required for Testing, including facilities, infrastructure, personnel (as detailed) and Authority and/or third-party involvement in the conduct of the Tests;
 - 3.2.7 the number of Authority personnel required for Testing, including required Goods sizing, gender and any other variable specified by the Authority;
 - 3.2.8 the technical environments required to support the Tests;
 - 3.2.9 a detailed procedure for the Tests to be carried out;
 - 3.2.10 the timetable for the Tests;
 - 3.2.11 the format of feedback required by the Supplier from the Authority;
 - 3.2.12 the mechanism for ensuring the quality, completeness and relevance of the Tests;
 - 3.2.13 the process which the Authority will use to review Test Issues and the Supplier's progress in resolving these in a timely manner; and
 - 3.2.14 any such other requirement outlined by the Authority.
- 3.3 The Authority shall not unreasonably withhold or delay its approval of the Test Plans, provided that the Supplier shall incorporate any reasonable requirements of the Authority in the Test Plans.

4. Test Success Criteria

- 4.1 The Test Success Criteria will be agreed before any Test takes place.

5. Testing and Test Report

- 5.1 The Supplier and Authority shall manage the progress of Testing in accordance with the relevant Test Plan.
- 5.2 Provided the Authority has provided all necessary feedback from Testing, the Supplier shall provide the Test Report within 5 Working Days (or such other period as the Parties may agree in writing) of completion of Testing.
- 5.3 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Goods, including:
- 5.3.1 an overview of the Testing conducted;
 - 5.3.2 identification of the relevant Test Success Criteria that have been satisfied;
 - 5.3.3 identification of the relevant Test Success Criteria that have not been satisfied together with the Supplier's explanation of why those criteria have not been met;
 - 5.3.4 the Supplier's analysis as to whether the Goods meets the Test Success Criteria;

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- 5.3.5 the Supplier's recommendation as to whether the Uniform Product can be added to the Goods Description or whether further product development is required;
- 5.3.6 the Supplier's proposed Goods Price ("**Goods Price**"); and
- 5.3.7 any other such information or confirmations as the Authority may request.

6. Outcome of testing and Test Report

- 6.1 The Authority shall consider the contents and recommendations of the Test Report.
- 6.2 The Authority may at its discretion:
 - 6.2.1 confirm that a Sealed Sample should be provided and that the Goods can be added to the Goods Description and the Finance Response Template pursuant to the Change Control Procedure;
 - 6.2.2 reject the Goods;
 - 6.2.3 reject the Goods Price;
 - 6.2.4 request modifications and identify proposed next steps, or any other such course of action as the Authority requires.

Schedule 19: Charges and Invoicing

1. Finance Response Template

- 1.1 A copy of the Finance Response Template for the Goods and Services is enclosed at Annex 1 (Finance Response Template). The Finance Response Template and the IPC (as amended from time to time) represent the Parties' agreement regarding existing and future costs and revenues in relation to the supply and delivery of the Goods and Services.
- 1.2 The Finance Response Template provides a financial representation of the Supplier's assumptions, costs and revenues relating to the provision of the Goods and Services in order to enable agreement of any Change or addition to the Goods and/or Services made in accordance with Schedule 25 (Change Control Procedure) and to enable the Authority to monitor continuing value for money.
- 1.3 The Finance Response Template and the IPC may be updated to reflect any Goods volume changes or any other Change or new Service agreed in accordance with the Change Control Procedure and in any event within 20 Working Days following the end of each Contract Year to reflect the revenues, costs and profits accumulated by the Supplier in connection with the provision of the Goods and Services.
- 1.4 The Finance Response Template contains the costs for providing the Goods and Services and the profit margin.

2. Charges

- 2.1 The Charges offered by the Supplier to the Authority for the provision of the Goods and Services shall be the Charges listed in the Finance Response Template and such Charges shall be adjusted in accordance with the provisions of this Schedule 19 (Charges and Invoicing). Except for Miscellaneous Charges, no other amounts shall be paid by the Authority or any Additional User for the performance of the Supplier's obligations, unless specified otherwise in this Contract or unless agreed through Schedule 25 (Change Control Procedure).
- 2.2 The Charges are in Great British Pound, strictly net and are exclusive of any Value Added Tax (VAT).
- 2.3 In calculating the Charges, the Supplier can include:
 - 2.3.1 Total Cost Per Item of Goods which have been Delivered (and are not in Dispute);
 - 2.3.2 any handling charge (as set out in the Finance Model); and
 - 2.3.3 any pre-approved Miscellaneous Charges,and shall subtract any applicable Service Credits or other sums as prescribed in this Contract.
- 2.4 Other than pre-approved Miscellaneous Charges, where the Authority is required to pay the Supplier in respect of costs, expenses, fees or charges incurred by the Supplier or Sub-Contractors other than in respect of an indemnity provided in accordance with this Contract, the Authority is not obliged to pay:

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- 2.4.1 any part of those sums which exceeds what would be incurred by the Supplier on an arm's length commercial basis;
 - 2.4.2 any part of those sums which exceeds what is fair and reasonable; or
 - 2.4.3 any sums described above which are not supported by appropriate evidence.
- 2.5 Unless agreed in accordance with Schedule 25 (Change Control Procedure) or in accordance with Schedule 21 (Benchmarking), none of the Charges nor any other cost, charge or expense shall be adjusted to take account of any inflation, changes to interest rate or any other factor, including Change in Law, or element which might otherwise increase the cost to the Supplier or any Sub-contractors of the performance of their obligations.
- 2.6 The Supplier shall promptly provide all information reasonably requested by the Authority to explain the any Charges being made by the Supplier (including any Sub-contractors).

3. Expenses

- 3.1 Other than those agreed in writing (including Miscellaneous Charges) by the Authority, the Authority shall not pay expenses of the Supplier or its Sub-Contractors incurred in performing their obligation under this Contract.
- 3.2 The Supplier may invoice the Authority in respect of direct expenses incurred by the Supplier in the provision of the Goods and/or Services provided that the Authority has received written approval from someone suitably authorised to approve such expenses prior to the Supplier incurring the charges or expenses and prior to any invoice being issued in accordance with this Schedule 19 (Charges and Invoicing).
- 3.3 The Supplier shall pay to the Authority any refund, credit or other rebate received by the Supplier from a third party for services, materials, software, goods or items paid for as a discount, from the next invoice. Should any such refund, credit or other rebate become payable by the Supplier to the Authority after all invoices have been paid in full then the Supplier shall make payment to the Authority by such a method as the Authority requires.

4. VAT/taxes

- 4.1 The Supplier shall be liable for any VAT and other taxes and duties (at the prevailing rates) payable by the Supplier on the goods and services it uses in performing its obligations under this Contract.
- 4.2 The Authority shall be liable for any VAT and other taxes (at the prevailing rates) required to be levied on the provision of the Goods and/or Services. Any overpayment of VAT by the Authority is a sum recoverable by the Authority from the Supplier.
- 4.3 The Supplier shall provide to the Authority VAT invoices (in the format and timescales required by Law) to enable the Authority to reclaim or obtain a refund of VAT payments.
- 4.4 Where required by Law the Authority shall withhold tax from any payments to the Supplier. In such circumstances the Authority shall provide to the Supplier a formal receipt or other document evidencing the withholding in the format and timescale required by Law.

Schedule 19 (Charges and Invoicing)

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5. Reports and audit

- 5.1 During the Term, the Supplier and each Additional User shall comply with their obligations set out in Schedule 23 (Financial Reports and Audit Rights).

6. Payment

- 6.1 Unless otherwise expressly specified or agreed in writing, all Charges and Miscellaneous Charges and any other expenses payable by the Authority shall be paid in arrears.
- 6.2 The Supplier shall not be entitled to retain or set off any amount due to the Supplier from the Authority against monies owed from the Supplier to the Authority, but the Authority may set off any sums due to the Authority under its this Contract against any sums owed to the Supplier.
- 6.3 If any Charges or any other amounts due to be paid from one party to the other under this Contract are not fully paid on the due date for payment (except where there is a legitimate dispute in which case the provisions of Schedule 26 (Dispute Resolution Procedure) shall apply), the unpaid amount shall carry interest at the rate of two per cent (2%) per annum above the Bank of England's base rate for the time being in force (after and before any judgement).

7. Disputed sums

- 7.1 The Authority may withhold payment of any invoice that it disputes in good faith, in whole or in part, by notice to the Supplier, within twenty (20) Working Days after receipt of the relevant invoice, giving its reasons and specifying any additional information required to assist in resolving its concerns. The Supplier shall continue to perform all its obligations under this Contract notwithstanding any such withholding of payment by the Authority.
- 7.2 The Supplier and the Authority shall seek to resolve the dispute regarding such sums within twenty (200 Working Days after which the matter shall be referred for determination in accordance with Schedule 26 (Dispute Resolution Procedure).

8. Invoicing

- 8.1 All orders placed by the Authority shall be combined into one monthly consolidated invoice, which shall be sent to the Authority monthly and shall adhere to the appropriate governmental standards and guidelines and include:

7.4.1 a unique identification number (invoice number);

- 8.1.1 the Supplier's name, address and contact information;
- 8.1.2 the name and address of the department/agency in the Authority with which the Supplier is working;
- 8.1.3 a clear description of the Goods and Services being invoiced;
- 8.1.4 the date the Goods and Services were provided;
- 8.1.5 the date of the invoice;
- 8.1.6 the amount being charged;
- 8.1.7 VAT amount if applicable;

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- 8.1.8 the total amount owed;
- 8.1.9 the purchase order number;
- 8.1.10 a summary of all Charges and discounts listed within the invoice/s issued for the Month;
- 8.1.11 all individual orders placed;
- 8.1.12 a line for each order placed identifying (i) the orderer's name; (ii) the relevant employee number; (iii) order number; and (iv) product number;
- 8.1.13 details of any agreed changes which have occurred in the relevant Month which may have affected the relevant invoice(s);
- 8.1.14 a copy of the agreed KPI Reports showing performance against the Key Performance Indicators and the Service Credits relating to the same, which have been applied to the relevant invoice(s).
- 8.2 The Supplier shall ensure that the Charges that appear on invoices reflect the Prices of Goods ordered and Fees for Services incurred.
- 8.3 The Supplier shall ensure that any appropriate deductions have been made in accordance with Schedule 3 (*Performance Levels*).
- 8.4 Each invoice shall be submitted electronically and shall adhere to the following criteria:
 - 8.4.1 email size must not exceed 4mb;
 - 8.4.2 one (1) invoice per file attachment (PDF), multiple invoices can be attached as separate files; and
 - 8.4.3 any supporting information, backing data etc. must be contained within the invoice PDF file.
- 8.5 VAT, where applicable, shall be shown separately on all invoices as a strictly net extra charge. The Supplier shall, if so requested by the Authority, provide to the Authority such information as may reasonably be required by the Authority as to the amount of VAT chargeable on the value of the Goods and/or Services and payable by the Authority to the Supplier in addition to the Charges.
- 8.6 Any overpayments by the Authority to the Supplier shall be a sum of money recoverable from the Supplier for the purposes of and in accordance with this Contract.
- 8.7 Unless otherwise agreed between the Authority and the Supplier or stated in this Contract, payment will be made by Bankers Automated Clearing Service (BACS) or by such a method as the Parties shall agree.
- 8.8 Payment shall be made within thirty (30) days of receipt of a correct and undisputed invoice, submitted monthly in arrears.
- 8.9 Unless approved in advance by the Authority, invoices must:
 - 8.9.1 not contain any lines for items which are not on the purchase order number; and

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8.9.2 replicate, as far as possible, the structure of and the information contained in the purchase order number in respect of the number of lines, line descriptions, price and quantity.

8.10 If required by the Authority, the Supplier shall:

8.10.1 register and comply with any reasonable eMarketplace solution adopted for invoicing and procurement catalogues by the Authority; and

8.10.2 submit a structured electronic invoice in an Electronic Data Interchange or XML formats.

9. Final total monthly charges

9.1 The final Charges in respect of all Goods and Services provided by the Supplier in the Month immediately prior to the termination or expiry of this Contract shall not be invoiced by the Supplier to the Authority until the Supplier has produced and the Authority has agreed a final Month service report in respect of the performance in the final Month.

10. Price review

10.1 The Supplier shall carry out a review each Contract Year, prior to the [Commercial and Contract Board Annual Board], pursuant to Schedule 24 (Governance), to determine if any Prices and/or Fees should be adjusted in accordance with the commodity trackers linked to this Contract (the "Price Review").

10.2 At the completion of the Price Review the Supplier will provide to the Authority a report and analysis (the "**Price Review Report**") containing:

10.2.1 a comparison of the Prices and/or Fees with open market rates for key commodities, source materials as well as the cost of personnel or contractors taking into account their particular skills and experience; and

10.2.2 a written assurance from the Finance Director of the Supplier that:

(a) the published list prices do not exceed, and that the discounts are at least equal to, those offered by the Supplier in its existing contracts with contracting authorities who in each case are broadly comparable with the Authority in terms of revenue derived by the Supplier in the United Kingdom (and the Supplier shall include supporting examples in the Price Review Report of such contracting authorities); and

(b) the method of attributing the Supplier's costs to the Goods and Services is also consistently applied to those supporting examples in such a manner that the overall profit margin derived by the Supplier from the Authority is closely comparable to those for such examples.

10.3 Prices and/or Fees adjustments linked to changes in tracked commodity prices shall be 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 determined by multiplying the relevant amount or sum by the percentage increase or changes in the tracked commodity prices published for the twelve (12) months ended on the 31 January immediately preceding the relevant adjustment date.

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- 10.4 If, on reviewing the Price Review Report, the Authority has reason to believe that the Prices and/or Fees have not been demonstrated to be reasonable and provide value for money in accordance with Paragraph 10.1 above, or that the Supplier has not complied with the terms or intent of this Paragraph 10, then the Parties shall arrange to meet forthwith to seek to resolve any such concern. If any such concern cannot be resolved within twenty (20) Working Days of such meeting then the dispute shall be referred to the dispute resolution process as set out in Schedule 26 (Dispute Resolution Procedure) and/or the Authority may trigger a benchmarking exercise in accordance with this Schedule.
- 10.5 Any change to tracked commodity prices shall only amend the Prices and/or Fees if the Supplier can demonstrate as part of the Price Review that the tracked commodity prices have varied by greater than 5% for a period longer than 3 months.

11. Open book review

- 11.1 The Supplier shall perform its obligations (including providing the Goods and Services and calculating the Charges) in accordance with Schedule 23 (Financial Reports and Audit Rights) in respect to Open Book Data. On reasonable notice, the Authority shall be entitled to access the Supplier's financial records pertaining to this Contract at any time.
- 11.2 The Authority shall be entitled to conduct a review of the Supplier's costs, margins and charges achieved, including but not limited to:

Cost Element	Cost item
Manufacturing Cost	Raw material
	Processing Raw Material
	Fabrication (manufacturing)
Packaged Cost	Packaging
	Finishing (printing)
	Assembly of items
Distribution Cost	Shipping
	Warehouse storage
	Warehouse picking
	Delivery to User
Overhead cost	Account management
	Marketing
	Variables (design house, testing)
Margin	Profit

levied in respect of the provision of the Goods and Services as set out in this Schedule (the "**Open Book Review**").

- 11.3 Without prejudice to the Parties' respective rights and obligations in relation to audit access or the provision of information under this Contract, the Supplier shall provide to the Authority and its authorised agents access to:
- 11.3.1 inspect and take copies from the Contract records; and
- 11.3.2 such Supplier Personnel as are required by the audit team to provide oral or

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written explanation of any queries or issues,

for the purposes of verifying the accuracy of, and any omissions from, all information provided to the Authority by the Supplier in relation to the Charges and proposed or actual variations to such information.

- 11.4 The Supplier agrees that the Authority will undertake an Open Book Review at the end of each Contract Year in accordance with the terms of this Schedule 19 (Charges and Invoicing) and the terms of this Contract (for which the notice provisions of Paragraph 11.5 do not apply). The Supplier must grant the Authority access to relevant documentation and Supplier Personnel as are required to determine the systems in place and the data and other requirements.
- 11.5 The Supplier acknowledges that the Authority has the right to undertake an Open Book Review other than and in addition to at the end of the Contract Year. The Authority shall give the Supplier three (3) months' notice that it intends to carry out an Open Book Review. The Supplier must grant the Authority access to relevant documentation and Supplier Personnel as are required to determine the systems in place and the data and other requirements. Such access must be granted within the three (3) month notice period of an intended Open Book Review.
- 11.6 The Authority's rights under this Schedule 19 (Charges and Invoicing) shall continue for three years following the end of each Contract Year.
- 11.7 To support the Open Book Review, the Supplier shall:
- 11.7.1 no later than thirty (30) days after the end of each Contract Year, provide to the Authority a statement created by the Supplier setting out the current Charges, revenues, and returns received by the Supplier in relation to the provision of the Goods and Services, and the actual and current costs (including capital costs, financing costs and ongoing revenue expenditure) incurred in relation to the provision of the Goods and Services (the "Annual Financial Statement");
 - 11.7.2 promptly make available the results of any regulatory or statutory review and shall provide access for the Authority to the regulatory or statutory auditors to discuss any actual or suspected error with respect to amounts charged to the Authority under this Contract; and
 - 11.7.3 provide from its external auditors a letter in a form reasonably specified by the Authority setting out the external auditor's confirmation that the Annual Financial Statement represents a true and fair view of the accounts relating to this Contract.
- 11.8 The Open Book Review shall be concluded promptly and within ten (10) Working Days of the Open Book Review commencing including the production an Open Book Report ("**Open Book Report**") which will contain but will not limited to all the information required by this Schedule 19 (Charges and Invoicing) and the Authority (acting reasonably).
- 11.9 The Parties shall bear their own costs with respect to any inspections or verification exercises carried out pursuant to this Schedule 19 (Charges and Invoicing), save that if any Open Book Review reveals any overpayment by the Authority to the Supplier of any Charges or any underpayment by the Supplier to the Authority, the Supplier shall reimburse the Authority for the Authority's costs and expenses incurred in the Open Book

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Review provided that the Open Book Review has revealed an overpayment by the Authority in excess of £10,000 (and make good the overpayment or underpayment together with interest thereon at the rate of two per cent (2%) per annum above the Bank of England's base rate for the time being in force (calculated from the date of the over or under payment)).

- 11.10 The Charges shall also be adjusted downwards from the conclusion of the Open Book Review until the next Open Book Review.
- 11.11 Neither the Supplier nor any Supplier Sub-contractor shall be entitled to be repaid any expenses or costs incurred in complying with its obligations under this Schedule 19 (Charges and Invoicing), save as otherwise agreed with the Authority.
- 11.12 The Open Book Review provisions set out in this Schedule 19 (Charges and Invoicing) shall also apply in respect of Sub-Contractors and the Supplier shall ensure that each Sub-Contract contains provisions which enable the Authority to exercise its Open Book Review process in respect of that Sub-Contractor. The Authority and the Supplier will agree in advance of any Open Book Review how the Open Book Review may apply to any particular Sub-Contractor.

12. Value For Money

- 12.1 The Supplier acknowledges that the Authority is a Central Government Body and accordingly subject to guidance which is issued by Central Government as being applicable to Central Government, as the same may be amended, updated or replaced from time to time, including, but not limited to, Treasury's "**Managing Public Money**" Guidance ("Applicable Guidance").
- 12.2 The Supplier shall at its cost take such steps as are as notified by the Authority as being necessary or desirable in order to enable it to comply with Applicable Guidance.
- 12.3 The Supplier shall carry out its own internal value for money review each Contract Year (the "**Value Review**"), prior to the [Commercial and Contract Board Annual Review] carried out pursuant to Schedule 24 (Governance), to demonstrate that the Supplier's provision of the Goods and Services is reasonable and continues to provide value for money in accordance with the provisions of this Contract.

12B VALUE FOR MONEY OUTCOMES

- 12B.1 For any of the Goods and Services, materials, software, or items, the Authority may:
 - 12B.1.1 obtain such Goods and/or Services, materials, software or items directly from a third party;
 - 12B.1.2 designate the third party who is to provide them;
 - 12B.1.3 require the Supplier to identify and consider multiple third-party providers and/or to conduct a competitive procurement; and/or
 - 12B.1.4 review and approve any such Goods and/or Services, materials, Software, items before a contract for their supply is entered into,

if the Authority reasonably believes:

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12B.1.5 it can obtain greater value for money; or

12B.1.6 the Supplier is not complying with its obligations to provide opportunities for SMEs.

13. Ongoing reviews and reductions

13.1 The Supplier shall, except where this Contract expressly provides to the contrary, use all reasonable endeavours to plan for, identify and realise opportunities to reduce the Charges and Miscellaneous Charges and, in so doing, shall advise the Authority of each savings opportunity that is identified together with an estimate of the potential benefits to both Parties.

13.2 The Supplier shall ensure that all Miscellaneous Charges do not exceed the current market prices for equivalent goods or services.

14. Service improvement

14.1 Where the Authority wishes to adopt a Service Improvement pursuant to Clause 8 of this Contract, and such improvement is approved by the Authority, then following such adoption, the Charges for the remaining Term (including any extensions thereto in accordance with its terms) shall be revised following an adjustment to the Finance Response Template.

15. Benchmarking

15.1 If Benchmarking (carried out in accordance with Schedule 21 (Benchmarking)) identifies that the Authority could receive a more economically favourable goods and/or service elsewhere, then the Supplier will be expected to achieve those benefits and shall immediately amend the Charges accordingly.

Annex 1: Finance response template

The document has been redacted under the exemptions set out by the Freedom of Information Act

Please refer to the Financial Response Template submitted in the ITT at Tender stage. Due to the limitations of being able to embed the document for electronic signature, the Financial Response Template (FRT) submitted at Tender Stage will be referred to for this Contract.

Schedule 20: Payments on Termination

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

“Applicable Personnel”

Supplier any Supplier Personnel who:

- (a) at the Termination Date:
 - (i) are employees of the Supplier;
 - (ii) are Dedicated Supplier Personnel;
 - (iii) have not transferred (and are not in scope to transfer at a later date) to the Authority or the Replacement Supplier by virtue of the Employment Regulations; and
- (b) are dismissed or given notice of dismissal by the Supplier within:
 - (i) 40 Working Days of the Termination Date; or
 - (ii) such longer period required by Law, their employment contract (as at the Termination Date) or an applicable collective agreement; and
- (c) have not resigned or given notice of resignation prior to the date of their dismissal by the Supplier; and
- (d) the Supplier can demonstrate to the satisfaction of the Authority:
 - (i) are surplus to the Supplier's requirements after the Termination Date notwithstanding its obligation to provide services to its other customers;
 - (ii) are genuinely being dismissed for reasons of redundancy; and
 - (iii) 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;

“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;

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“Compensation Payment”		the payment calculated in accordance with Paragraph 8;
“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 Authority 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”		the total sum of any of the following sums paid to Applicable Supplier Personnel, each amount apportioned between the Supplier and the Authority based on the time spent by such employee on the Services as a proportion of the total Service duration: (a) any statutory redundancy payment; and (b) in respect of an employee who was a Transferring Former Supplier Employee or a Transferring Authority 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 Authority 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 Authority exercised its right under Clause 31.1.1 (<i>Termination by the Authority</i>) to terminate this Contract for convenience on a specified Termination Date;
“Shortfall Period”		has the meaning given in Paragraph 8.2;
“Termination Estimate”		has the meaning given in Paragraph 13.2;

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“Third Party Contract” a contract with a third party entered into by the Supplier exclusively for the purpose of delivering the Goods and/or Services, as listed in Schedule 14 (Third Party Contracts);

“Total Costs Incurred” the costs incurred by the Supplier up to the Termination Date in the performance of this Contract and detailed in the Finance Response Template (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.

2. Termination Payment

2.1 The Termination Payment payable pursuant to Clause 31.4.1 (*Payments by the Authority*) shall be an amount equal to the Breakage Costs 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:

3.1.1 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;

3.1.2 are unavoidable, proven, reasonable, and not capable of recovery;

3.1.3 are incurred under arrangements or agreements that are directly associated with this Contract;

3.1.4 are not Contract Breakage Costs relating to contracts or Sub-contracts with Affiliates of the Supplier; and

3.1.5 relate directly to the termination of the provision of Goods and/or Services.

4. Limitation on Breakage Costs Payment

4.1 The Breakage Costs Payment shall not exceed the lower of:

4.1.1 the relevant limit set out in Annex 1; and

4.1.2 120% of the estimate for the Breakage Costs Payment set out in any relevant Termination Estimate.

5. Redundancy Costs

5.1 The Authority 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.

5.2 Notwithstanding the Supplier's obligation to mitigate its loss in accordance with the provisions of this Contract and actively look for redeployment opportunities, 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

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would offer value for money to the Authority when compared with redundancy, then the Authority shall pay the Supplier 50% of the actual direct costs solely incurred by the Supplier or its Sub-contractor arising directly out of the redeployment of such person (including retraining and relocation costs) subject to a maximum amount of £10,000 per relevant member of the Supplier Personnel.

6. Contract Breakage Costs

- 6.1 The Supplier shall be entitled to Contract Breakage Costs only in respect of Third Party Contracts or Sub-contracts which:
 - 6.1.1 are not assigned or novated to a Replacement Supplier at the request of the Authority in accordance with Schedule 28 (Exit Management); and
 - 6.1.2 the Supplier can demonstrate:
 - (a) are surplus to the Supplier's requirements after the Termination Date, whether in relation to use internally within its business or in providing goods and/or services to any of its other customers; and
 - (b) have been entered into by it in the ordinary course of business.
- 6.2 The Supplier shall in a timely manner 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.
- 6.3 Except with the prior written agreement of the Authority, the Authority shall not be liable for any costs (including cancellation or termination charges) that the Supplier is obliged to pay in respect of:
 - 6.3.1 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
 - 6.3.2 Assets not yet installed at the Termination Date.

7. Mitigation of Contract Breakage Costs and Redundancy Costs

- 7.1 The Supplier agrees to use all reasonable endeavours to minimise and mitigate Contract Breakage Costs and Redundancy Costs by:
 - 7.1.1 the appropriation of Assets, employees and resources for other purposes;
 - 7.1.2 at the Authority's request, assigning any Third Party Contracts and Sub-contracts to the Authority or a third party acting on behalf of the Authority; and
 - 7.1.3 in relation Third Party Contracts and Sub-contract that are not to be assigned to the Authority or to another third party, terminating those contracts at the earliest possible date without breach or where contractually permitted.
- 7.2 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 and Redundancy Costs payable by the Authority 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

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shall be referred to an Expert for determination in accordance with the procedure detailed in Schedule 26 (Dispute Resolution Procedure).

- 7.3 In making a claim for compensation under this Paragraph, the Supplier shall provide to the Authority with all written evidence required by the Authority and/or necessary to substantiate to the Authority's reasonable satisfaction that any losses or costs claimed by the Supplier have been properly incurred or suffered as a direct result of the termination or Partial Termination by the Authority;
- 7.4 In attributing losses or costs which are claimed by the Supplier pursuant to this Schedule 20 (Payments on Termination) and any other sums which are shared across this Contract and any Additional User Agreement(s) and which are not directly related to any one particular Additional User Agreement, the losses or costs shall be attributed to each Additional User Agreement pro rata based on the value of that Additional User Agreement when expressed as a percentage of the aggregate value of all Additional User Agreement in the twelve calendar months immediately prior to such termination, or where termination occurs in the first Contract Year, based on the anticipated values for that year as set out in the Finance Response Template, and each Additional User shall be liable to the Supplier accordingly.
- 7.5 The Supplier shall be solely responsible for recovering any of the losses or costs (as set out in Paragraph 7.4 above) from Additional Users. The Authority has no obligation to pay any of these costs or losses attributable to Additional Users.

8. Compensation Payment

- 8.1 The Compensation Payment payable pursuant to Clause 31.4.2 (*Payments by the Authority*) shall be an amount equal to the total forecast Charges over the Shortfall Period (as stated in the Finance Response Template) multiplied by the Anticipated Contract Life Profit Margin.
- 8.2 For the purposes of Paragraph 8.1, the "**Shortfall Period**" means:
- 8.2.1 where the Authority terminates this Contract pursuant to Clause 30.1.1 (Termination by the Authority), a number of days equal to the number of days by which the notice given falls short of three hundred and sixty-five (365) days; or
- 8.2.2 where the Supplier terminates this Contract pursuant to Clause 30.3.1 (*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 Authority to (and including) the Termination Date falls short of 365 days,
- but in each case subject to the limit set out in Paragraph 8.3.
- 8.3 The Compensation Payment shall be no greater than the lower of:
- 8.3.1 the relevant limit set out in Annex 1; and
- 8.3.2 120% of the estimate for the Compensation Payment set out in the relevant Termination Estimate.

9. Full and Final Settlement

- 9.1 Any Termination Payment and/or Compensation Payment paid under this Schedule shall

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be in full and final settlement of any claim, demand and/or proceedings of the Supplier in relation to any termination by the Authority pursuant to Clause 30.1.1 (*Termination by the Authority*) or termination by the Supplier pursuant to Clause 30.3.1 (*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.

10. Invoicing for the Payments on Termination

- 10.1 All sums due under this Schedule shall be payable by the Authority to the Supplier in accordance with the payment terms set out in Schedule 19 (Charges and Invoicing).

11. Set Off

- 11.1 The Authority shall be entitled to set off any outstanding liabilities of the Supplier against any amounts that are payable by it pursuant to this Schedule.

12. No Double Recovery

- 12.1 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 Authority makes any payments pursuant to Schedule 28 (Exit Management) in respect of such Transferring Assets, such payments shall be deducted from the amount payable pursuant to this Schedule.
- 12.2 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.
- 12.3 Any payments that are due in respect of the Transferring Assets shall be calculated in accordance with the provisions of the Exit Plan.

13. Estimate of Termination Payment and Compensation Payment

- 13.1 The Authority 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.
- 13.2 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 Authority based on a postulated Termination Date specified in the Request for Estimate (such estimate being the "**Termination Estimate**"). The Termination Estimate shall:
- 13.2.1 be based on the relevant amounts set out in the Finance Response Template;
 - 13.2.2 include:
 - (a) details of the mechanism by which the Termination Payment is calculated;
 - (b) full particulars of the estimated Contract Breakage Costs in respect of each Sub-contract or Third Party Contract and appropriate supporting documentation; and
 - (c) such information as the Authority may reasonably require; and

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13.2.3 state the period for which that Termination Estimate remains valid, which shall be not less than 20 Working Days.

13.3 The Supplier acknowledges that issue of a Request for Estimate shall not be construed in any way as to represent an intention by the Authority to terminate this Contract.

13.4 If the Authority 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 Authority.

Annex 1: Maximum Payments on Termination

The table below sets out, by Contract Year, the maximum amount of the Breakage Costs Payment and Compensation Payment that the Authority shall be liable to pay to the Supplier pursuant to this Contract:

Termination Date	Maximum Breakage Payment	Costs	Maximum Compensation Payment
Anytime in the first Contract Year	4.5		0.6
Anytime in the second Contract Year	3.3		0.4
Anytime in Contract Year 3	3.3		0.4
Anytime in Contract Year 4	4.5		0.6

Schedule 21: Benchmarking

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

- “Benchmarked Goods and/or Service”** any Goods and/or a Service that the Authority 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 Goods and/or Services carried out in accordance with Paragraph 4 to determine whether those Goods and/or Services represent Good Value;
- “Comparable Goods and/or Service”** in relation to a Benchmarked Goods and/or Service, goods and/or a service that is identical or materially similar to the Benchmarked Goods and/or Service (including in terms of scope, specification, volume and quality of performance);
- “Comparison Group”** in relation to a Comparable Goods and/or Service, a sample group of organisations providing the Comparable Goods and/or 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 Goods and/or Services Data”** in relation to a Comparable Goods and/or Service, data derived from an analysis of the Comparable Goods and/or Service provided by the Comparison Group as adjusted in accordance with Paragraphs 4.8.1 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;
- “Good Value”** in relation to a Benchmarked Goods and/or Service, that:
- (a) having taken into account the Key Performance Indicators and Target Performance Levels, the value for money of the Charges attributable to that Benchmarked

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Goods and/or Service is at least as good as the value for money of the Upper Quartile; and

- (b) any Key Performance Indicators and Target Performance Levels applicable to that Benchmarked Goods and/or Service are, having taken into account the Charges, equal to or better than the median service levels for the Comparable Goods and/or Service using Equivalent Goods and/or Services Data; and

“Upper Quartile“ the top 25% of instances of provision of a Comparable Goods and/or Service by members of the Comparison Group ranked by best value for money to the recipients of that Comparable Goods and/or Service.

2. Frequency, Purpose and Scope of Benchmark Review

- 2.1 The Authority may, by written notice to the Supplier, require a Benchmark Review of any or all of the Goods and/or Services in order to establish whether a Benchmarked Goods and/or Service is, and/or the Benchmarked Goods and/or Service as a whole are, Good Value.
- 2.2 The Authority shall not be entitled to carry out a Benchmark Review of any Goods and/or Services during the 12 month period from the Goods Commencement Date and Services Commencement Date for those Goods and/or Services, nor at intervals of less than 12 months after any previous Benchmark Review relating to the same Goods and/or Services.
- 2.3 The Goods and/or Services that are to be the Benchmarked Goods and/or Services shall be identified by the Authority in the notice given under Paragraph 2.1.

3. Appointment of Benchmark

- 3.1 The Authority shall appoint as the Benchmark to carry out the Benchmark Review either an organisation on the list of organisations set out in Annex 1 or such other organisation as may be agreed in writing between the Parties.
- 3.2 The Authority shall, at the written request of the Supplier, require the Benchmark 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 Benchmark 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 Benchmark shall not be compensated on a contingency fee or incentive basis.
- 3.4 The Authority shall be entitled to pay the Benchmark's costs and expenses in full and to recover the Supplier's share from the Supplier.

4. Benchmark Review

- 4.1 The Authority shall require the Benchmark 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 Benchmark, or such longer period as the Benchmark shall

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reasonably request in all the circumstances. The plan must include:

- 4.1.1 a proposed timetable for the Benchmark Review;
 - 4.1.2 a description of the information that the Benchmarker requires each Party to provide;
 - 4.1.3 a description of the benchmarking methodology to be used;
 - 4.1.4 a description that clearly illustrates that the benchmarking methodology to be used is capable of fulfilling the benchmarking objectives under Paragraph 2.1;
 - 4.1.5 an estimate of the resources required from each Party to underpin the delivery of the plan;
 - 4.1.6 a description of how the Benchmarker will scope and identify the Comparison Group;
 - 4.1.7 details of any entities which the Benchmarker proposes to include within the Comparison Group; and
 - 4.1.8 if in the Benchmarker's professional opinion there are no Comparable Goods and/or Services or the number of entities carrying out Comparable Goods and/or 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 Goods and/or Service 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 Goods and/or 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 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 25.1 (*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

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reasonably requested by the Benchmarker, provided that the Benchmarker shall be instructed to minimise any disruption to the Goods and/or 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:
- 4.8.1 finalise the sample of entities constituting the Comparison Group and collect data relating to Comparable Goods and/or Services. The final selection of the Comparison Group (both in terms of number and identity of entities) and of the Comparable Goods and/or Services shall be a matter for the Benchmarker's professional judgment;
 - 4.8.2 derive the Equivalent Goods and/or Services Data by applying the adjustment factors listed in Paragraph 4.9 and from an analysis of the Comparable Goods and/or Services;
 - 4.8.3 derive the relative value for money of the charges payable for the Comparable Goods and/or Services using the Equivalent Goods and/or Services Data and from that derive the Upper Quartile;
 - 4.8.4 derive the median service levels relating to the Comparable Goods and/or Services using the Equivalent Goods and/or Services Data;
 - 4.8.5 compare the value for money of the Charges attributable to the Benchmarked Goods and/or Services (having regard in particular to the applicable Key Performance Indicators and Target Performance Levels) to the value for money of the Upper Quartile;
 - 4.8.6 compare the Key Performance Indicators and Target Performance Levels attributable to the Benchmarked Goods and/or Services (having regard to the Charges and Service Credits) with the median service levels using the Equivalent Goods and/or Services Data; and
 - 4.8.7 determine whether or not each Benchmarked Goods and/or Service is and/or the Benchmarked Goods and/or 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 Goods and/or Service and a Comparable Goods and/or Service in order to derive Equivalent Goods and/or Services Data:
- 4.9.1 the contractual and business environment under which the Goods and/or Services are being provided (including the scope, scale, complexity and geographical spread of the Goods and/or Services);
 - 4.9.2 any front-end investment and development costs of the Supplier;
 - 4.9.3 the Supplier's risk profile including the financial, performance or liability risks associated with the provision of the Goods and/or Services as a whole;
 - 4.9.4 the extent of the Supplier's management and contract governance responsibilities;

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- 4.9.5 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:
 - 5.1.1 include a finding as to whether or not each Benchmarked Goods and/or Service is and/or whether the Benchmarked Goods and/or Services as a whole are, Good Value;
 - 5.1.2 include other findings (if any) regarding the quality and competitiveness or otherwise of those Goods and/or Services;
 - 5.1.3 if any Benchmarked Goods and/or Service is not Good Value, or the Benchmarked Goods and/or Services as a whole are not Good Value, specify the changes that would be required to the Charges and/or Key Performance Indicators and/or Target Performance Levels, that would be required to make that Benchmarked Goods and/or Service or those Benchmarked Goods and/or Services as a whole Good Value; and
 - 5.1.4 illustrate the method used for any normalisation of the Equivalent Goods and/or 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 Goods and/or Service is not Good Value or that the Benchmarked Goods and/or 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 Authority 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 Key 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 Goods and/or Services at a loss (as determined, by reference to the Finance Response Template), 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 the avoidance of doubt in the event of a Dispute between the Parties, the Authority shall

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continue to pay the Charges to the Supplier in accordance with the terms of this Contract and the Key Performance Indicators and Target Performance Levels shall remain unchanged pending the conclusion of the Expert Determination.

5.8 On conclusion of the Expert Determination:

5.8.1 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 Authority the difference between the Charges paid by the Authority 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

5.8.2 if the Expert determines that all or any part of the Benchmark Report recommendations regarding any changes to the Key Performance Indicators and/or Target Performance Levels shall be implemented by the Supplier:

- (a) the Supplier shall immediately implement the relevant changes;
- (b) 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
- (c) 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 Authority, constitute a Supplier Termination Event.

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Annex 1: Approved Benchmarkers – NOT USED

Annex 2: Confidentiality Agreement

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 “**Benchmarker**” and together with the Supplier, the “**Parties**”).

WHEREAS:

- (A) [insert name of Authority] (the “**Authority**”) and the Supplier are party to a contract dated [insert date] (the “**Contract**”) for the provision by the Supplier of [insert brief description of goods and services] to the Authority.
- (B) The Benchmarker is to receive Confidential Information from the Supplier for the purpose of carrying out a benchmarking review for the Authority of one or more of such goods and services pursuant to the terms of the Contract (the “**Permitted Purpose**”).

IT IS AGREED as follows:

1. Interpretation

- 1.1 In this Agreement, 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 Benchmarker pursuant to this Agreement 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 Agreement to the Benchmarker 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 Benchmarker’s attention or into the Benchmarker’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 Agreement 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 Agreement.

1.2 In this Agreement:

- 1.2.1 a reference to any gender includes a reference to other genders;
- 1.2.2 the singular includes the plural and vice versa;
- 1.2.3 the words “include“ and cognate expressions shall be construed as if they were immediately followed by the words “without limitation“;
- 1.2.4 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 Agreement) and any prior or subsequent subordinate legislation made under it;
- 1.2.5 headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and
- 1.2.6 references to Clauses are to clauses of this Agreement.

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2. Confidentiality Obligations

2.1 In consideration of the Supplier providing Confidential Information to the Benchmarker, the Benchmarker shall:

- 2.1.1 treat all Confidential Information as secret and confidential;
- 2.1.2 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);
- 2.1.3 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 Agreement;
- 2.1.4 not transfer any of the Confidential Information outside the United Kingdom;
- 2.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than the Permitted Purpose;
- 2.1.6 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
- 2.1.7 once the Permitted Purpose has been fulfilled:
 - 2.1.7.1 destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;
 - 2.1.7.2 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 Benchmarker) from any computer, word processor, voicemail system or any other device; and
 - 2.1.7.3 make no further use of any Confidential Information.

3. Permitted Disclosures

3.1 The Benchmarker may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:

- 3.1.1 reasonably need to receive the Confidential Information in connection with the Permitted Purpose; and
- 3.1.2 have been informed by the Benchmarker of the confidential nature of the Confidential Information; and
- 3.1.3 have agreed to terms similar to those in this Agreement.

3.2 The Benchmarker shall be entitled to disclose Confidential Information to the Authority for the Permitted Purpose and to any Expert appointed in relation to a Dispute as referred to in Paragraph 5.7 of this Schedule 21 (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:
 - 3.4.1 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
 - 3.4.2 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 Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
 - 4.2.1 to grant the Benchmarker any licence or rights other than as may be expressly stated in this Agreement;
 - 4.2.2 to require the Supplier to disclose, continue disclosing or update any Confidential Information; or
 - 4.2.3 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 Agreement.
- 4.3 The rights, powers and remedies provided in this Agreement 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 Agreement. 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 Agreement 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 Agreement 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 Agreement.

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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 Agreement.
- 4.8 This Agreement 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 Agreement, but all the counterparts shall together constitute but one and the same instrument.

5. Notices

- 5.1 Any notice to be given under this Agreement (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:

- 5.2.1 if to be given to the Supplier shall be sent to:

[Address]

Attention: [Contact name and/or position, e.g. “The Finance Director”]

- 5.2.2 if to be given to the Benchmarker shall be sent to:

[Name of Organisation]

[Address]

Attention: []

6. Governing law

- 6.1 This Agreement 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 Agreement 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 Agreement.

IN WITNESS of the above this Agreement has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

For and on behalf of [name of Supplier]

Signature: _____

Date:

Name:

Position:

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For and on behalf of [name of Benchmarker]

Signature: _____

Date:

Name:

Position:

Schedule 22: Financial Distress

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

“Applicable Financial Indicators” means the financial indicators from Paragraph 5.1 of this Schedule which are to apply to the Monitored Suppliers as set out in Paragraph 5.2 of this Schedule;

“Credit Rating Level” a credit rating level as specified in Annex 1 of this Schedule;

“Credit Rating Threshold” the minimum Credit Rating Level for each entity in the FDE Group as set out in Annex 2 of this Schedule;

“FDE Group” means the Supplier, Suppliers Parent Company and Key Sub-contractors;

“Financial Distress Remediation Plan” a plan setting out how the Supplier will ensure the continued performance and delivery of the Goods and Services in accordance with this Contract in the event that a Financial Distress Event occurs. This plan should include what the Authority would need to put in place to ensure performance and delivery of the Goods and/or Services in accordance with this Contract up to and including any Insolvency Event in respect of the Supplier, the Guarantor or any Key Sub-contractor and may refer to the Insolvency Continuity Plan in this regard;

“Financial Indicators” in respect of the Supplier, Key Sub-contractors and the Guarantor, means each of the financial indicators set out at Paragraph 5.1 of this Schedule; and in respect of each Monitored Supplier, means those Applicable Financial Indicators;

“Financial Targets” means the target thresholds for each of the Financial Indicators set out at Paragraph 5.1 of this Schedule;

“Monitored Suppliers” means those entities specified at Paragraph 5.2 of this Schedule; and

“Rating Agencies” the rating agencies listed in Annex 1 of this Schedule.

2. Warranties and Duty to Notify

2.1 The Supplier warrants and represents to the Authority for the benefit of the Authority that as at the Effective Date:

2.1.1 the long term credit ratings issued for each entity in the FDE Group by each of the Rating Agencies are as set out in Annex 2 of this Schedule; and

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- 2.1.2 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 Authority 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:
 - 2.3.1 regularly monitor the credit ratings of each entity in the FDE Group with the Rating Agencies;
 - 2.3.2 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 at Paragraph 5.1 (where specified) and in any event, on a regular basis and no less than once a year within 120 days after the Accounting Reference Date; and
 - 2.3.3 promptly notify (or shall procure that its auditors promptly notify) the Authority 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 provision of Paragraph 3.1.1, 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:
 - 2.4.1 any of the Rating Agencies have given a Credit Rating Level for that entity which is below the applicable Credit Rating Threshold; or
 - 2.4.2 a Rating Agency that is specified as holding a Credit Rating for an entity as set out at Annex 2 of this Schedule ceases to hold a Credit Rating for that entity.
- 2.5 Each report submitted by the Supplier pursuant to Paragraph 2.3.2 shall:
 - 2.5.1 be a single report with separate sections for each of the FDE Group entities;
 - 2.5.2 contain a sufficient level of information to enable the Authority to verify the calculations that have been made in respect of the Financial Indicators;
 - 2.5.3 include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
 - 2.5.4 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
 - 2.5.5 include a history of the Financial Indicators reported by the Supplier in graph form to enable the Authority to easily analyse and assess the trends in financial

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performance.

3. Financial Distress Events

3.1 The following shall be Financial Distress Events:

- 3.1.1 the credit rating of an FDE Group entity dropping below the applicable Credit Rating Threshold;
- 3.1.2 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;
- 3.1.3 there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of an FDE Group entity;
- 3.1.4 an FDE Group entity committing a material breach of covenant to its lenders;
- 3.1.5 a Key Sub-contractor notifying the Authority that the Supplier has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
- 3.1.6 any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than 9 months after its accounting reference date without an explanation to the Authority which the Authority (acting reasonably) considers to be adequate;
- 3.1.7 any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Authority which the Authority, acting reasonably, considers to be adequate;
- 3.1.8 the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors;
- 3.1.9 any of the following:
 - (a) any FDE Group entity makes a public announcement which contains adverse commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;
 - (b) commencement of any litigation against an FDE Group entity with respect to financial indebtedness greater than £2million or obligations under a service contract with a total contract value greater than £2million;
 - (c) non-payment by an FDE Group entity of any financial indebtedness;
 - (d) any financial indebtedness of an FDE Group entity becoming due as a result of an event of default;
 - (e) the cancellation or suspension of any financial indebtedness in respect of an FDE Group entity; or

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- (f) 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;

in each case which the Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Goods and/or Services in accordance with this Contract; and

- 3.1.10 any one of the Financial Indicators set out at Paragraph 5 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 Authority 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 Authority shall have the rights and remedies as set out in Paragraphs 4.3 to 4.5.

- 4.2 In the event of a late or non-payment of a Key Sub-contractor pursuant to Paragraph 3.1.5, the Authority shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier 10 Working Days to:

- 4.2.1 rectify such late or non-payment; or

- 4.2.2 demonstrate to the Authority'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):

- 4.3.1 at the request of the Authority, meet the Authority 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 Authority 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 Goods and/or Services in accordance with this Contract; and

- 4.3.2 where the Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3.1 that the Financial Distress Event could impact on the continued performance and delivery of the Goods and/or Services in accordance with this Contract:

- (a) submit to the Authority 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 Authority may permit and notify to the Supplier in writing); and

- (b) 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 Authority may reasonably require in order to understand the risk to the provision of Goods and/or Services, which may include forecasts in relation to cash flow, orders and profits and details of financial measures being

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considered to mitigate the impact of the Financial Distress Event.

- 4.4 The Authority shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Authority 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 Authority within 5 Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Remediation Plan is either:
- 4.4.1 approved by the Authority;
 - 4.4.2 referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Remediation Plan has not been approved, to commercial negotiation led by senior representatives who have authority to agree the Financial Distress Remediation Plan to be held within 28 days of the date of the notice; or
 - 4.4.3 finally rejected by the Authority.
- 4.5 The Authority reserves the right to require that the Supplier include the provision of a guarantee (in the form set out in the Schedule 33 (*Deed of Guarantee*) by a suitable guarantor as part of its consideration of the Financial Distress Remediation Plan.
- 4.6 Following approval of the Financial Distress Remediation Plan by the Authority, the Supplier shall:
- 4.6.1 on a regular basis (which shall not be less than fortnightly):
 - (a) 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 Authority, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Goods and/or Services in accordance with this Contract; and
 - (b) provide a written report to the Authority 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;
 - 4.6.2 where updates are made to the Financial Distress Remediation Plan in accordance with Paragraph 4.6.1, submit an updated Financial Distress Remediation Plan to the Authority for its approval, and the provisions of Paragraphs 4.4 and 4.6.1 shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and
 - 4.6.3 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

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longer exists, it shall notify the Authority and the Parties may agree that the Supplier shall be relieved of its obligations under Paragraph 4.5.

4.8 The Supplier shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at Paragraph 4.3.2(b) is available when required and on request from the Authority and within reasonable timescales. Such measures may include:

4.8.1 obtaining in advance written authority from Key Sub-contractors, the Guarantor and/or Monitored Suppliers authorising the disclosure of the information to the Authority and/or entering into confidentiality agreements which permit disclosure;

4.8.2 agreeing in advance with the Authority, 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 Authority;

4.8.3 putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Authority (which may include making price sensitive information available to Authority nominated personnel through confidential arrangements, subject to their consent); and

4.8.4 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

5.1 Subject to the calculation methodology set out at Annex 3 of this Schedule, 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 [if different from the default position set out in Paragraph 2.3.2]
1 Operating Margin	Operating Margin = Operating Profit / Revenue	> 5%	Tested and reported yearly in arrears within 90 days of each Accounting Reference Date based upon figures for the 12 months ending on the relevant Accounting Reference Date
2 Net Debt to EBITDA Ratio	Net Debt to EBITDA ratio = Net Debt / EBITDA	< 3.5 times	Tested and reported yearly in arrears within 90 days of each Accounting Reference Date based upon EBITDA for the 12 months ending on, and Net Debt at, the relevant Accounting Reference Date

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Financial Indicator	Calculation¹	Financial Target Threshold:	Monitoring and Reporting Frequency [if different from the default position set out in Paragraph 2.3.2]
3 Net Debt + Net Pension Deficit to EBITDA ratio	Net Debt + Net Pension Deficit to EBITDA Ratio = (Net Debt + Net Pension Deficit) / EBITDA	< 5 times	Tested and reported yearly in arrears within 90 days of each Accounting Reference Date based upon EBITDA for the 12 months ending on, and the Net Debt and Net Pension Deficit at, the relevant Accounting Reference Date
4 Net Interest Paid Cover	[Net Interest Paid Cover = Earnings Before Interest and Tax / Net Interest Paid]	> 3 times	Tested and reported yearly in arrears within 90 days of each Accounting Reference Date based upon figures for the 12 months ending on the relevant Accounting Reference Date
5 Acid Ratio	Acid Ratio = (Current Assets – Inventories) / Current Liabilities	> 0.8 times	Tested and reported yearly in arrears within 90 days of each Accounting Reference Date based upon figures at the relevant Accounting Reference Date
6 Net Asset value	Net Asset Value = Net Assets	> £0	Tested and reported yearly in arrears within 90 days of each Accounting Reference Date based upon figures at the relevant Accounting Reference Date
7 Group Exposure Ratio	Group Exposure / Gross Assets	< 50X%	Tested and reported yearly in arrears within 90 days of each Accounting Reference Date based upon figures at the relevant Accounting Reference Date

Key:¹ – See Annex 3 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

5.2 Monitored Suppliers

Monitored Supplier	Applicable Financial Indicators (these are the Financial Indicators from the table in Paragraph 5.1 which are to apply to the Monitored Suppliers)
Guarantor	All financial indicators identified in the table at Paragraph 5.1

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Monitored Supplier	Applicable Financial Indicators (these are the Financial Indicators from the table in Paragraph 5.1 which are to apply to the Monitored Suppliers)
Relevant Parent Undertaking	All financial indicators identified in the table at Paragraph 5.1
Key Sub-contractors	All financial indicators identified in the table at Paragraph 5.1

5.3 The Authority shall be entitled to terminate this Contract under Clause 31.1.2 (*Termination by the Authority*) if:

- 5.3.1 the Supplier fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 2.3.3;
- 5.3.2 the Supplier fails to comply with any part of Paragraph 4.3;
- 5.3.3 the Authority finally rejects a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraphs 4.4 to 4.6.1; and/or
- 5.3.4 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 4.6.3.

6. Termination Rights

6.1 The Authority shall be entitled to terminate this Contract under Clause 31.1.2 (*Termination by the Authority*) if:

- 6.1.1 the Supplier fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 2.3.3;
- 6.1.2 the Supplier fails to comply with any part of Paragraph 4.3;
- 6.1.3 the Authority finally rejects a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraphs 4.4 to 4.6.1; and/or
- 6.1.4 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 4.6.3.

7. Primacy of Credit Ratings

7.1 Without prejudice to the Supplier's obligations and the Authority's rights and remedies under Paragraph 2, if, following the occurrence of a Financial Distress Event pursuant to any of Paragraphs 3.1.2 to 3.1.10, the Rating Agencies review and report subsequently that the credit ratings for the FDE Group entities do not drop below the relevant Credit Rating Thresholds specified for those entities in Annex 2 of this Schedule, then:

- 7.1.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.5; and

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- 7.1.2 the Authority shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.3.2(b).

8. Board Confirmation

- 8.1 If this Contract has been specified as a Critical Service Contract under Paragraph 1.1 of Part B to Schedule 29 (*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 Authority 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:
 - 8.1.1 that a Financial Distress Event has occurred since the later of the Effective Date or the previous Board Confirmation or is subsisting; or
 - 8.1.2 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 Authority (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

a. Dun & Bradstreet

Credit Rating Level 1: A;

Credit Rating Level 2: A;

b. Equifax

Credit Rating Level 1: A;

Credit Rating Level 2: A,

or such other rating agency as may be agreed by the Authority.

Annex 2: Credit Ratings and Credit Rating Thresholds

Entity	Credit Rating (long term)	Credit Rating Threshold
Contractor	1A (Dun and Bradstreet): seven hundred thousand pounds (£700,000) to one million, four hundred ninety-nine thousand, nine hundred ninety-nine (£1,499,000) in tangible net worth or equity	1A (Dun and Bradstreet): seven hundred thousand pounds (£700,000) to one million, four hundred ninety-nine thousand, nine hundred ninety-nine (£1,499,000) in tangible net worth or equity
Guarantor	1A (Dun and Bradstreet): one million five hundred thousand pounds (£1,500,000) to six million, nine hundred ninety-nine thousand, nine hundred ninety-nine (£6,999,999) in tangible net worth or equity	1A (Dun and Bradstreet): one million five hundred thousand pounds (£1,500,000) to six million, nine hundred ninety-nine thousand, nine hundred ninety-nine (£6,999,999) in tangible net worth or equity
Key Sub-contractor 1	A (Dun and Bradstreet): three hundred and fifty thousand pounds (£350,000) to six hundred and ninety-nine thousand, nine hundred ninety-nine (£699,999) in tangible net worth or equity	A (Dun and Bradstreet): three hundred and fifty thousand pounds (£350,000) to six hundred and ninety-nine thousand, nine hundred ninety-nine (£699,999) in tangible net worth or equity
Key Sub-contractor 2	A (Dun and Bradstreet): three hundred and fifty thousand pounds (£350,000) to six hundred and ninety-nine thousand, nine hundred ninety-nine (£699,999) in tangible net worth or equity	A (Dun and Bradstreet): three hundred and fifty thousand pounds (£350,000) to six hundred and ninety-nine thousand, nine hundred ninety-nine (£699,999) in tangible net worth or equity
etc...	A (Dun and Bradstreet): three hundred and fifty thousand pounds (£350,000) to six hundred and ninety-nine thousand, nine hundred ninety-nine (£699,999) in tangible net worth or equity	A (Dun and Bradstreet): three hundred and fifty thousand pounds (£350,000) to six hundred and ninety-nine thousand, nine hundred ninety-nine (£699,999) in tangible net worth or equity

Annex 3: Calculation Methodology for Financial Indicators

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 Annex 3 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	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. Figures for Operating Profit and Revenue should exclude the entity's share of the results of any joint ventures or Associates. Where an entity has an operating loss (i.e. where the operating profit is negative), Operating Profit should be taken to be zero.
2 Net Debt to EBITDA Ratio	"Net Debt" = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents "EBITDA" = Operating profit + Depreciation charge + Amortisation charge 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. Net Debt: 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. Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing. Cash and cash equivalents should include short-term financial investments shown in current assets.

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Financial Indicator	Specific Methodology
	Where Net debt is negative (i.e. an entity has net cash), the relevant Financial Target Threshold should be treated as having been met. EBITDA: 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. 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).
3 Net Debt + Net Pension Deficit to EBITDA ratio	"Net Debt" = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents "Net Pension Deficit" = Retirement Benefit Obligations – Retirement Benefit Assets "EBITDA" = Operating profit + Depreciation charge + Amortisation charge The majority of the elements used to calculate the Net Debt + Net Pension Deficit 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. Net Debt: 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. Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing. Cash and cash equivalents should include short-term financial investments shown in current assets. Net Pension Deficit: Retirement Benefit Obligations and Retirement Benefit Assets may be shown on the face of the Balance Sheet or in the notes to the financial statements. They may also be described as pension benefits / obligations, post-employment obligations or other similar terms. Where 'Net Debt + Net Pension Deficit' is negative, the relevant Financial Target Threshold should be treated as having been met. EBITDA: 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. 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 + Net Pension Deficit'

Schedule 22: (Financial Distress)

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Financial Indicator	Specific Methodology
	is also negative, in which case the relevant Financial Target Threshold should be regarded as having been met).
4 Net Interest Paid Cover	“Earnings Before Interest and Tax” = Operating profit “Net Interest Paid” = Interest paid – Interest received 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. 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.
5 Acid Ratio	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.
6 Net Asset value	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).
7 Group Exposure Ratio	“Group Exposure” = Balances owed by Group Undertakings + Contingent liabilities assumed in support of Group Undertakings “Gross Assets” = Fixed Assets + Current Assets Group Exposure: 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. 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. 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. Gross Assets: Both Fixed assets and Current assets are shown on the face of the Balance Sheet.

Annex 4: Board Confirmation

Supplier Name:

Contract Reference Number:

The Board of Directors acknowledge the requirements set out at Schedule 22, Paragraph 8 (*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	

Schedule 23: Financial Reports and Audit Rights

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

“Annual Report”	Contract the annual contract report to be provided by the Supplier to the Authority pursuant to Paragraph 1 of Part B;
“Contract Amendment Report”	the contract amendment report to be provided by the Supplier to the Authority pursuant to Paragraph 1 of Part B;
“Final Reconciliation Report”	the final reconciliation report to be provided by the Supplier to the Authority pursuant to Paragraph 1 of Part B;
“Finance Response Template”	the Contract Inception Report, the latest Annual Contract Report or the latest Contract Amendment Report, whichever has been most recently approved by the Authority 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”	a Change which: (a) materially changes the profile of the Charges; or (b) varies the total Charges payable during the Term (as forecast in the latest Finance Response Template) 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;

Schedule 23: (Financial Reports and Audit Rights)

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“Onerous Report” **Contract** 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 Authority to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Term, including details and all assumptions relating to:

- (a) the Supplier’s costs broken down against each item of Goods and/or 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 Goods and 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 Goods and Services;
- (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 Goods and 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

1.1 The Supplier acknowledges that the provisions of this Schedule are designed (inter alia) to facilitate, and the Supplier shall co-operate with the Authority in order to achieve, the following objectives:

1.1.1 Understanding the Charges

- (a) for the Authority 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 Goods and/or Services and the Supplier Profit Margin;
- (b) for both Parties to be able to understand the Finance Response Template 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 19 (Charges and Invoicing));

1.1.2 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 Goods and Services;

1.1.3 Continuous improvement

- (a) for the Parties to challenge each other with ideas for efficiency and improvements; and
- (b) to enable the Authority 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 Authority of the Financial Transparency Objectives and the Authority'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:

2.2.1 maintain and retain the Open Book Data; and

2.2.2 disclose and allow the Authority and/or the Audit Agents access to the Open Book Data.

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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 Authority of the designation and shall prepare and deliver to the Authority 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:
 - 3.1.1 an initial root cause analysis of the issues and circumstances which may have contributed to the Contract being designated as an Onerous Contract;
 - 3.1.2 an initial risk analysis and impact assessment on the provision of the Goods and Services as a result of the Supplier's designation of the Contract as an Onerous Contract;
 - 3.1.3 the measures which the Supplier intends to put in place to minimise and mitigate any adverse impact on the provision on the Goods and Services;
 - 3.1.4 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 Goods and Services.
- 3.2 Following receipt of the Onerous Contract Report, the Authority 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 Strategic Contract Review Board, such final form report to be agreed no later than 1 month following the Authority's receipt of the draft Onerous Contract Report.
- 3.3 The Strategic Contract Review 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-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 Authority and Strategic Contract Review Board on an information only basis and the Authority and Strategic Contract Review 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:

- 1.1.1 the Contract Inception Report on or before the Effective Date; and
- 1.1.2 during the Term, the following financial reports to the Authority, 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 Authority
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

- 1.1.3 The Supplier shall provide to the Authority 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 Authority to the Supplier on or before the Effective Date for the purposes of this Contract. The Authority 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.

- 1.1.4 A copy of each Financial Report shall be held by both the Authority and the Supplier. If there is a Dispute regarding a Financial Report, the Authority's copy of the relevant Financial Report shall be authoritative.

- 1.1.5 Each Financial Report shall:

- (a) be completed by the Supplier using reasonable skill and care;
- (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 and Fees.

- 1.2 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 Authority in advance of issue of the relevant Financial Report), acting with express authority, as:

- 1.2.1 being accurate and not misleading;
- 1.2.2 having been prepared in conformity with generally accepted accounting principles within the United Kingdom;

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- 1.2.3 being a true and fair reflection of the information included within the Supplier's management and statutory accounts; and
 - 1.2.4 compliant with the requirements of Paragraph 1.3.
- 1.3 The Supplier shall:
 - 1.3.1 prepare each Financial Report using the same methodology as that used for the Contract Inception Report;
 - 1.3.2 to the extent permitted by Law, 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;
 - 1.3.3 to the extent permitted by Law, ensure that the Final Reconciliation Report is a true and fair reflection of the costs; and
 - 1.3.4 not have any other internal financial model in relation to the Goods or Services inconsistent with the Finance Response Template.
- 1.4 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 Authority may have on any of the Financial Reports and/or Open Book Data.
- 1.5 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:
 - 1.5.1 the costs incurred (or those forecast to be incurred) by the Supplier; and/or
 - 1.5.2 the forecast Charges for the remainder of the Term,the Supplier shall, as soon as practicable, notify the Authority 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 1.5 shall not have the effect of amending any provisions of this Contract.

2. Finance Response Template

- 2.1 Following the delivery by the Supplier of each Annual Contract Report and any Contract Amendment Report:
 - 2.1.1 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;
 - 2.1.2 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 Authority; and
 - 2.1.3 the Authority shall either within 10 Working Days of the meeting referred to in Paragraph 2.1.1 notify the Supplier that:

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- (a) 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 Authority with such supporting evidence as is required to address the Authority's concerns within 10 Working Days of such notification and the Authority shall following receipt of such amended Financial Report and/or supporting information, approve or reject such Financial Report; or
- (b) the Authority has approved the relevant Financial Report.

2.2 Following approval by the Authority of the relevant Financial Report in accordance with Paragraph 2.1.3, that version shall become, with effect from the date of such approval, the current approved version of the Finance Response Template for the purposes of this Contract, a version of which shall be held by both the Authority and the Supplier. If there is a Dispute regarding a Financial Report, the Authority'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 Authority, the matter shall be referred for determination in accordance with Schedule 26 (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.

4. Key Sub-contractors

4.1 The Supplier shall, if requested by the Authority, 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:

4.2.1 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

4.2.2 on written request by the Authority, provide the Authority or procure that the Authority is provided with:

- (a) full copies of audit reports for the Key Sub-contractors. The Authority shall be entitled to rely on such audit reports; and
- (b) further explanation of, and supporting information in relation to, any audit reports provided.

Part C: Audit Rights

1. Audit Rights

- 1.1 The Authority, 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:
- 1.1.1 to verify the integrity and content of any Financial Report;
 - 1.1.2 to verify the accuracy of the Charges and any other amounts payable by the Authority under this Contract (and proposed or actual variations to such Charges and payments);
 - 1.1.3 to verify the costs (including the amounts paid to all Sub-contractors and any third party suppliers);
 - 1.1.4 to verify the Open Book Data;
 - 1.1.5 to verify the Supplier's and each Key Sub-contractor's compliance with this Contract and applicable Law;
 - 1.1.6 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 Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
 - 1.1.7 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 provide the Goods or perform the Services;
 - 1.1.8 to obtain such information as is necessary to fulfil the Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
 - 1.1.9 to review any books of account and the internal contract management accounts kept by the Supplier in connection with this Contract;
 - 1.1.10 to carry out the Authority's internal and statutory audits and to prepare, examine and/or certify the Authority's annual and interim reports and accounts;
 - 1.1.11 to enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - 1.1.12 to verify the accuracy and completeness of any Management Information delivered or required by this Contract;
 - 1.1.13 to review any Performance Monitoring Reports and/or other records relating to the Supplier's provision of the Goods and performance of the Services and to verify that these reflect the Supplier's own internal reports and records;

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- 1.1.14 to inspect the IT Environment (or any part of it) and the wider service delivery environment (or any part of it);
 - 1.1.15 to review the accuracy and completeness of the Registers;
 - 1.1.16 to review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
 - 1.1.17 to review the Supplier's quality management systems (including all relevant Quality Plans and any quality manuals and procedures);
 - 1.1.18 to review the Supplier's compliance with the Standards;
 - 1.1.19 to inspect the Authority Assets, including the Authority's IPRs, equipment and facilities, for the purposes of ensuring that the Authority Assets are secure and that any register of assets is up to date; and/or
 - 1.1.20 to review the integrity, confidentiality and security of the Government Data.
- 1.2 Except where an audit is imposed on the Authority by a regulatory body or where the Authority has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Authority 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.

2. Conduct of Audits

- 2.1 The Authority shall during each audit comply with those security, sites, systems and facilities operating procedures of the Supplier that the Authority 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 Goods and/or Services.
- 2.2 Subject to the Authority's obligations of confidentiality, the Supplier shall on demand provide the Authority 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:
- 2.2.1 all information requested by the Authority within the permitted scope of the audit;
 - 2.2.2 reasonable access to any Sites and to any equipment used (whether exclusively or non-exclusively) in the provision of the Goods and/or performance of the Services;
 - 2.2.3 access to the Supplier System; and
 - 2.2.4 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 provision of the Goods and performance of the Services against the applicable Key Performance Indicators at a level of detail sufficient to verify compliance with the Key Performance Indicators.

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- 2.4 The Authority 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 Authority for all the Authority's reasonable costs incurred in connection with the audit.

3. Use of Supplier's Internal Audit Team

- 3.1 As an alternative to the Authority's right pursuant to Paragraph 1.1 to exercise an audit either itself or through its Audit Agents, the Authority 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 Authority under Paragraph 3.1 above, the Supplier shall procure that the relevant audit is undertaken as soon as reasonably practicable and that the Authority has unfettered access to:

- 3.2.1 the resultant audit reports; and

- 3.2.2 all relevant members of the Supplier's internal audit team for the purpose of understanding such audit reports.

3.3 Response to Audits

7.5 If an audit undertaken pursuant to Paragraphs 1 or 3 identifies that:

- 3.3.1 the Supplier has committed a Default, the Authority may (without prejudice to any rights and remedies the Authority 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;

- 3.3.2 there is an error in a Financial Report, the Supplier shall promptly rectify the error;

- 3.3.3 the Authority has overpaid any Charges, the Supplier shall pay to the Authority:

- 3.3.4 the amount overpaid;

- (a) 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 Authority up to the date of repayment by the Supplier; and

- (b) the reasonable costs incurred by the Authority in undertaking the audit, the Authority may exercise its right to deduct such amount from the Charges if it prefers; and

- 3.3.5 the Authority has underpaid any Charges, the Supplier shall not be entitled to increase the Charges paid or payable by the Authority.

Schedule 24: Governance

1. Definitions

In this Schedule, the following definitions shall apply:

“Boards“ means the boards set out in this Schedule at Paragraph 3.1 and detailed further in this Contract;

“Board Member“ means the initial persons appointed by the Authority and Supplier to the Boards as set out in Annex 1 and any replacements from time to time agreed by the Parties in accordance with Paragraph 3.3.

2. Management of the Services

- 2.1 The Supplier and the Authority shall each appoint a contract manager for the purposes of this Contract through whom the Goods and Services shall be managed at a day-to-day level.
- 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.
- 2.3 The Supplier shall provide the Goods and Services under this Contract and shall ensure engagement with the wider supply chain which shall include two-way visibility and dialogue with stakeholders including, but not limited to, manufacturers and design teams.

3. Boards

Establishment and structure of the Boards

- 3.1 The following Boards shall be established by the Authority for the purposes of this Contract on which both the Supplier and the Authority shall be represented:
 - 3.1.1 Project Board – as set out at Paragraph 4;
 - 3.1.2 Commercial and Contract Board – as set out at Paragraph 5;
 - 3.1.3 Strategic Contract Review Board – as set out at Paragraph 6;
 - 3.1.4 Commercial and Contract Annual Board – as set out at Paragraph 7;
- 3.2 In relation to each Board, the:
 - 3.2.1 Authority Board Members;
 - 3.2.2 Supplier Board Members;
 - 3.2.3 location of the Board's meetings; and
 - 3.2.4 planned start date by which the Board shall be established,shall be as set out in Annex 1.
- 3.3 Each Board Member shall at all times be of sufficient seniority and expertise. In the event

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that the Supplier wishes to replace any of its appointed Board Members, that Supplier shall provide one months' notice in writing of the proposed change for agreement by the Authority (such agreement not to be unreasonably withheld or delayed).

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:
- 3.4.1 a delegate attends the relevant Board meeting in their place who
 - 3.4.2 (wherever possible) is properly briefed and prepared;
 - 3.4.3 that they are debriefed by such delegate after the Board meeting; and
 - 3.4.4 provide the Board with sufficient notice that they are unable to attend the Board meeting.
- 3.5 A chairperson shall be appointed by the Authority for each Board as identified in Annex 1. The chairperson shall be responsible for:
- 3.5.1 scheduling Board meetings;
 - 3.5.2 setting the agenda for Board meetings and circulating to all attendees in advance of such meeting;
 - 3.5.3 chairing the Board meetings;
 - 3.5.4 monitoring the progress of any follow up tasks and activities agreed to be carried out following Board meetings;
 - 3.5.5 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
 - 3.5.6 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 or one representative from each Party whereby this is agreed mutually by both Parties.
- 3.7 Each Party shall pay its own costs and expenses for attendance at Board meetings,
- 3.8 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.
- 3.9 Representatives of the Authority or the Supplier may attend any Board meeting remotely via telephone or video conference, unless personal attendance is specifically required by the Authority, giving reasonable notice of such requirement.

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4. Role of the Project Board

- 4.1 Existing project governance arrangements, headed by the Project Board, will remain in place throughout the provision of the Implementation Services. The Project Board will be the main steering, decision making and approval forum and shall manage the provision of the Implementation Services, working with Key Personnel and Supplier Personnel to deliver this Contract in line with the Goods Description and Service Description. At the Effective Date the Supplier shall be invited to join the Project Board for the period of provision of the Implementation Services.
- 4.2 The Supplier's performance against the Implementation Plan shall be monitored at meetings of the Project Board.
- 4.3 In preparation for such meetings the Supplier shall provide to the Authority not less than 5 Working Days in advance of each meeting of the Project Board:
 - 4.3.1 proposed revisions to the Implementation Plan;
 - 4.3.2 highlight report.
- 4.4 The Project Board will meet monthly during the provision of the Implementation Services or at such a frequency as the Parties may agree. The Project Board meetings will be held in the Authority Premises, or at such other place as the Parties may agree from time to time.
- 4.5 Governance responsibility for the provision of the Goods and Services will fall to three related boards. Day to day responsibilities shall be with the Commercial and Contract Board (Paragraph 5). Quarterly responsibilities shall be with the Strategic Contract Review Board (Paragraph 6). Annual responsibilities shall be with the Contract and Commercial Annual Board (Paragraph 7).

5. Role of the Commercial and Contract Board

- 5.1 The Commercial and Contract Board shall, meeting monthly:
 - 5.1.1 ensure the contractual commitments and obligations of the Supplier to the Authority are being delivered;
 - 5.1.2 review the Supplier's performance, including by reference to Schedule 3 (Performance Levels);
 - 5.1.3 review and agree any Service Credits due;
 - 5.1.4 review continuous improvement opportunities to make the Goods and Services more resilient, reliable, efficient and effective, including product improvements;
 - 5.1.5 monitor any key risks and/or issues in relation to the Goods and/or Services provision;
 - 5.1.6 review and attempt to resolve any issue the Authority may have in relation to the Goods and/or Services;
 - 5.1.7 provide strategic updates from both Parties which may impact on delivery of the Goods and/or Services;

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- 5.1.8 assess the impact and approve or reject all Change Requests specifically whether the proposed Change:
 - (a) has an impact on other areas or aspects of this Contract and/or other documentation relating to the Goods and/or Services;
 - (b) has an impact on the ability of the Authority to meet its agreed business needs within agreed time-scales;
 - (c) will raise any risks or issues relating to the proposed Change; and
 - (d) will provide value for money in consideration of any changes to the Finance Response Template, future Charges and/or Key Performance Indicators and Target Performance Levels;
- 5.1.9 provide oversight of the technology set out in Schedule 11 (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 Authority.

6. Role of Strategic Contract Review Board

- 6.1 The Strategic Contract Review Board shall be responsible for the executive management of the Goods and Services and shall meet quarterly and:
 - 6.1.1 provide senior level guidance, leadership and strategy for the overall delivery of the Goods and Services;
 - 6.1.2 be the point of escalation from the Commercial and Contract Board; and
 - 6.1.3 carry out the specific obligations attributed to it in Paragraph 4.5.
- 6.2 The Strategic Contract Review Board shall:
 - 6.2.1 ensure that this Contract is operated throughout the Term in a manner which optimises the value for money and operational benefit derived by the Authority and the commercial benefit derived by the Supplier;
 - 6.2.2 receive 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;
 - 6.2.3 determine business strategy and provide guidance on policy matters which may impact on the implementation of the Goods and/or Services;
 - 6.2.4 authorise the commissioning and initiation of, and assess opportunities for, Optional Goods/Services;
 - 6.2.5 provide guidance and authorisation, where needed, to the Commercial and Contract Board on relevant Changes;
 - 6.2.6 review the nature and progress of the relationship between the Parties and other stakeholders and alignment with the Authority's strategy and any long-term plans;
 - 6.2.7 review the provision of the Goods and Services at a macro level; and

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6.2.8 review key risks and issues escalated by the Commercial and Contract Board.

7. Role of the Commercial and Contract Annual Board

7.1 An annual review meeting shall be held throughout the Term on a date to be agreed between the Parties.

7.2 The meetings shall be attended by the Authority Personnel set out in Annex 1 and any other persons considered by the Authority necessary for the review.

7.3 The Commercial and Contract Annual Board shall:

7.3.1 review the overall operation of this Contract to ensure that the Goods and Services continue to meet all requirements or to determine whether improvements or changes may and should be made to the methods of goods/service delivery;

7.3.2 provide advice and guidance with regard to trends and planning specific to the Authority's business requirements;

7.3.3 review actual performance against the Key Performance Indicators and the other obligations of the Supplier under this Contract;

7.3.4 review the Key Performance Indicators;

7.3.5 suggest adjustments to the Key Performance Indicators as appropriate to reflect improved performance capabilities associated with advances in the technology, processes and methods used to provide the Goods and/or Services;

7.3.6 in accordance with the Authority's direction and the provisions of Schedule 3 (*Performance Levels*) and Schedule 19 (Charges and Invoicing), change or add or re-categorise Key Performance Indicators;

7.3.7 review the suitability of the Charges;

7.3.8 review and discuss the annual value for money review(s) described in Schedule 19 (Charges and Invoicing); and

7.3.9 review any other matters reasonably required by the Authority.

7.4 Within one month of completion of the Commercial and Contract Annual Board, the Supplier shall prepare and submit to the Authority a written report on the findings of the review. Changes proposed as a result of the Commercial and Contract Annual Board shall, where appropriate, be dealt with in accordance with Schedule 25 (Change Control Procedure).

8. Contract Management Mechanisms

8.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.

8.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Authority, processes for:

8.2.1 the identification and management of risks;

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8.2.2 the identification and management of issues; and

8.2.3 monitoring and controlling project plans.

8.3 The Risk Register shall be updated by the Supplier and submitted for review by the Project Board and the Contract and Commercial Board.

9. Performance Report

9.1 Prior to each Commercial and Contract Board the Supplier shall provide a monthly contract performance report for review, which should include as a minimum:

9.1.1 summary of invoices and other financial transactions undertaken;

9.1.2 commercial issues;

9.1.3 value for money / Best Value review;

9.1.4 review of risks;

9.1.5 progress against risks and issues;

9.1.6 any issues or other matters escalated from service review meetings;

9.1.7 forecast of future spend, cost and commercial trends and issues including a prediction of proposed indexation;

9.1.8 Service Credits accrued over the previous six months;

9.1.9 a high-level outline of the financial performance of the Supplier, its profitability and financial stability and its potential impact on future performance of the organisation;

9.1.10 the monthly report as set out in Schedule 3 (*Performance Levels*);

9.1.11 the validity and state of readiness of the Exit Plan; and

7.5.1 sustainability plans and recycling performance.

9.2 The Supplier shall:

9.2.1 provide other information to the Authority as requested in advance in preparation for the meetings set out above;

9.2.2 attend all of the meetings set out above;

9.2.3 liaise with the Authority on all matters relating to this Contract and its execution;

9.2.4 report immediately to the Authority the commercial implications of all matters that:

(a) may involve action in a court;

(b) involve action by any other regulatory body;

(c) raise questions of principle or financial policy;

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- (d) possess unusual features or involve particular difficulty;
 - (e) might arouse particular public interest or publicity;
 - (f) concern a matter of particular importance or sensitivity; and
 - (g) have the potential to cause embarrassment to the Authority or its employees;
- 9.2.5 consult the Authority before implementing any Change proposals, identifying any anticipated impact on the Supplier Personnel and the provision of the Goods and/or Services, in accordance with Schedule 25 (Change Control Procedure);
- 9.2.6 co-ordinate all change activity to ensure conflicts and business disruption are minimised;
- 9.2.7 establish a familiarity with the culture of the Authority and the needs of End Users; and
- 9.2.8 work with the Authority to develop and maintain good working relationships with End Users.

10. User Satisfaction Review

- 10.1 The Supplier shall take the following steps to monitor, maintain and enhance the satisfaction of End Users and appropriate Authority representatives:
 - 10.1.1 (subject to Paragraph 10.1.2 below) conduct, together with the Authority, a comprehensive satisfaction survey of End Users and appropriate Authority representatives on an annual basis (or as otherwise agreed between the Parties) and shall ensure that a full analysis of the results of that survey is provided to the Authority prior to the following Strategic Contract Review Board;
 - 10.1.2 the Authority shall be entitled, at its own expense, to appoint an independent third party to conduct a survey and shall notify the Supplier accordingly that it is relieved of its obligations under Paragraph 10.1.1 above;
 - 10.1.3 implement procedures to ensure continuous feedback from End Users in respect of the Goods and Services;
 - 10.1.4 hold meetings with the representatives of End Users at least annually or more frequently where requested by the Authority (acting reasonably) and provide a comprehensive report detailing the results and views of the End User group within 10 Working Days of any such meeting (this period can be changed by mutual consent);
 - 10.1.5 attend, as requested by the Authority, meetings with those involved in providing or receiving information or services to or from the Supplier in connection with the provision of the Goods and/or Services;
 - 10.1.6 the Supplier shall monitor End User feedback and where:
 - (a) the End User feedback is material or relates to health and safety, act urgently to rectify the issue; or

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- (b) where the matter is not material shall submit a proposal to rectify the issue prior to the next Commercial and Contract Board meeting for consideration at that meeting.

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Annex 1: Service Management Board Representation and Structure

No.	Board Name	Supplier Board Members	Number of people
1	Project Board		
2	Commercial and Contract Board		
3	Strategic Contract Review Board		
4	Commercial and Contract Annual Board		

Schedule 25: Change Control Procedure

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

“Authority Manager”	Change the person appointed to that position by the Authority from time to time and notified in writing to the Supplier or, if no person is notified, the Authority Representative;
“Change Communication”	any Change Request, Impact Assessment, Change Authorisation Note or other communication sent or required to be sent pursuant to this Schedule;
“Drafting Party”	the Party that will prepare two copies of a Change Authorisation Note which it shall sign and deliver to the Receiving Party for its signature;
“Fast-track Change”	any 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 Change Authorisation Note for signature pursuant to Paragraph 6.2; and
“Supplier Manager”	Change the person appointed to that position by the Supplier from time to time and notified in writing to the Authority 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 Change.
- 2.3 The Parties shall deal with Change as follows:
- 2.3.1 either Party may request a Change which they shall initiate by issuing a Change Request in accordance with Paragraph 4;
 - 2.3.2 unless this Contract otherwise requires, the Supplier shall assess and document the potential impact of a proposed Change in accordance with Paragraph 5 before the Change can be either approved or implemented;

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- 2.3.3 the Authority shall have the right to request amendments to a Change Request, approve it or reject it in the manner set out in Paragraph 6;
 - 2.3.4 the Supplier shall have the right to reject a Change Request solely in the manner set out in Paragraph 6.3;
 - 2.3.5 save as otherwise provided in this Contract, no proposed Change shall be implemented by the Supplier until a Change Authorisation Note has been signed and issued by the Authority in accordance with Paragraph 6.2; and
 - 2.3.6 if a proposed Change is a Fast-track Change, it shall be processed in accordance with Paragraph 8.
- 2.4 To the extent that any Change requires testing and/or a programme for implementation, then the Parties shall follow the procedures set out in Schedule 17 (IT Testing Procedures) or Schedule 18 (Goods Testing Procedures), and, where appropriate, the Change Authorisation Note relating to such a Change shall specify Milestones and Milestone Date(s) in respect of such Change for the purposes of such procedures.
- 2.5 Until a Change Authorisation Note has been signed and issued in accordance with Paragraph 6.2, then:
- 2.5.1 unless the Authority expressly agrees (or requires) otherwise in writing, the Supplier shall continue to supply the Goods and Services in accordance with the existing terms of this Contract as if the proposed Change did not apply; and
 - 2.5.2 any discussions, negotiations or other communications which may take place between the Authority and the Supplier in connection with any proposed Change, including the submission of any Change Communications, shall be without prejudice to each Party's other rights under this Contract.
- 2.6 Unless the Authority directs otherwise, the Supplier shall:
- 2.6.1 within 10 Working Days of the final signature and issue of a Change Authorisation Note, deliver to the Authority a copy of this Contract updated to reflect all Changes agreed in the relevant Change Authorisation Note and annotated with a reference to the Change Authorisation Note pursuant to which the relevant Changes were agreed; and
 - 2.6.2 thereafter provide to the Authority such further copies of the updated Contract as the Authority may from time to time request.

3. Costs

- 3.1 Each Party shall bear their own costs for dealing with any Change Request.
- 3.2 The costs incurred by the Supplier in undertaking an Impact Assessment shall be borne by the Supplier, unless otherwise agreed between the Parties.
- 3.3 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.

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A Change Request shall be substantially in the form of Annex 1 and state whether the Party issuing the Change Request considers the proposed 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 Authority 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 Authority issues the Change Request, then the Supplier shall provide an Impact Assessment as soon as reasonably practical and in any event within 10 Working Days of the date of receiving the Change Request.

5. Impact Assessment

- 5.1 Each Impact Assessment shall be completed in good faith and shall include:
 - 5.1.1 details of the proposed Change including the reason for the Change; and
 - 5.1.2 details of the impact of the proposed Change on the Goods and/or Services, the Optional Goods/Services (if any) and the Supplier's ability to meet its other obligations under this Contract;
 - 5.1.3 any variation to the terms of this Contract that will be required as a result of that impact, including changes to:
 - (a) the Goods Description and/or Services Description and/or the Key Performance Indicators and/or the Target Performance Levels;
 - (b) the format of Government Data, as set out in the Goods Description and/or Services Description;
 - (c) the Milestones, Implementation Plan and any other timetable previously agreed by the Parties;
 - (d) other services provided by third party contractors to the Authority, including any changes required by the proposed Change to the Authority's IT infrastructure;
 - 5.1.4 details of the cost of implementing the proposed Change;
 - 5.1.5 details of the ongoing costs required by the proposed 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;
 - 5.1.6 a timetable for the implementation, together with any proposals for the testing of the Change;
 - 5.1.7 details of how the proposed Change will ensure compliance with any applicable Change in Law; and
 - 5.1.8 such other information as the Authority may reasonably request in (or in response to) the Change Request.
- 5.2 If the Change involves the processing or transfer of any Personal Data outside the UK, in

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the event of the Personal Data being subject to UK GDPR, or the EU, in the event of the Personal Data being subject to EU GDPR, the preparation of the Impact Assessment shall also be subject to Clause 21 (*Protection of Personal Data*).

- 5.3 Subject to the provisions of Paragraph 5.4, the Authority 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.
- 5.4 If the Authority receives a proposed Change from the Supplier and the Authority reasonably considers that it requires further information regarding the proposed 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 Authority within 10 Working Days of receiving such notification. At the Authority's discretion, the Parties may repeat the process described in this Paragraph 5.4 until the Authority 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 5.1.4 and 5.1.5 shall:
 - 5.5.1 be based on the Finance Response Template;
 - 5.5.2 facilitate the Financial Transparency Objectives;
 - 5.5.3 include estimated volumes of each type of resource to be employed and the applicable rate card;
 - 5.5.4 include full disclosure of any assumptions underlying such Impact Assessment;
 - 5.5.5 include evidence of the cost of any assets required for the Change; and
 - 5.5.6 include details of any new Sub-contracts necessary to accomplish the Change.

6. Authority'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 Authority shall evaluate the Change Request and the Impact Assessment and shall do one of the following:
 - 6.1.1 approve the proposed Change, in which case the Parties shall follow the procedure set out in Paragraph 6.2;
 - 6.1.2 in its absolute discretion reject the Change, in which case it shall notify the Supplier of the rejection. The Authority shall not reject any proposed Change to the extent that the Change is necessary for the Supplier or the Goods and/or Services to comply with any Changes in Law. If the Authority does reject a Change, then it shall explain its reasons in writing to the Supplier as soon as is reasonably practicable following such rejection; or
 - 6.1.3 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,

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on receiving the modified Change Request and/or Impact Assessment, the Authority shall approve or reject the proposed Change within 10 Working Days.

- 6.2 If the Authority approves the proposed Change pursuant to Paragraph 6.1 and it has not been rejected by the Supplier in accordance with Paragraph 6.3, then it shall inform the Supplier and, unless otherwise directed by the Authority, the Supplier shall be the Drafting Party. Following receipt by the Receiving Party of the Change Authorisation Note, it shall sign both copies and return one copy to the Drafting Party. Unless otherwise specified, on the Receiving Party's signature the Change Authorisation Note shall constitute (or, where the Authority 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 Receiving Party does not sign the Change Authorisation Note within 10 Working Days of receipt, then the Drafting Party shall have the right to notify the Receiving Party and if the Receiving Party does not sign the Change Authorisation Note within 5 Working Days of such notification, then the Drafting Party 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:
- 7.1.1 the Supplier reasonably believes that any proposed Change which is requested by the Authority would:
 - 7.1.2 materially and adversely affect the risks to the health and safety of any person; and/or
 - 7.1.3 require the provision of the Goods and/or Services to be performed in a way that infringes any Law; and/or
 - 7.1.4 the Supplier demonstrates to the Authority's reasonable satisfaction that the proposed Change is technically impossible to implement and neither the Supplier Solution nor the Goods Description or Services Description state that the Supplier does have the technical capacity and flexibility required to implement the proposed Change,

then the Supplier shall be entitled to reject the proposed Change and shall notify the Authority 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:
- 8.2.1 the total number of Changes in relation to which this Fast-track Change procedure has been applied does not exceed 4 in any 12 month period; and
 - 8.2.2 both Parties agree the value of the proposed Change over the remaining Term and any period for which Termination Services may be required does not exceed

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£10,000 and the proposed Change is not significant (as determined by the Authority acting reasonably),

then the Parties shall confirm to each other in writing that they shall use the process set out in Paragraphs 4,5,6 and 6.3 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 Change notwithstanding that the total number of 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 provision of Goods and/or Services may be implemented by the Supplier without following the Change Control Procedure for proposed Changes provided they do not:

- 9.1.1 have an impact on the business of the Authority;
- 9.1.2 require a change to this Contract;
- 9.1.3 have a direct impact on use of the Goods and/or Services; or
- 9.1.4 involve the Authority in paying any additional Charges or other costs.

- 9.2 The Authority 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:

- 9.3.1 the proposed Operational Change; and
- 9.3.2 the time-scale for completion of the Operational Change.

- 9.4 The Supplier shall inform the Authority of any impact on the Goods and/or 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 Authority when the Operational Change is completed.

10. Communications

- 10.1 For any Change Communication to be valid under this Schedule, it must be sent to either the Authority Change Manager or the Supplier Change Manager, as applicable. The provisions of Clause 42 (*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 (optional field):		
Assigned for impact assessment by:		
Assigned for impact assessment to:		
Supplier reference no.:		
Full description of requested Change (including proposed changes to the wording of the contract):		
Details of any proposed alternative scenarios:		
Reasons for and benefits and disadvantages of requested 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:
Detailed description of Change for which impact assessment is being prepared and wording of related changes to the contract:		
Proposed adjustment to the charges resulting from the Change:		
Details of proposed one-off additional charges and means for determining these (e.g. fixed price basis):		
Signed on behalf of the authority:		Signed on behalf of the supplier:
Signature: _____		Signature: _____
Name: _____		Name: _____
Position: _____		Position: _____
Date: _____		Date: _____

Schedule 26: Dispute Resolution Procedure

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

“CEDR“	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre 1 Patternoster Lane, St Paul’s, London, EC4M 7BQ;
“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;
“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 Authority 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:

- 2.1.1 the Authority Representative and the Supplier Representative shall attempt in good faith to resolve the Dispute; and
- 2.1.2 if such attempts are not successful within a reasonable period, not being longer

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than 20 Working Days, either Party may issue to the other a Dispute Notice.

2.2 A Dispute Notice:

2.2.1 shall set out:

2.2.2 the material particulars of the Dispute;

2.2.3 the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and

2.2.4 if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable, the reason why; and

2.2.5 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 Authority) 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 2.2.5, then:

2.3.1 if it is served by the Authority it shall be treated as a Multi-Party Procedure Initiation Notice; and

2.3.2 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 Authority 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:

2.4.1 first by commercial negotiation (as prescribed in Paragraph 4);

2.4.2 then, if either Party serves a Mediation Notice, by mediation (as prescribed in Paragraph 5); and

2.4.3 lastly by recourse to arbitration (as prescribed in Paragraph 7) or litigation (in accordance with Clause 44 (*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*) .

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

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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 Authority.

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:

3.2.1 in Paragraph 4.2.3, 10 Working Days;

3.2.2 in Paragraph 5.2, 10 Working Days;

3.2.3 in Paragraph 6.2, 5 Working Days; and

3.2.4 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 Authority 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 Authority 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 Authority has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, the Authority and the Supplier shall make reasonable endeavours to resolve the Dispute as soon as possible by commercial negotiation between the Authority's Commercial Team and the Supplier's Commercial Team.

4.2 If:

4.2.1 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;

4.2.2 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

4.2.3 the Parties have not settled the Dispute in accordance with Paragraph 4.1 within 30 Working Days of service of the Dispute Notice,

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

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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 Goods and/or 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:
 - 6.2.1 if the Dispute relates to any aspect of the technology underlying the provision of the Goods and/or 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);
 - 6.2.2 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
 - 6.2.3 if the Dispute relates to a matter of a technical nature not falling within Paragraphs 6.2.1 or 6.2.2, on the instructions of the president (or equivalent) of:
 - (a) an appropriate body agreed between the Parties; or
 - (b) 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:

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- 6.3.1 they shall act as an expert and not as an arbitrator and shall act fairly and impartially;
- 6.3.2 the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
- 6.3.3 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;
- 6.3.4 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;
- 6.3.5 the process shall be conducted in private and shall be confidential; and
- 6.3.6 the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

7. Arbitration

- 7.1 Subject to compliance with its obligations under Paragraph 4.1 and to the provisions of Paragraph 6, the Authority 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 Authority of its intentions and the Authority 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 Authority serves a Counter Notice, then:
 - 7.3.1 if the Counter Notice requires the Dispute to be referred to arbitration, the provisions of Paragraph 7.5 shall apply; or
 - 7.3.2 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.
- 7.4 If the Authority 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:
 - 7.5.1 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

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7.5.5, 7.5.6 and 7.5.7);

7.5.2 the arbitration shall be administered by the LCIA;

7.5.3 the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this 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;

7.5.4 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;

7.5.5 the chair of the arbitral tribunal shall be British;

7.5.6 the arbitration proceedings shall take place in London and in the English language; and

7.5.7 the seat of the arbitration shall be London.

8. Urgent Relief

8.1 Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:

8.1.1 for interim or interlocutory remedies in relation to this Contract or infringement by the other Party of that Party's Intellectual Property Rights; and/or

8.1.2 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 Authority reasonably considers that the matters giving rise to the Dispute involve one or more Related Third Parties, then the Authority 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 Authority's determination that the Dispute is a Multi-Party 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 Authority.

9.4 The Authority shall (acting reasonably) consider each Supplier Request and shall determine within 5 Working Days whether the Dispute is:

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- 9.4.1 a Multi-Party Dispute, in which case the Authority shall serve a Multi-Party Procedure Initiation Notice on the Supplier; or
 - 9.4.2 not a Multi-Party Dispute, in which case the Authority 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 Authority 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:
 - 9.6.1 the Authority;
 - 9.6.2 the Supplier;
 - 9.6.3 each Related Third Party involved in the Multi-Party Dispute; and
 - 9.6.4 any other representatives of any of the Parties and/or any Related Third Parties whom the Authority 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:
 - 9.7.1 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;
 - 9.7.2 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 Notice, at the time and place specified by the Authority, 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
 - 9.7.3 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:

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9.8.1 either Party may serve a Mediation Notice in respect of the Multi-Party Dispute in which case Paragraph 5 shall apply;

9.8.2 either Party may request that the Multi-Party Dispute is referred to an expert in which case Paragraph 6 shall apply; and/or

9.8.3 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 Authority 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.

Schedule 27: Reports and Records Provisions

1. Transparency Reports

- 1.1 Within three (3) months of the Effective Date the Supplier shall provide to the Authority for its approval (such approval not to be unreasonably withheld or delayed) draft reports in accordance with Annex 1 (once approved, the “Transparency Reports”).
- 1.2 If the Authority rejects any draft Transparency Report, the Supplier shall submit a revised version of the relevant report for further approval by the Authority 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 Authority. If the Parties fail to agree on a draft Transparency Report the Authority shall determine what should be included.
- 1.3 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Authority at the frequency referred to in Annex 1.
- 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

- 2.1 The Authority may require any or all of the following reports, and any other reports advised by the Authority in writing from time to time:
 - 2.1.1 Delay reports;
 - 2.1.2 reports relating to Testing and tests carried out under Schedule 5 (Delivery), Schedule 17 (IT Testing Procedures), Schedule 18 (Goods Testing Procedures) and Schedule 29 (Service Continuity Plan and Corporate Resolution Planning);
 - 2.1.3 reports which the Supplier is required to supply as part of the Management Information;
 - 2.1.4 annual reports on the Insurances;
 - 2.1.5 security reports; and
 - 2.1.6 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 1 (together “**Records**”):
 - 3.1.1 in accordance with the requirements of The National Archives and Good Industry Practice;
 - 3.1.2 in chronological order;

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- 3.1.3 in a form that is capable of audit; and
 - 3.1.4 at its own expense.
- 3.2 The Supplier shall make the Records available for inspection to the Authority on request, subject to the Authority 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 Authority.
- 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 Goods and 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 Authority:
 - 3.6.1 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
 - 3.6.2 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 Services Commencement Date and without charge to the Authority, 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 accordance with the requirements outlined in this Schedule.
- 4.2 The Supplier shall ensure that the Virtual Library is:
 - 4.2.1 capable of holding and allowing access to the information described in Annex 3 of this Schedule 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;
 - 4.2.2 structured so that each document uploaded has a unique identifier which is automatically assigned;

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- 4.2.3 readily accessible by the Authority at all times in full via a user-friendly, password protected interface to such nominated users as are notified to the Supplier by the Authority from time to time,
- 4.2.4 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);
- 4.2.5 structured and maintained in accordance with the security requirements as set out in this Contract including those set out in Schedule 5 (Delivery);
- 4.2.6 created and based on open standards in Schedule 4 (Standards); and
- 4.2.7 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 Authority pursuant to Schedule 35, Paragraph 2.1 (Intellectual Property Rights) of this Contract.
- 4.4 The Supplier shall upload complete and accurate information specified in Annex 3 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 Authority 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 Authority email address at:

MOJOperationalGoodsandServices@justice.gov.uk
- 4.6 Except for notices under Clause 42.4 or items covered by Clause 42.6, where the Supplier is under an obligation to provide information to the Authority 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 Authority with that information provided that the Authority 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 Authority access to up-to-date information, Annex 3 shall not take precedence 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 Annex 3) access to view and download the specified information in the Virtual Library in Annex 3 subject upon the occurrence of the event specified in the column marked Access Permission in Annex 3 to this Schedule.
- 4.9 Where Access Permission is not listed (in column 6 of the table at Annex 3) 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 Annex 3) from the Initial Upload Date.
- 4.10 Where Access Permission is specified as being granted to the Authority's Third Party Auditor (prior to the Authority being granted access) it shall:

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- 4.10.1 be entitled to access, view and download information specified in Annex 3 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 4.10.2 of this Schedule); and
- 4.10.2 report to the Authority (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 Annex 3. 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 Annex 3.
- 4.14 In the event of a conflict between any requirement in this Contract (excluding Annex 3) for the Supplier to provide information to the Authority and the requirements set out in Annex 3 of this Schedule, 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 Services Commencement Date, the Supplier shall provide training manuals to the Authority relating to the use of the Virtual Library.
- 4.17 On request by the Authority the Supplier shall provide the Authority'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

Management Report Title	Report Description	Format of Report	Frequency of Report
Uniform Orders	Report which details the orders by User/Group/Establishment/Authority/Job Role	Excel, to include filters and pivot tables to easily extract specific data	Groups/establishments/authority to be able to export reports as and when required from the ordering system.
Usage vs Entitlement	Report which details the usage vs entitlement by User/Group/Establishment/Authority/Job Role	Excel, to include filters and pivot tables to easily extract specific data	Annually for April – March (end of financial year).
Uniform Product Entitlement	Report which details the Uniform product entitlement by Job role	Excel, to include filters and pivot tables to easily extract specific data	Authority to be able to export reports as and when required from the ordering system.
Asset Register	Report which details the Uniform products owned by the Authority	Excel, to include filters and pivot tables to easily extract specific data	Monthly Report. Authority also to be able to export reports as and when required from the ordering system.
Account History of User Access	Report which details historic user access information and order history for User/Group/Establishment/Authority/Job Role	Excel, to include filters and pivot tables to easily extract specific data	Groups/establishments/authority to be able to export reports as and when required from the ordering system.
Usage Spend	Report which details usage spend by User/Group/Establishment/Authority/Job Role	Excel, to include filters and pivot tables to easily extract specific data	Monthly/As required
User Details	Report which details job role/establishment/group/authority	Excel, to include filters and pivot tables to easily extract specific data	Groups/establishments/authority to be able to export reports as and when required from the ordering system
Entitlement Refresh Dates	Report which details entitlement refresh dates by User/Group/Establishment/Authority/Job Role	Excel, to include filters and pivot tables to easily extract specific data	Groups/establishments/authority to be able to export reports as and when required from the ordering system

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Unused/Inactive Accounts	Report which details any unused/inactive accounts	Excel, to include filters and pivot tables to easily extract specific data	Annually for April – March (end of financial year).
Annual Summary of Orders	Report which details the annual summary of orders by Group/ Establishment/Authority/Job Role including the size breakdown	Excel, to include filters and pivot tables to easily extract specific data	Annually for April – March (end of financial year)
Operational KPI Reporting	A performance report which details (on a rolling basis): Performance against KPIs and where requested will include graphs and commentary	Tables/Graph illustrating performance, with backing data where appropriate	Monthly
Implementation KPI Reporting	A performance report which details (on a rolling basis) Performance against Implementation KPIs and where requested will include graphs and commentary	Tables/Graph illustrating performance, with backing data where appropriate	Maximum weekly, frequency to be agreed during implementation
Service Credit Calculation	Service Credits for the period (including where non applicable)	Excel	Monthly
Quarterly Business Update	Presentation / Report covering fulfilment plus summary narrative • Organisational updates • Business plan/strategic update • Past quarters performance against all KPI's • Any key themes, issues, achievements over quarter	Powerpoint Presentation or similar	• Quarterly for the Quarterly Contract Review Meeting) • Annual overview - Highs/Lows at Quarter 4 meeting)
Current stock holding	Report which details current stock holding	Excel, to include filters and pivot tables to easily extract specific data	Monthly
Back Orders	Report which details all orders which have not been fulfilled due to being out of stock	Excel, to include filters and pivot tables to easily extract specific data	Monthly
Sustainability Savings	Powerpoint Presentation/Report which details all environmental impacts including and measurable savings made.	Powerpoint Presentation or similar giving overview of last quarter's performance	Quarterly
Pending Bulk Orders	Report which details which products and volume are in work with manufactures etc	Excel, to include filters and pivot tables to easily	Monthly

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		extract specific data	
Recycling Management Information	Powerpoint Presentation/Report which details sustainability savings made as a result of recycling old garments	Powerpoint Presentation or similar giving overview of last quarter's performance	Quarterly (depending on recycling cycle with supplier)

*Supplier performance against KPIs

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 Goods and 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 Authority Representative in connection with the provision of the Goods and Services.
8. All certificates, licences, registrations or warranties in each case obtained by the Supplier in relation to the provision of the Goods and 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 Authority 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 7 (Security Management).
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

Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
Clause 5.5.5, 5.8.2	Documentation	As appropriate and agreed by the Authority	Within seven (7) days of the issue of a Milestone Achievement Certificate in respect of the relevant Deliverable.	-	Authority
Clause 6.4	Detailed Implementation Plan	Schedule 16	Within 20 Working Days of Effective Date	Every 3 months from Effective Date	Authority
Clause 32.8.8	Annual slavery and human trafficking report	As appropriate and agreed by the Authority	Within twelve (12) months	Every twelve (12) months	Authority
Clause 14.3	Key Personnel	Schedule 32	Effective Date	On replacement of Key Personnel	Authority
Clause 15.7	Notified Key Subcontractors	Schedule 13	Effective Date	On replacement of key subcontractor	Authority
Clause 15.6 and 15.7	Notified Key Sub-Contractors	Schedule 13	Effective Date	With each approved appointment or variation	Authority
Clause 15.23	Supply chain Transparency Reports	Schedule 27, Annex 4	thirty days prior to the end of each financial year	Every twelve (12) months	Authority
Schedule 4, Annex 1, Paragraph 5.1	Evidence of compliance with sustainability requirements	-	On reasonable request by Authority, provided that such requests are limited to [2] per Contract Year	On reasonable request by Authority, provided that such requests are limited to [2] per Contract Year	Authority

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Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
Schedule 4, Annex 1, Paragraph 5.2	Sustainability Report	Schedule 4, Annex 1, Table C	As set out in Table C	As set out in Table C	Authority
Schedule 7, Paragraph 4	Security Management Plan	Schedule 7, Annex 3	Within 20 Working Days of the date of the Contract	Regular review and at least annually	Authority
Schedule 8, Paragraph 4	Evidence of Insurances	Schedule 8	Effective Date	Within fifteen (15) days after policy renewal or replacement	Authority
Schedule 12	Commercially Sensitive Information	Schedule 12	Effective Date	Upon agreement by the Authority to vary the information	Authority and/or Auditor
Schedule 14, Paragraph 15	Third Party Contracts	Schedule 14	Effective Date	On appointment of subcontract	Authority
Schedule 15	Supplier Software and Third Party Software	Schedule 15	Effective Date	No less than every 6 (six) Months from the Effective Date	Authority
Schedule 17, Paragraph 5	Test Strategy	As appropriate and agreed by the Authority	Within twenty(20) Working Days of Effective Date	Upon update to the test strategy	Authority
Schedule 17, Paragraph 6	Test Plan	As appropriate and agreed by the Authority	Twenty (20) prior Working Days of relevant test	Upon update to the test plan	Authority
Schedule 17, Paragraph 8	Test Specification	As appropriate and agreed by the Authority	Ten (10) prior Working Days of relevant test	Upon update to the test specification	Authority

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Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
Schedule 17, Paragraph 9	Test Report	As appropriate and agreed by the Authority	Two (2) Working Days prior to the date on which the test is planned to end for the Draft Test Report Five (5) days for the Final Test Report following the relevant test completion	Reissue with each retest	Authority
Schedule 24, Paragraph 8.3	Risk Register	Schedule 24, Paragraph 8.3	Effective Date	Upon agreement by the Authority to vary the by the Risk Management Board	Authority
Schedule 21, Paragraph 4	Benchmarking Plan	Schedule 21	Upon receipt from Benchmarkers	Approval of Plan	Authority and Auditor
Schedule 21, Paragraph 5	Benchmarking report	Schedule 21	Upon receipt from Benchmarkers	Any update	Authority and Auditor
Schedule 22, Paragraph 2.3.2	Financial Indicator Reports	Schedule 22, Paragraph 2.5	As specified in Schedule 22, Paragraph 2.3.2	As specified in Schedule 22, Paragraph 2.3.2	Authority
Schedule 22 Paragraph 4.3.2	Financial Distress Remediation Plan	As appropriate and agreed by the Authority	As soon as reasonably practicable and in any event within ten (10) Working Days of initial notification or awareness of a Financial Distress Event	On a regular basis (not less than fortnightly)	Authority

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Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
Schedule 22, Paragraph 8	Board Confirmation	As set out at Annex 4 of Schedule 22	Within one hundred and twenty days of the first Accounting Reference Date to occur	Within fifteen (15) months of the Previous Board Confirmation Provided or within one hundred and twenty (120) days after each Accounting Reference Date (whichever is the earlier)	Authority
Schedule 23, Part B, Paragraph 1.1	Contract Amendment Report	Schedule 19, Part B, Paragraph 1.1.3	Within one (1) month of a Material Change being agreed	-	Authority
Schedule 23, Part B, Paragraph 1.1	Quarterly Contract Report	Schedule 23, Part B, Paragraph 1.1.2	Within one (1) month of the end of each Quarter	-	Authority
Schedule 23, Part B, Paragraph 1.1	Annual Contract Report	Schedule 23, Part B, Paragraph 1.1.3	Within one (1) month of the end of the Contract Year to which that report relates	-	Authority
Schedule 23, Part B, Paragraph 1.1	Financial Reconciliation Report	Schedule 23, Part B, Paragraph 1.1.2	Within six (6) months after the end of the Term	-	Authority
Schedule 24, Annex 1	Representation and Structure of boards	Schedule 24, Annex 1	Within seven (7) days of receipt of intention, or in the case of a non-Authority board member agreement by the Authority	-	Authority

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Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
Schedule 24, Annex 1	Minutes of governance meetings (all boards)	As appropriate and agreed by the Authority	Within seven (7) days of receipt from chairperson	-	Authority
Schedule Paragraph 4.3 25	Impact Assessment Estimate	As appropriate and agreed by the Authority	Within ten (10) Working Days of date of receiving Change Request.	-	Authority
Schedule Paragraph 5 25	Impact Assessment	As appropriate and agreed by the Authority	Within the period agreed by the Impact Assessment Estimate	Within ten (10) Working Days of request by the Authority to update under Schedule 25, Paragraph 5.4	Authority
Schedule Paragraph 2.6 25,	Update full copy of the Agreement and copy of annotated version illustrating changes (unless Authority directs otherwise)	PDF and MS Word (editable)	Signature of Variation Date	Any variation	Authority
Schedule Paragraph 4 25,	Change Request	Schedule Annex 1 25,	Within ten (10) Working Days of Authority issuing the Change Request	-	Authority
Schedule Paragraph 6.2 25,	Change Authorisation Note (unless Authority directs otherwise)	Schedule Annex 2 25,	When Authority approves proposed Change pursuant to Paragraph 6.1 and it has not been rejected by the Supplier in	-	Authority

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Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
			accordance with Paragraph 7		
Schedule 26, Paragraph 2.1	Dispute Notice	Schedule 26 Paragraph 2.2	No longer than twenty (20) Working Days from an unresolved dispute arising	Any variation	Authority
Schedule 26, Paragraph 2.4	Mediation Notice	As appropriate	When first served	Any variation	Authority
Schedule 27, Paragraph 1	Reports and Records Provisions	Schedule 27, Annex 1	Within three (3) months of the Effective Date	Frequency specified in Schedule 27, Annex 1	Authority
Schedule 28, Paragraph 2.1.1	Register of All Assets, Sub-contracts and Other Relevant Agreements	As appropriate and agreed by the Authority	Within three (3) months of the Effective Date	Any variation	Authority
Schedule 28, Paragraph 2.1.2	Configuration Database of Technical Infrastructure and Operating Procedures	As appropriate and agreed by the Authority	Within three (3) months of the Effective Date	Any variation	Authority
Schedule 28, Paragraph 3.1	Exit Information	As appropriate and agreed by the Authority	On reasonable notice given by the Authority at any point during the Term	Within ten (10) Working Days of Authority's written request	Authority and its potential Replacement Suppliers
Schedule 28, Paragraph 5.1	Exit Plan	Schedule 28, Paragraph 5.3	Within three (3) months of the Effective Date	In the first month of each contract year; and Within fourteen (14) days if requested by the Authority following a Financial Distress Event	Authority

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Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
				Within twenty (20) days after service of Termination Notice or six (6) months prior to expiry of the Contract	
Schedule 28, Paragraph 6.3.5	Provide up to date Registers during the Termination Assistance Period	As appropriate	As requested by the Authority	As appropriate	
Schedule 28, Paragraph 6.7.2	Government Data (handback)	Schedule 28, Paragraph 3 and/or as appropriate and agreed by the Authority	At the end of the Termination Assistance Period	-	Authority
Schedule 28, Annex 1, Paragraphs 1.1, 1.2, 1.3 and 1.4	Termination Services supporting documentation and knowledge transfer material	As appropriate and agreed by the Authority	As specified in the Termination Assistance Notice and in any event prior to the end of the Termination Assistance Period	As specified in the Termination Assistance Notice or otherwise requested by the Authority	-
Schedule 29 Service Continuity	Service Continuity Plan	Schedule 29, Paragraph 2.2	Within forty (40) Working Days from the Effective Date	Schedule 29, Paragraph 7.1	Authority
Schedule 29, Paragraph 7.2	Service Continuity Plan Review Report	Schedule 29, Paragraph 6.2	Within twenty (20) Working Days of the conclusion of each	-	-

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Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
			review of the Service Continuity Plan.		
Schedule 29, Part B	Corporate Resolution Planning Information	Schedule 29, Part B, Paragraph 2.3	Schedule 29 Part B Paragraph 2.2	Schedule 29, Paragraph 2.8	Authority
Schedule 31, Part C, Paragraph 1.1	Supplier's Provisional Supplier Personnel List and, Staffing Information	As appropriate and agreed by the Authority, in a suitably anonymised format so as to comply with the DPA 2018, see Annex C2	Varies – Schedule 31, Paragraph 1.1.1 – 1.1.4	At such intervals as are reasonably requested by the Authority	Authority
Schedule 31, Part C, Paragraph 1.2	Supplier's Final Supplier Personnel List	As appropriate and agreed by the Authority, see Annex C2	At least twenty (20) Working Days prior to the Service Transfer Date	Upon any material change to the list of employees	Authority and, at the discretion of the Authority, the prospective Replacement Supplier and/or any prospective Replacement Subcontractor
Schedule 31, Part C, Paragraph 1.6	Information relating to the manner in which the services are organised	As appropriate and agreed by the Authority, see Annex C2	Within twenty (20) Working Days of Authority request	Within twenty (20) Working Days of Authority request	Authority

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Applicable Clause/ Paragraph	Required Data	Format of Data	Initial Upload Date	Update Requirement	Access Permission and Access Event (where applicable)
Schedule 31, Part C, Paragraph 1.7	Payroll and benefits information	As appropriate and agreed by the Authority, see Annex C2	Within five (5) Working Days following the Service Transfer Date	-	Authority, any Replacement Supplier and/or Replacement Sub-contractor
Schedule 31, Annex C1	List of Notified Sub-contractors	As appropriate and agreed by the Authority	Effective Date	Upon any change	Authority
Schedule 32	Key Personnel	Schedule 32	Effective Date	As amended from time to time	Authority
Schedule 34, Annex 1 Paragraph 3.1	Reports on Data Subject Access Requests and other Personal Data related matters	As appropriate and agreed by the Authority	As agreed with Authority	As agreed with Authority	Authority and Supplier
Schedule 35, Annex 1	Project Specific IPR and Specially Written Software, adapted or embedded Supplier Software, Third Party Software, Third Party IPRs, or Supplier Background IPRs	Schedule 35, Annex 1 (Intellectual Property Rights)	As agreed with Authority	Regularly - As agreed with Authority	Authority

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Annex 4: Supply Chain Transparency Information Template

	Financial Year 20[]			
	Under this Contract		Supplier as a whole	
	£	%	£	%
Estimated total contract revenue (£) to be received in this Financial Year	£[]	100%	£[]	100%
Total value of Sub-contracted revenues (£) in this Financial Year	£[]	[]	£[]	[]
Total value of Sub-contracted revenues to SMEs (£) in this Financial Year	£[]	[]	£[]	[]
Total value of Sub-contracted revenues to VCSEs (£) in this Financial Year	£[]	[]	£[]	[]

Schedule 28: Exit Management

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

“Emergency Exit“	any termination of this Contract which is a: (a) termination of the whole or part of this Contract in accordance with Clause 31 (<i>Termination Rights</i>), 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 Goods and/or Services for any reason prior to the expiry of any period of notice of termination served pursuant to Clause 31 (<i>Termination Rights</i>); or (c) wrongful termination or repudiation of this Contract by either Party;
“Ethical Agreement“	Wall 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 Goods and/or 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 Authority 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 Goods and/or Services but which are also used by the Supplier or Key Sub-contractor for other purposes of material value;
“Ordinary Exit“	any termination of the whole or any part of this Contract which occurs: (a) pursuant to Clause 31 (<i>Termination Rights</i>) where the period of notice given by the Party serving notice to

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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;

“Transferable Assets“ those of the Exclusive Assets which are capable of legal transfer to the Authority;

“Transferable Contracts“ the Sub-contracts, licences for Supplier’s Software, licences for Third Party Software or other agreements which are necessary to enable the Authority or any Replacement Supplier to provide the Goods or the Replacement Goods, and/or perform the Services or the Replacement Services, including in relation to licences all relevant Documentation; and

“Transferring Contracts has the meaning given in Paragraph 7.2.3.

2. Obligations During the Term to Facilitate Exit

2.1 During the Term, the Supplier shall:

2.1.1 create and maintain a register of all:

- (a) Assets, detailing their:
 - (i) make, model and asset number;
 - (ii) ownership and status as either Exclusive Assets or Non-Exclusive Assets;
 - (iii) Net Book Value;
 - (iv) condition and physical location; and
 - (v) use (including technical specifications); and
 - (vi) Sub-contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the provision of the Goods and/or performance of the Services;

2.1.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Goods and Services, which shall contain sufficient detail to permit the Authority and/or Replacement Supplier to understand how the Supplier provides the Goods and Services and to enable the smooth transition of the supply with the minimum of disruption, including Goods specifications, details of stock levels, stock SKUs, demand profile, next 6 months order cycle, current suppliers, lead times, format of Goods transfer out (pallets etc.), documentation on labelling, and courier network schedule of deliveries;

2.1.3 agree the format of the Registers with the Authority as part of the process of

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agreeing the Exit Plan; and

2.1.4 at all times keep the Registers up to date, in particular in the event that Assets, Sub-contracts or other relevant agreements are added to or removed from the 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 Goods and/or 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 Goods and Services

3.1 On reasonable notice at any point during the Term, the Supplier shall provide to the Authority 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 Authority of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence:

3.1.1 details of the Goods and Services;

3.1.2 all the information required pursuant to Paragraph 2.1.2 of this Schedule;

3.1.3 a copy of the Registers, updated by the Supplier up to the date of delivery of such Registers;

3.1.4 an inventory of Government Data in the Supplier's possession or control;

3.1.5 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;

3.1.6 a list of on-going and/or threatened disputes in relation to the provision of the Goods and/or Services;

3.1.7 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

3.1.8 such other material and information as the Authority shall reasonably require, (together, the "**Exit Information**").

3.2 The Supplier acknowledges that the Authority may disclose the Supplier's Confidential

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Information to an actual or prospective Replacement Supplier or any third party whom the Authority is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Authority 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:

3.3.1 notify the Authority 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 Goods and/or Services and shall consult with the Authority regarding such proposed material changes; and

3.3.2 provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within 10 Working Days of a request in writing from the Authority.

3.4 The Supplier may charge the Authority for its reasonable additional costs to the extent the Authority 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:

3.5.1 prepare an informed offer for those Goods and/or Services; and

3.5.2 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 Goods and Services

4.1 The Authority may require the Supplier to enter into the Ethical Wall Agreement at any point during a re-tendering or contemplated re-tendering of the Goods and Services or any part of the Services.

4.2 If required to enter into the Ethical Wall Agreement, the Supplier will return a signed copy of the Ethical Wall Agreement within 10 Working Days of receipt. The Supplier's costs of entering into the Ethical Wall Agreement 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 Authority an Exit Plan which:

5.1.1 sets out the Supplier's proposed methodology for achieving an orderly transition of the relevant Goods and/or Services from the Supplier to the Authority and/or its Replacement Supplier on the Partial Termination, expiry or termination of this Contract;

5.1.2 complies with the requirements set out in Paragraph 5.2;

5.1.3 is otherwise reasonably satisfactory to the Authority; and

5.1.4 uses the tables in Annex 3 of this Schedule as guidelines for content, key

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activities and timeframes.

- 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:
- 5.3.1 how the Exit Information is obtained;
 - 5.3.2 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 Authority shall require to enable the Authority or its sub-contractors to provide the Goods and/or Services;
 - 5.3.3 a mechanism for dealing with Partial Termination on the assumption that the Supplier will continue to provide the remaining Goods and/or Services under this Contract;
 - 5.3.4 the management structure to be employed during both transfer and cessation of the Goods and/or Services in an Ordinary Exit and an Emergency Exit;
 - 5.3.5 the management structure to be employed during the Termination Assistance Period;
 - 5.3.6 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;
 - 5.3.7 how the Goods and/or Services will transfer to the Replacement Supplier and/or the Authority, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Supplier or its Sub-contractors (where applicable);
 - 5.3.8 the scope of the Termination Services that may be required for the benefit of the Authority (including such of the services set out in Annex 1 as are applicable);
 - 5.3.9 a timetable and critical issues for providing the Termination Services;
 - 5.3.10 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 Change), together with a capped estimate of such charges;
 - 5.3.11 how the Termination Services would be provided (if required) during the Termination Assistance Period;
 - 5.3.12 procedures to deal with requests made by the Authority and/or a Replacement Supplier for Staffing Information pursuant to Schedule 31 (Staff Transfer); and

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5.3.13 how each of the issues set out in this Schedule will be addressed to facilitate the transition of the Goods and/or Services from the Supplier to the Replacement Supplier and/or the Authority with the aim of ensuring that there is no disruption to or degradation of the Goods or Services during the Termination Assistance Period.

5.4 The Parties acknowledge that the migration of the Goods and/or Services from the Supplier to the Authority and/or its Replacement Supplier may be phased, such that certain of the Goods and/or 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 Authority following the occurrence of a Financial Distress Event, within 14 days of such request, to reflect any changes in the Goods or Services that have occurred since the Exit Plan was last agreed. Following such update, the Supplier shall submit the revised Exit Plan to the Authority for review. Within 20 Working Days following submission of the revised 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 Authority'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 Goods or 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 Authority 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 Authority 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 the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

6.1.1 the date from which Termination Services are required;

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- 6.1.2 the nature of the Termination Services required; and
- 6.1.3 the period during which it is anticipated that Termination Services will be required, which shall continue no longer than 24 months after the expiry of the Initial Term or any Extension Period or earlier termination of this Contract;

6.2 The Authority shall have:

- 6.2.1 an option to extend the period of assistance beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend the Termination Assistance period beyond the date which is 30 months after expiry of the Initial Term or any Extension Period or earlier termination of this Contract ;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
- 6.2.2 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 Authority may require, the Supplier shall:

- 6.3.1 continue to provide the Goods and/or Services (as applicable) and, if required by the Authority pursuant to Paragraph 6.1, provide the Termination Services;
- 6.3.2 in addition to providing the Goods and/or Services and the Termination Services, provide to the Authority any reasonable assistance requested by the Authority to allow the Goods and/or 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 Goods and/or Services to the Authority and/or its Replacement Supplier;
- 6.3.3 use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in Paragraph 6.3.2 without additional costs to the Authority;
- 6.3.4 provide the Goods and/or 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
- 6.3.5 at the Authority's request and on reasonable notice, deliver up-to-date Registers to the Authority.

6.4 Without prejudice to the Supplier's obligations under Paragraph 6.3.3, if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.3.2 without additional costs to the Authority, any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Services or the Exit Plan shall be subject to the Change Control Procedure.

6.5 If the Supplier demonstrates to the Authority's reasonable satisfaction that transition of the Goods and/or Services and provision of the Termination Services during the Termination

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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 provision of the Goods and/or performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule) in respect of the Goods and/or Services that have been terminated, the Supplier shall:
- 6.7.1 cease to use the Government Data;
 - 6.7.2 provide the Authority and/or the Replacement Supplier with a complete and uncorrupted version of the Government Data in electronic form (or such other format as reasonably required by the Authority);
 - 6.7.3 erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period all Government Data and promptly certify to the Authority that it has completed such deletion;
 - 6.7.4 return to the Authority such of the following as is in the Supplier's possession or control:
 - (a) all copies of the Authority Software and any other software licensed by the Authority to the Supplier under this Contract;
 - (b) all materials created by the Supplier under this Contract in which the Intellectual Property Rights are owned by the Authority;
 - (c) any parts of the IT Environment and any other equipment which belongs to the Authority; and
 - (d) any items that have been on-charged to the Authority, such as consumables;
 - 6.7.5 vacate all Sites unless access is required to continue to deliver the Goods and/or Services;
 - 6.7.6 provide access during normal working hours to the Authority and/or the Replacement Supplier for up to 12 months after the Partial Termination, expiry or termination of this Contract to:
 - 6.7.7 such information relating to the Goods and/or Services as remains in the possession or control of the Supplier; and
 - 6.7.8 such members of the Supplier Personnel as have been involved in the design, development and provision of the Goods and/or Services and who are still

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employed by the Supplier, provided that the Authority and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to requests for access under this Paragraph 6.7.6.2.

- 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 provision of the Goods and/or 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 Goods and/or 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 Goods and/or Services or Termination Services or for statutory compliance purposes.

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 Goods and/or Services, without the Authority's prior written consent:

- 7.1.1 terminate, enter into or vary any Sub-contract except to the extent that such change does not or will not affect the provision of Goods and/or Services or the Charges;
- 7.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Assets or acquire any new Assets; or
- 7.1.3 terminate, enter into or vary any licence for software in connection with the Goods and/or Services.

- 7.2 Within 20 Working Days of receipt of the up-to-date Registers provided by the Supplier pursuant to Paragraph 6.3.5, the Authority shall provide written notice to the Supplier setting out:

- 7.2.1 which, if any, of the Transferable Assets the Authority requires to be transferred to the Authority and/or the Replacement Supplier in respect of the terminated Goods and/or Services ("Transferring Assets");
- 7.2.2 which, if any, of:
 - (a) the Exclusive Assets that are not Transferable Assets; and
 - (b) the Non-Exclusive Assets,the Authority and/or the Replacement Supplier requires the continued use of; and
- 7.2.3 which, if any, of Transferable Contracts the Authority requires to be assigned or novated to the Authority and/or the Replacement Supplier (the "**Transferring Contracts**"),

in order for the Authority and/or its Replacement Supplier to provide the Goods and/or Services from the expiry of the Termination Assistance Period. Where requested by the

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Authority and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Authority and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts the Authority and/or its Replacement Supplier requires to provide the Goods and/or Services or Replacement Goods and/or Replacement Services. Where requested by the Supplier, the Authority and/or its Replacement Supplier shall discuss in good faith with the Supplier which Transferable Contracts are used by the Supplier in matters unconnected to the Goods and/or Services or Replacement Goods and/or Replacement Services.

- 7.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Authority and/or its nominated Replacement Supplier for a consideration equal to their Net Book Value, except where:
- 7.3.1 a Termination Payment is payable by the Authority to the Supplier, in which case, payment for such Assets shall be included within the Termination Payment; or
 - 7.3.2 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 Authority 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 Authority or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Authority or the Replacement Supplier (as appropriate) on payment for the same.
- 7.5 Where the Supplier is notified in accordance with Paragraph 7.2.3 that the Authority 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:
- 7.5.1 procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Authority) for the Authority and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
 - 7.5.2 procure a suitable alternative to such assets and the Authority 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 Authority and/or the Replacement Supplier of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as the Authority reasonably requires to effect this novation or assignment.
- 7.7 The Authority shall:
- 7.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
 - 7.7.2 once a Transferring Contract is novated or assigned to the Authority 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

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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 Authority until such time as the transfer of the relevant Transferring Contract to the Authority and/or the Replacement Supplier has been effected.
- 7.9 The Supplier shall indemnify the Authority (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 Authority (and/or Replacement Supplier) pursuant to Paragraph 7.6 both:
- 7.9.1 in relation to any matters arising prior to the date of assignment or novation of such Sub-contract; and
 - 7.9.2 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 Clause 16 (*Intellectual Property Rights*) and/or Schedule 35 (*Intellectual Property Rights*).

8. Supplier Personnel

- 8.1 The Authority and Supplier agree and acknowledge that in the event of the Supplier ceasing to provide the Goods and/or Services or part of them for any reason, Schedule 31 (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 Goods and/or Services from transferring their employment to the Authority and/or the Replacement Supplier.
- 8.3 During the Termination Assistance Period, the Supplier shall give the Authority and/or the Replacement Supplier reasonable access to the Supplier's personnel to present the case for transferring their employment to the Authority and/or the Replacement Supplier.
- 8.4 The Supplier shall immediately notify the Authority or, at the direction of the Authority, 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 Authority 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

- 9.1 During the Termination Assistance Period (or for such shorter period as the Authority may require the Supplier to provide the Termination Services), the Authority 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.

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- 9.2 Where the Authority requests an extension to the Termination Services beyond the Termination Assistance Period in accordance with Paragraph 6.2:
- 9.2.1 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
 - 9.2.2 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 Authority 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 Authority and the Supplier and/or the Replacement Supplier and the Supplier (as applicable) as follows:
- 10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;
 - 10.1.2 the Authority 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
 - 10.1.3 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 Authority shall procure that the Replacement Supplier shall pay) any monies due under Paragraph 10.1 as soon as reasonably practicable.

Annex 1: Scope of the Termination Services

1. Scope of the Termination Services

- 1.1 The Termination Services to be provided by the Supplier shall include such of the following services as the Authority may specify:
- 1.1.1 ceasing all non-critical Software changes (except where agreed in writing with the Authority);
 - 1.1.2 notifying the Sub-contractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
 - 1.1.3 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 Authority and/or the Replacement Supplier after the end of the Termination Assistance Period;
 - 1.1.4 delivering to the Authority 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;
 - 1.1.5 providing details of work volumes and staffing requirements over the 12 month period immediately prior to the commencement of the Termination Services;
 - 1.1.6 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;
 - 1.1.7 providing the Authority with any problem logs which have not previously been provided to the Authority;
 - 1.1.8 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Goods and/or Services and re-writing and implementing these during and for a period of 12 months after the Termination Assistance Period;
 - 1.1.9 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Goods and/or Services and re-writing and implementing these such that they are appropriate for the continuation of the provision of the Goods and/or Services after the Termination Assistance Period;
 - 1.1.10 agreeing with the Authority an effective communication strategy and joint communications plan which sets out the implications for Supplier Personnel, Authority staff, customers and key stakeholders;
 - 1.1.11 reviewing all Software libraries used in connection with the Goods and/or Services and providing details of these to the Authority and/or the Replacement Supplier;

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- 1.1.12 providing assistance and expertise as necessary to support the Authority and/or the Replacement Supplier develop the migration plan for business operations and Government Data to the Replacement Supplier, which may include migration approach, testing of plans, contingency options, and handling of historic or archived Government Data;
- 1.1.13 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 Authority and/or Replacement Supplier;
- 1.1.14 making available to the Authority 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 Authority (acting reasonably) at the time of termination or expiry;
- 1.1.15 assisting in establishing naming conventions for any new production site;
- 1.1.16 analysing and providing information about capacity and performance requirements, processor requirements and bandwidth requirements, and known planned requirements for capacity growth across these areas;
- 1.1.17 generating a computer listing of the Source Code of **[insert details of relevant Software]** in a form and on media reasonably requested by the Authority;
- 1.1.18 agreeing with the Authority a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
- 1.1.19 delivering copies of the production databases (with content listings) to the Authority's and/or the Replacement Supplier's operations staff (on appropriate media) as reasonably requested by the Authority;
- 1.1.20 assisting with the loading, testing and implementation of the production databases;
- 1.1.21 assisting in the execution of a parallel operation until the effective date of expiry or termination of this Contract;
- 1.1.22 in respect of the maintenance and support of the Supplier System, providing historical performance data for the previous **[insert time period]**;
- 1.1.23 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 Authority (provided that these Services shall end on a date no later than the end of the Termination Assistance Period);
- 1.1.24 providing an information pack listing and describing the Goods and/or Services for use by the Authority in the procurement of the Replacement Goods and/or Replacement Services;
- 1.1.25 answering all reasonable questions from the Authority and/or the Replacement Supplier regarding the Goods and/or Services;
- 1.1.26 agreeing with the Authority and/or the Replacement Supplier a plan for the

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migration of the Government Data to the Authority and/or the Replacement Supplier;

1.1.27 providing access to the Authority 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 provision of Goods and/or Services to the Authority and/or the Replacement Supplier:

- (a) 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
- (b) 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 Goods and/or Services and who are still employed or engaged by the Supplier or its Sub-contractors; and

1.1.28 knowledge transfer services, including:

- (a) transferring all training material and providing appropriate training to those Authority and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Goods and/or Services;
- (b) providing for transfer to the Authority and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Goods and/or Services which may, as appropriate, include information, records and documents;
- (c) 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 Goods and/or Services and who are still employed or engaged by the Supplier or its Sub-contractors; and
- (d) allowing the Authority and/or the Replacement Supplier to work alongside and observe the provision of the Goods and/or performance of the Services by the Supplier at its Sites used to fulfil the provision of Goods and/or Services (subject to compliance by the Authority and the Replacement Supplier with any applicable security and/or health and safety restrictions,

and any such person who is provided with such knowledge transfer services will sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require)).

1.2 The Supplier shall:

1.2.1 provide a documented plan relating to the training matters referred to in Paragraph 1.1.14 for agreement by the Authority at the time of termination or expiry of this Contract;

1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to

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Paragraph 1.1.18, providing skills and expertise of a suitable standard; and

- 1.2.3 fully co-operate in the execution of the Government Data migration plan agreed pursuant to Paragraph 1.1.26, providing skills and expertise of a reasonably acceptable standard.
- 1.3 To facilitate the transfer of knowledge from the Supplier to the Authority and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Goods and/or Services, the change management process and other standards and procedures to the operations personnel of the Authority and/or the Replacement Supplier.
- 1.4 The information which the Supplier shall provide to the Authority and/or the Replacement Supplier pursuant to Paragraph 1.1.27, 1.1.26 shall include:
 - 1.4.1 copies of up-to-date procedures and operations manuals;
 - 1.4.2 product information;
 - 1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Authority and/or the Replacement Supplier;
 - 1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Authority pursuant to this Schedule;
 - 1.4.5 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;
 - 1.4.6 details of physical and logical security processes and tools which will be available to the Authority; and
 - 1.4.7 any relevant interface information,and such information shall be updated by the Supplier at the end of the Termination Assistance Period.
- 1.5 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 Authority access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:
 - 1.5.1 any such agent or personnel (including employees, consultants and suppliers) having access to any Sites pursuant to this Paragraph 1.5 shall:
 - (a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and
 - (b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Authority deems reasonable; and
 - 1.5.2 the Authority and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

Annex 2: Draft Ethical Wall Agreement

[THE AUTHORITY]

and

[THE COUNTERPARTY]

ETHICAL WALL AGREEMENT

This Agreement is dated [] 20[] (the “Effective Date”).

BETWEEN:

- (a) **[insert NAME OF AUTHORITY]** (the “**Authority**”) **[acting on behalf of the Crown]** of **[insert Authority's address]**; and
- (b) **[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**”),

together the “**Parties**” and each a “**Party**”.

BACKGROUND

- (A) The Authority is obliged to ensure transparency, fairness, non-discrimination and equal treatment in relation to its procurement process pursuant to the Procurement Regulations (defined below). 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 Purpose (defined below).
- (B) The Authority is conducting a procurement exercise for the **[supply/purchase/provision]** of **[insert details of project/goods/services]** (the “**Purpose**”).
- (C) 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 Counterparty does not obtain an unfair competitive advantage over Other Bidders.

IT IS AGREED:

1. Definitions and Interpretation

- 1.1 The following capitalised 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 Representatives of the Counterparty, any of its Affiliates and/or any Subcontractors connected to the preparation of an ITT Response; “

“Conflicted Personnel” means any Representatives of:

- (a) the Counterparty;
- (a) any of the Counterparty’s Affiliates; and/or
- (b) any Subcontractors,

who, because of the Counterparty’s, any of its Affiliates’ and/or any Subcontractors’ relationship with the Authority under any Contract, have or have had access to information which creates or may create a conflict of interest or provide the Bid Team with an unfair advantage as regards information Other Bidders would not have;

“Contract” means any pre-existing or previous contract between the Authority and:

- (a) the Counterparty;
- (b) any of the Counterparty’s Affiliates;
- (c) any Subcontractor; and
- (d) any other Third Party,

relating to the subject matter of the Purpose at the date of the commencement of the ITT Process;

“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;

“Invitation to Tender” or **“ITT”** means an invitation to submit tenders issued by the Authority as part of an ITT Process (and shall include an Invitation to Negotiate);

“ITT Process” means, with regard to the Purpose, the relevant procedure provided for in the Procurement Regulations (as amended), which the Authority has elected to use to select a contractor or contractors, together with all relevant information, data, correspondence and/or documents issued and/or made available by or on behalf of the Authority as part of that procurement exercise and all information, correspondence and/or

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documents issued and/or made available by or on behalf of the bidders in response together with any resulting contracts;

“ITT Response” means the tender(s) submitted, or to be submitted, by the Counterparty, any of its Affiliates and/or any Subcontractors in response to any invitation(s) to submit bids under the ITT process;

“Other Bidder” means any other bidder or potential bidder that is not the Counterparty or any of its Affiliates that has taken or is taking part in the ITT Process;

“Procurement Process” means the period commencing on the earlier of: (a) the publication of the first notice in relation to the Purpose; and (b) the execution of this Agreement, and ending on the occurrence of: (i) the publication by the Authority of all contract award notices that result from the ITT Process; or (ii) the abandonment or termination of the ITT Process as notified by the Authority;

“Procurement Regulations” means the Public Contracts Regulations 2015, the Public Procurement (Amendment etc.)(EU Exit) Regulations 2020, the Defence and Security Public Contracts Regulations 2011, the Utilities Contracts Regulations 2016, and the Concession Contracts Regulations 2016, each as amended from time to time;

“Professional Advisor” means a supplier, subcontractor, advisor or consultant engaged by the Counterparty and/or any of its Affiliates under the auspices of compiling its ITT response;

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

“Representative” refers to a person’s officers, directors, employees, advisers (including the officers, directors, employees, advisers and agents of any Professional Advisors), agents and, where the context admits, providers or potential providers of finance (including their representatives) to the Counterparty, any of its Affiliates and/or any subcontractors engaged in connection with the ITT Process;

“Subcontractor” means an existing or proposed subcontractor of:

- (a) the Counterparty; and/or
- (b) any of the Counterparty’s Affiliates,

who is connected to the preparation of an ITT Response (including key subcontractors named in the ITT Response);

“Third Party” means any person who is not a Party, including Other Bidders, their Affiliates and/or their Representatives; and

“Working Day” means any day of the week other than a weekend, when Banks in England and Wales are open for business.

- 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 Authority, the Counterparty, any of the Counterparty’s Affiliates and/or any Subcontractors includes

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disclosure, or provision of access, by or to the Representatives of the Authority, the Counterparty, any of its Affiliates and/or any Subcontractors (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 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 Authority to the Counterparty, receipt of which is hereby acknowledged, the Parties agree to be bound by the terms of this Agreement.

Conflicts of Interest

- 2.2 The Counterparty:
 - 2.2.1 shall take all appropriate steps to ensure that neither the Counterparty, nor its Affiliates, nor any Subcontractors nor any Representatives are in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Counterparty, any of its Affiliates, any Subcontractors and/or any Representatives and the duties owed to the Authority under any Contract or pursuant to an open and transparent ITT Process; and
 - 2.2.2 acknowledges and agrees that a conflict of interest may arise in situations where the Counterparty, any of its Affiliates, any Subcontractors and/or any Representatives intend to take part in the ITT Process and because of the Counterparty’s, any of its Affiliates’, any Subcontractors’ and/or any Representatives’ relationship with the Authority under any Contract, the Counterparty, any of its Affiliates, any Subcontractors and/or any Representatives have or have had access to information which could provide the Counterparty, any of its Affiliates, any Subcontractors and/or any Representatives with an advantage and render unfair an otherwise genuine and open competitive ITT Process.

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- 2.3 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 ITT Process, the Counterparty shall take such steps that are necessary to eliminate the conflict of interest to the Authority's satisfaction, including one or more of the following:
- 2.3.1 not assigning any of the Conflicted Personnel to the Bid Team at any time;
 - 2.3.2 providing to the Authority promptly upon request a complete and up to date list of any Conflicted Personnel and the personnel comprising the Bid Team and reissue such list to the Authority promptly upon any change to it;
 - 2.3.3 ensuring that no act or omission by itself, its Affiliates, any Subcontractors and/or any Representatives results in information of any kind, however conveyed, or in any format and however so stored:
 - 2.3.3.1 about the ITT Process (gleaned from the performance of any Contract or otherwise); and/or
 - 2.3.3.2 which would or could in the opinion of the Authority confer an unfair advantage on the Counterparty in relation to its participation in the ITT Process,becoming available to the Bid Team where the Authority has not made generally available that information to Other Bidders;
 - 2.3.4 ensuring that by no act or omission by itself, its Affiliates, any Subcontractors and/or any Representatives and in particular the Bid Team results in information of any kind, however conveyed, 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;
 - 2.3.5 ensure that agreements that flow down the Counterparty's obligations in this Agreement, are entered into as necessary, between the Counterparty and its Affiliates and any Subcontractors in a form to be approved by the Authority;
 - 2.3.6 physically separating the Conflicted Personnel and the Bid Team, either in separate buildings or in areas with restricted access;
 - 2.3.7 providing regular training to its Affiliates, any Subcontractors and/or Representatives to ensure it is complying with this Agreement;
 - 2.3.8 monitoring Conflicted Personnel movements within restricted areas (both physical and electronic online areas) to ensure it is complying with this Agreement and to ensure adherence to the ethical wall arrangements the Counterparty, its Affiliates, any Subcontractors and/or any Representatives have put in place in order to comply with this Agreement;
 - 2.3.9 ensuring that the Conflicted Personnel and the Bid Team are line managed and report independently of each other; and
 - 2.3.10 complying with any other action as the Authority, acting reasonably, may direct in connection with the ITT Process and/or this Agreement.

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Notification of Conflicts of Interest

2.4 The Counterparty shall:

- 2.4.1 notify the Authority immediately in writing of all perceived, potential and/or actual conflicts of interest that arise or have arisen;
- 2.4.2 submit in writing to the Authority full details of the nature of the perceived, potential and/or actual conflict of interest including full details of the risk assessments undertaken, the impact or potential impact of the perceived, potential and/or actual conflict, the measures and arrangements that have been established and/or are due to be established, to eliminate the perceived, potential and/or actual conflict, and the Counterparty's plans to prevent potential conflicts of interests from arising ("**Proposed Avoidance Measures**"); and
- 2.4.3 seek the Authority's approval to the Proposed Avoidance Measures which the Authority shall have the right to grant, grant conditionally or deny (if the Authority rejects the Proposed Avoidance Measures the Counterparty shall repeat the process set out in this Clause 2.4 until such time as the Authority grants approval or the Counterparty withdraws from the ITT Process).

2.5 The Counterparty will provide to the Authority, on demand, any and all information in relation to its adherence with its obligations set out under Clauses 2.2 and 2.3 as reasonably requested by the Authority.

2.6 The Authority reserves the right to require the Counterparty to demonstrate the measures put in place by the Counterparty under Clauses 2.2 and 2.3.

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 Authority of the adequacy of such measures and does not discharge the Counterparty of its obligations or liability under this Agreement.

Exclusion from the ITT Process

2.8 Where, in the reasonable opinion of the Authority, there has been any breach by the Counterparty of Clauses 2.2, 2.3, or 2.4 or failure to obtain the Authority's approval of the Proposed Avoidance Measures the Authority shall be entitled to exclude the Counterparty, or any of its Affiliates and/or any Representatives, from the ITT Process, and the Authority may, in addition to the right to exclude, take such other steps as it deems necessary.

2.9 The actions of the Authority pursuant to Clause 2.8 shall not prejudice or affect any right of action or remedy under this Agreement or at law which shall have accrued or shall thereafter accrue to the Authority.

Bid Costs

2.10 In no event shall the Authority be liable for any bid costs incurred by:

- 2.10.1 the Counterparty or any of its Affiliates, any Representatives and/or any Subcontractors; or
- 2.10.2 any Third Party,

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as a result of any breach of this Agreement by the Counterparty, any of its Affiliates, any Subcontractors and/or Representatives, including where the Counterparty, any of its Affiliates, any Subcontractors or Representatives, or any Third Party is or are excluded from the ITT Process.

Specific Remedies

2.11 The Counterparty acknowledges and agrees that:

2.11.1 neither damages nor specific performance are adequate remedies in the event of a breach of the obligations in Clause 2; and

2.11.2 in the event of a breach of any of the obligations in Clause 2 which cannot be effectively remedied the Authority shall have the right to terminate both this Agreement and the Counterparty's participation in the ITT Process in each case with immediate effect on written notice.

3. Sole Responsibility

3.1 It is the sole responsibility of the Counterparty to comply with the terms of this Agreement, including ensuring its Affiliates, any Subcontractors, and/or any Representatives comply with the terms of this Agreement. No approval by the Authority of any procedures, agreements or arrangements provided by the Counterparty, any of its Affiliates, any Subcontractors and/or their Representatives to the Authority 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 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 The Counterparty 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 Authority.

5.2 The Authority 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

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5.2.3 the Counterparty shall, at the Authority's request, enter into a novation agreement in such form as the Authority may reasonably specify in order to enable the Authority to exercise its rights pursuant to this Clause 5.

5.3 A change in the legal status of the Authority 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 Authority.

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 or 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 Authority is under a legal duty pursuant to the Procurement Regulations to run transparent and fair procurement processes. Accordingly, the Authority may disclose the contents of this Agreement to Other Bidders (and/or potential Other Bidders) 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:

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 TM 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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	Counterparty	Authority
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. 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/[or for the period of the duration of the Procurement Process]

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.

Signed by the Authority

Name:

Signature:

Position in Authority:

Signed by the Counterparty

Name:

Signature:

Position in Counterparty:

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Annex 3: Exit considerations**Ordinary Exit**

Task	Time (T = termination or expiry date) (E= effective date)	Responsible
General – Post Effective Date		
Produce an approved Exit transition plan	E+3months	Supplier
Develop and maintain a configuration data base	E+3months	Supplier
Develop and maintain a stock inventory	E+3months	Supplier
Develop and maintain stock order profile	E+3months	Supplier
Develop and maintain end to end operating processes	E+3months	Supplier
Develop and maintain distribution network and suppliers	E+3months	Supplier
Develop and maintain stock lead times	E+3months	Supplier
Develop and maintain IPR ownership (design, products)	E+3months	Supplier and Authority
Determine Data to destroy on Exit	E+3months	Authority
Determine IT portal info to transfer	E+3months	Supplier and Authority
EXIT PLAN		
Appoint Exit Programme Manager	T - 6 Months	Supplier
Appoint Exit programme transition manager	T – 6 Months	Authority
Form Exit Programme Board	T - 6 Months	Authority
Determine key contacts	T – 6 months	Authority and Supplier
Finalise complete Exit and transfer plan	T - 4 Months	Authority and Supplier
Agree contingency plan	T - 4 Months	Authority and Supplier
Exit plan monitoring compliance checks steps (weekly)	T-4 Months	Authority and Supplier
Assets (Products)		
Provide list of all Assets for transfer	T - 6 Months	Supplier

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Task	Time (T = termination or expiry date) (E= effective date)	Responsible
Provide list of all other Assets used - not eligible for transfer	T - 6 Months	Supplier
Provide list of all equipment used - not owned by Authority	T - 6 Months	Supplier
Provide list of all equipment used - Authority owned	T - 6 Months	Supplier
Agree cost of Assets to transfer	T - 5 Months	Supplier
Agree cost of transfer of Assets (not owned by Authority)	T - 4 Months	Authority and Supplier
Devise complete Asset transfer plan	T - 4 Month	Supplier
Agree finalised Asset transfer plan	T - 3 Month	Authority and Supplier
LICENCES		
Provide details of all software required to deliver the Services	T - 6 Months	Supplier
Agree which software to transfer (if any)	T - 5 Months	Authority and Supplier
Agree cost of transfer, (novation free of charges)	T - 4 Months	Authority and Supplier
Work in Progress (next 12 months)		
Provide forward plans for pipeline activity	T - 6 Months	Supplier
Agree final date for passing of orders to Supplier	T - 6 Months	Authority and Supplier
Provide list of outstanding orders from Supplier's order management system	T - 6 Months	Supplier
Supplier Personnel Transfer (if applicable)		
Provide details of Supplier Personnel that maybe subject to TUPE transfer	T- 5 months	Supplier
Provide final details of Supplier Personnel subject to TUPE transfer	T – 1 Month	Supplier
Authority notify Supplier and Replacement Supplier of necessary Supplier Personnel for transfer	T - 4 Months	Authority
Notify Supplier Personnel of potential TUPE application	T - 4 Months	Supplier

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Task	Time (T = termination or expiry date) (E= effective date)	Responsible
cost proposal for usage of Supplier Personnel	T - 4 Months	Supplier
Acceptance of proposal for Supplier Personnel usage	T - 4 Months	Supplier
Forward terms and conditions of employment to the Authority	T - 3 Months	Supplier
Notification of intention to transfer TUPE staff	T - 3 Months	Authority
Commence Supplier Personnel consultation programme	T - 3 Months	Supplier, Replacement Supplier
Begin Exit Transition	T = 0	
Transfer of Service		
Transfer Assets	T - 1 Week	Supplier
Transfer licenses	T - 1 Week	Supplier
Transfer Supplier data	T - 1 Week	Supplier
Set up new helpdesk facility	T - 1 Week	Replacement Supplier
Transfer staff	T + 0 Week	Supplier, Replacement Supplier
Data destroyed	T + 0 day	Supplier & Authority
Exit complete	T + 2 Weeks	Authority

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Scenario 2 Termination for Convenience – Emergency Exit

Task	Time (T = termination or expiry date) (E= effective date)	Responsible
General – Post Effective Date		
Produce an approved Exit transition plan	E+3months	Supplier
Develop and maintain a configuration data base	E+3months	Supplier
Develop and maintain a stock inventory	E+3months	Supplier
Develop and maintain stock order profile	E+3months	Supplier
Develop and maintain end to end operating processes	E+3months	Supplier
Develop and maintain distribution network and suppliers	E+3months	Supplier
Develop and maintain stock lead times	E+3months	Supplier
Develop and maintain IPR ownership (design, products)	E+3months	Supplier and Authority
Determine Data to destroy on Exit	E+3months	Authority
Determine IT Portal info to transfer	E+3months	Supplier and Authority
Appoint Exit programme transition manager	T – 2 Months	Authority
Form Exit Programme Board	T - 1 Month	Authority
Determine key contacts	T – 2 months	Authority and Supplier
Finalise complete Exit and transfer plan	T - 1 Month	Authority and Supplier
Agree contingency plan	T - 4 Months	Authority
Estimate breakage costs	T- 4 Months	Authority
Exit plan monitoring compliance checks steps(weekly)	T-1 Month	Authority and Supplier
Assets (Products)		
Provide list of all Assets for transfer	T - 1 Month	Supplier

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Task	Time (T = termination or expiry date) (E= effective date)	Responsible
Provide list of all other Assets used - not eligible for transfer	T - 1 Month	Supplier
Provide list of all equipment used - not owned by Authority	T - 1 Month	Supplier
Provide list of all equipment used - Authority owned	T - 1 Month	Supplier
Agree cost of Assets to transfer	T - 1 Month	Supplier
Agree cost of transfer of Assets (not owned by Authority)	T - 1 Month	Authority and Supplier
Devise complete Asset transfer plan	T - 1 Month	Supplier
Agree finalised Asset transfer plan	T - 1 Month	Authority and Supplier
LICENCES		
Provide details of all software required to deliver the Services	T - 1 Month	Supplier
Agree which software to transfer (if any)	T - 1 Month	Authority and Supplier
Agree cost of transfer, (novation free of charges)	T - 1 Month	Authority and Supplier
Work in Progress (next 12 months)		
Provide forward plans for pipeline activity	T - 1 Month	Supplier
Agree final date for passing of orders to Supplier	T - 1 Months	Authority and Supplier
Provide list of outstanding orders from Supplier's order management system	T - 1 Month	Supplier
Supplier Personnel Transfer (if applicable)		
Provide details of Supplier Personnel that may be subject to TUPE transfer	T- 1 month	Supplier

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Task	Time (T = termination or expiry date) (E= effective date)	Responsible
Provide final details of Supplier Personnel subject to TUPE transfer	T – 1 Month	Supplier
Authority notify Supplier and Replacement Supplier of necessary Supplier Personnel for transfer	T - 1 Month	Authority
Notify Supplier Personnel of potential TUPE application	T - 1 Month	Supplier
Cost proposal for usage of Supplier Personnel	T - 1 Month	Supplier
Acceptance of proposal for Supplier Personnel usage	T - 1 Month	Supplier
Forward terms and conditions of employment to the Authority	T - 1 Month	Supplier
Notification of intention to transfer TUPE staff	T - 1 Month	Authority
Commence Supplier Personnel consultation programme (would need to buy out consultation period)	T - 1 Month	Authority Supplier, Replacement Supplier
Begin Exit Transition	T = 0	
Transfer of Service		
Transfer Assets	T -1 Week	Supplier
Transfer licenses	T - 1 Week	Supplier
Transfer Supplier data	T - 1 Week	Supplier
Set up new helpdesk facility	T - 1 Week	Replacement Supplier
Transfer staff	T + 0 Week	Authority Supplier, Replacement Supplier
Data destroyed	T + 0 day	Supplier and Authority
Exit complete	T + 2 Weeks	Authority

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Scenario Supplier Terminates– Emergency exit

Task	Time (T = termination or expiry date) (E= effective date)	Responsible
General – Post Effective Date		
Produce an approved Exit transition plan	E+3months	Supplier
Develop and maintain a configuration data base	E+3months	Supplier
Develop and maintain a stock inventory	E+3months	Supplier
Develop and maintain stock order profile	E+3months	Supplier
Develop and maintain end to end operating processes	E+3months	Supplier
Develop and maintain distribution network and suppliers	E+3months	Supplier
Develop and maintain stock lead times	E+3months	Supplier
Develop and maintain IPR ownership (design, products)	E+3months	Supplier and Authority
Determine Data to destroy on Exit	E+3months	Authority
Determine IT Portal info to transfer	E+3months	Supplier and Authority
EXIT PLAN		
Appoint Exit Programme Manager	T - 1 Month	Supplier
Appoint Exit programme transition manager	T – 1 Month	Authority
Form Exit Programme Board	T - 1 Month	Authority
Determine key contacts	T – 1 month	Authority and Supplier
Finalise complete Exit and transfer plan	T - 1 Month	Authority and Supplier
Agree contingency plan	T - 1 Month	Authority
Estimate breakage costs	T- 1 Month	Authority and Supplier
Exit plan monitoring compliance checks steps (weekly)	T-1 Month	Authority and Supplier
Assets (Products)		

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Task	Time (T = termination or expiry date) (E= effective date)	Responsible
Provide list of all Assets for transfer	T - 1 Month	Supplier
Provide list of all other Assets used - not eligible for transfer	T - 1 Month	Supplier
Provide list of all equipment used - not owned by Authority	T - 1 Month	Supplier
Provide list of all equipment used - Authority owned	T - 1 Month	Supplier
Agree cost of Assets to transfer	T - 1 Month	Supplier
Agree cost of transfer of Assets (not owned by Authority)	T - 1 Month	Authority and Supplier
Devise complete Asset transfer plan	T - 1 Month	Supplier
Agree finalised Asset transfer plan	T - 1 Month	Authority and Supplier
LICENCES		
Provide details of all software required to deliver the Services	T - 1 Month	Supplier
Agree which software to transfer (if any)	T - 1 Month	Authority and Supplier
Agree cost of transfer, (novation free of charges)	T - 1 Month	Authority and Supplier
Work in Progress (next 12 months)		
Provide forward plans for pipeline activity	T - 1 Month	Supplier
Agree final date for passing of orders to Supplier	T - 1 Month	Authority and Supplier
Provide list of outstanding orders from Supplier's order management system	T - 1 Month	Supplier
Supplier Personnel Transfer (if applicable)		
Provide details of Supplier Personnel that may be subject to TUPE transfer	T - 1 month	Supplier

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Task	Time (T = termination or expiry date) (E= effective date)	Responsible
Provide final details of Supplier Personnel subject to TUPE transfer	T – 1 Month	Supplier
Authority notify Supplier and Replacement Supplier of necessary Supplier Personnel for transfer	T - 1 Month	Authority
Notify Supplier Personnel of potential TUPE application	T - 1 Month	Supplier
Cost proposal for usage of Supplier Personnel	T - 1 Month	Supplier
Acceptance of proposal for Supplier Personnel usage	T - 1 Month	Supplier
Forward terms and conditions of employment to the Authority	T - 1 Month	Supplier
Notification of intention to transfer TUPE staff	T - 1 Month	Authority
Commence Supplier Personnel consultation programme (would need to buy out consultation period)	T - 1 Month	Supplier, Replacement Supplier
Begin Exit Transition	T = 0	
Transfer of Services		
Transfer Assets	T -1 Week	Supplier
Transfer licenses	T - 1 Week	Supplier
Transfer Supplier data	T - 1 Week	Supplier
Set up new helpdesk facility	T - 1 Week	Replacement Supplier
Transfer staff	T + 0 Week	Supplier, Replacement Supplier
Data destroyed	T + 0 day	Supplier and Authority
Exit complete	T + 2 Weeks	Authority

Schedule 29: Service Continuity Plan and Corporate Resolution Planning

Part A: Service Continuity Plan

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

“Business Continuity Plan“ has the meaning given in Paragraph 2.2.1.2;

“Business Continuity Services“ has the meaning given in Paragraph 4.2.2;

“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:

- (a) government department; or
- (b) non-ministerial department;

“Disaster“ the occurrence of one or more events which, either separately or cumulatively, mean that the Goods and/or Services, or a material part of the Goods and/or Services will be unavailable for a period of 48 hours or which is reasonably anticipated will mean that the Goods and/or Services or a material part of the Goods and/or Services will be unavailable for that period;

“Disaster Plan“ **Recovery** has the meaning given in Paragraph 2.2.1.3;

“Disaster Services“ **Recovery** the services embodied in the processes and procedures for restoring the provision of the Goods and/or Services following the occurrence of a Disaster;

“Disaster System“ **Recovery** 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 2.2.1.4;

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“Related Provider” **Service** any person who provides services to the Authority in relation to this Contract from time to time, which persons include as at the Effective Date **not applicable**;

“Review Report” has the meaning given in Paragraphs 7.2.1 to 7.2.3; and

“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 Authority for the Authority’s written approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

2.1.1 ensure continuity of the business processes and operations supported by the provision of the Goods and Services following any failure or disruption of any element of the Goods and/or Services (including where caused by an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member); and

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

2.2 The Service Continuity Plan shall:

2.2.1 be divided into four parts:

2.2.1.1 Part A which shall set out general principles applicable to the Service Continuity Plan;

2.2.1.2 Part B which shall relate to business continuity (the **“Business Continuity Plan”**);

2.2.1.3 Part C which shall relate to disaster recovery (the **“Disaster Recovery Plan”**);

2.2.1.4 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

2.2.2 unless otherwise required by the Authority 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 Authority shall:

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

2.3.2 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 Authority.

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2.4 If the Authority rejects the draft Service Continuity Plan:

- 2.4.1 the Authority shall inform the Supplier in writing of its reasons for its rejection; and
- 2.4.2 the Supplier shall then revise the draft Service Continuity Plan (taking reasonable account of the Authority's comments) and shall re-submit a revised draft Service Continuity Plan to the Authority for the Authority's approval within 20 Working Days of the date of the Authority'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:

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

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Key Sub-contractors and/or Supplier Group member; and

- (e) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
 - 3.1.7 provide for documentation of processes, including business processes, and procedures;
 - 3.1.8 set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-contractors) and for the Authority;
 - 3.1.9 identify and list alternatives for shipping and delivery of Goods;
 - 3.1.10 identify the procedures for reverting to “normal service”;
 - 3.1.11 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;
 - 3.1.12 identify the responsibilities (if any) that the Authority has agreed it will assume in the event of the invocation of the Service Continuity Plan; and
 - 3.1.13 provide for the provision of technical advice and assistance to key contacts at the Authority as notified by the Authority from time to time to inform decisions in support of the Authority’s business continuity plans.
- 3.2 The Service Continuity Plan shall be designed so as to ensure that:
- 3.2.1 the Goods and/or Services are provided in accordance with this Contract at all times during and after the invocation of the Service Continuity Plan;
 - 3.2.2 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 Authority, is minimal as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/IEC 22301 and all other industry standards from time to time in force; and
 - 3.2.4 there is a process for the management of disaster recovery testing detailed in the Service Continuity Plan.
- 3.3 The Service Continuity Plan shall be upgradeable and sufficiently flexible to support any changes to the provision of the Goods and/or Services, to the business processes facilitated by and the business operations supported by the Goods and/or 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 Key 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.

4. Service Continuity Plan: Part B – Business Continuity

Principles and Contents

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the provision of the Goods and/or Services remain supported and to ensure continuity of the business operations supported by the provision of the Goods and/or Services including, unless the Authority expressly states otherwise in writing:
- 4.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of the Goods and/or Services; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of the Goods and/or Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
- 4.2.1 address the various possible levels of failures of or disruptions to the provision of the Goods and/or Services;
 - 4.2.2 set out the goods/services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the provision of the Goods and/or Services (such goods/services and steps, the **“Business Continuity Services”**);
 - 4.2.3 specify any applicable Key Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Key Performance Indicators in respect of other Goods and/or Services during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

5. Service Continuity Plan: Part C – Disaster Recovery

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 Authority supported by the provision of the Goods and/or Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 5.3 The Disaster Recovery Plan shall include the following:
- 5.3.1 the technical design and build specification of the Disaster Recovery System;
 - 5.3.2 details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the

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following:

- (a) data centre and disaster recovery site audits;
- (b) backup methodology and details of the Supplier's approach to data back-up and data verification;
- (c) identification of all potential disaster scenarios;
- (d) risk analysis;
- (e) documentation of processes and procedures;
- (f) hardware configuration details;
- (g) network planning including details of all relevant data networks and communication links;
- (h) invocation rules;
- (i) Service recovery procedures; and
- (j) steps to be taken upon resumption of the provision of the Goods and/or Services to address any prevailing effect of the failure or disruption of the provision of the Goods and/or Services;

5.3.3 any applicable Key Performance Indicators with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the Key Performance Indicators in respect of other Goods and/or Services during any period of invocation of the Disaster Recovery Plan;

5.3.4 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;

5.3.5 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and

5.3.6 testing and management arrangements.

6. Service Continuity Plan: Part D – Insolvency Continuity Plan

Principles and Contents

6.1 The Insolvency Continuity Plan shall be designed by the Supplier to permit continuity of the business operations of the Authority supported by the provision of the Goods and/or Services through continued provision of the Goods and/or 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:

6.2.1 communication strategies which are designed to minimise the potential disruption to the provision of the Goods and/or Services, including key contact details in respect of the supply chain and key contact details for operational and

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contract Supplier Personnel, Key Sub-contractor personnel and Supplier Group member personnel;

- 6.2.2 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 provision of the Goods and/or Services;
- 6.2.3 plans to manage and mitigate identified risks;
- 6.2.4 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 provision of the Goods and/or Services;
- 6.2.5 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
- 6.2.6 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):
 - 7.1.1 on a regular basis and as a minimum once every 6 months;
 - 7.1.2 within three calendar months of the Service Continuity Plan (or any part) having been invoked pursuant to Paragraph 9;
 - 7.1.3 within 14 days of a Financial Distress Event;
 - 7.1.4 within 30 days of a Corporate Change Event (unless the Relevant Authority (acting reasonably) agrees to a Corporate Change Event Grace Period, as set out in Paragraph 28.8.2.1, in which case that Corporate Change Event Grace Period will apply); and
 - 7.1.5 where the Authority requests any additional reviews (over and above those provided for in Paragraphs 7.1.1 to 7.1.14) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Authority's written requirements, at its own cost, unless otherwise agreed between the Parties.
- 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 provision of the Goods and/or Services or any underlying business processes and operations facilitated by or supported by the provision of the Goods and/or 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 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

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period is required, within such period as the Authority 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 Authority a report (a “**Review Report**”) setting out:

- 7.2.1 the findings of the review;
 - 7.2.2 any changes in the risk profile associated with the Goods and/or Services; and
 - 7.2.3 the Supplier’s proposals (the “**Supplier’s Proposals**”) for addressing any changes in the risk profile and its proposals for amendments to the 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 goods/services or systems provided by a third party.
- 7.3 Following receipt of the Review Report and the Supplier’s Proposals, the Authority shall:
- 7.3.1 review and comment on the Review Report and the Supplier’s Proposals as soon as reasonably practicable; and
 - 7.3.2 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 Authority.
- 7.4 If the Authority rejects the Review Report and/or the Supplier’s Proposals:
- 7.4.1 the Authority shall inform the Supplier in writing of its reasons for its rejection; and
 - 7.4.2 the Supplier shall then revise the Review Report and/or the Supplier’s Proposals as the case may be (taking reasonable account of the Authority’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 Authority for the Authority’s approval within 20 Working Days of the date of the Authority’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 Authority’s approval of the Supplier’s Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Supplier’s Proposals. Any such change shall be at the Supplier’s expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Goods and/or Services.

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 Authority may require the Supplier to conduct additional tests of some or all aspects of the Service Continuity Plan at any time where the Authority considers it necessary, including where there has been any change to the provision of the Goods and/or Services or any underlying business

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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 Authority 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 Authority's requirements and the relevant provisions of the Service Continuity Plan. The Supplier's reasonable and demonstrable costs of the additional test shall be borne by the Authority 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 Authority and shall liaise with the Authority in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Authority in this regard. Each test shall be carried out under the supervision of the Authority 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 Authority. Copies of live test data used in any such testing shall be (if so required by the Authority) destroyed or returned to the Authority on completion of the test.
- 8.5 The Supplier shall, within 20 Working Days of the conclusion of each test, provide to the Authority a report setting out:
 - 8.5.1 the outcome of the test;
 - 8.5.2 any failures in the Service Continuity Plan (including the Service Continuity Plan's procedures) revealed by the test; and
 - 8.5.3 the Supplier's proposals for remedying any such failures.
- 8.6 Following each test, the Supplier shall take all measures requested by the Authority, (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 Authority, by the date reasonably required by the Authority 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 provision of the Goods and/or Services or as otherwise reasonably requested by the Authority.

9. Invocation of the Service Continuity Plan

- 9.1 In the event of a loss of any critical part of the provision of the Goods and/or Services 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 Authority promptly of such invocation. In all other instances the Supplier shall invoke the business continuity and disaster recovery plan elements only with the prior consent of the Authority.

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- 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:
- 9.2.1 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 Goods and/or Services; and/or
 - 9.2.2 where there is an Insolvency Event of the Supplier and the insolvency arrangements enable the Supplier to invoke the plan;

Part B: Corporate Resolution Planning

1. Service Status and Supplier Status

- 1.1 This Contract is a Critical Service Contract.
- 1.2 The Supplier shall notify the Authority and the Cabinet Office Markets and Suppliers Team (Resolution.planning@cabinetoffice.gov.uk) 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.

2. Provision of Corporate Resolution Planning Information (CRP Information)

- 2.1 Paragraphs 2 to 4 of this Part B shall apply if this Contract has been specified as a Critical Service Contract under Paragraph 1.1 of this Part B or the Supplier is or becomes a Public Sector Dependent Supplier.
- 2.2 Subject to Paragraphs 2.6, 2.10 and 2.11 of this Part B:
 - 2.2.1 where this Contract is a Critical Service Contract, the Supplier shall provide the Relevant Authority or Relevant Authorities with CRP Information within 60 days of the Effective Date; and
 - 2.2.2 except where it has already been provided in accordance with Paragraph 2.2.1 of this Part B, where the Supplier is a Public Sector Dependent Supplier, it shall provide the Relevant Authority or Relevant Authorities with the CRP Information within 60 days of the date of the Relevant Authority's or Relevant Authorities' request.
- 2.3 The Supplier shall ensure that the CRP Information provided pursuant to Paragraphs 2.2, 2.8 and 2.9.4 of this Part B:
 - 2.3.1 is full, comprehensive, accurate and up to date;
 - 2.3.2 is split into three parts:
 - (a) Exposure Information (Contracts List);
 - (b) Corporate Resolvability Assessment (Structural Review);
 - (c) Financial Information and Commentaryand is structured and presented in accordance with the requirements and explanatory notes set out at the relevant Annex of the latest published versions of the Resolution Planning Guidance Notes published by the Cabinet Office Government Commercial Function and available at <https://www.gov.uk/government/publications/the-sourcing-and-consultancy-playbooks> and contains the level of detail required (adapted as necessary to the Supplier's circumstances);
 - 2.3.3 incorporates any additional commentary, supporting documents and evidence which would reasonably be required by the Relevant Authority or Relevant Authorities to understand and consider the information for approval;

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- 2.3.4 provides a clear description and explanation of the Supplier Group members that have agreements for goods, services or works provision in respect of UK Public Sector Business and/or CNI and the nature of those agreements; and
- 2.3.5 complies with the requirements set out at Annex 1 (*Exposure Information (Contracts List)*), Annex 2 (*Corporate Resolvability Assessment (Structural Review)*) and Annex 3 (*Financial Information And Commentary*) respectively.
- 2.4 Following receipt by the Relevant Authority or Relevant Authorities of the CRP Information pursuant to Paragraphs 2.2, 2.8 and 2.9.4 of this Part B, the Authority shall procure that the Relevant Authority 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 Authority or Relevant Authorities approve the CRP Information or that Relevant Authority or Relevant Authorities reject the CRP Information.
- 2.5 If the Relevant Authority or Relevant Authorities reject the CRP Information:
 - 2.5.1 the Authority 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
 - 2.5.2 the Supplier shall revise the CRP Information, taking reasonable account of the Relevant Authority's or Relevant Authorities' comments, and shall re-submit the CRP Information to the Relevant Authority or Relevant Authorities for approval within 30 days of the date of the Relevant Authority's or Relevant Authorities' rejection. The provisions of Paragraph 2.3 to 2.5 of this Part B 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.
- 2.6 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 2.2 if it provides a copy of the Valid Assurance to the Relevant Authority or Relevant Authorities on or before the date on which the CRP Information would otherwise have been required.
- 2.7 An Assurance shall be deemed Valid for the purposes of Paragraph 2.6 of this Part B if:
 - 2.7.1 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
 - 2.7.2 no Corporate Change Events or Financial Distress Events (or events which would be deemed to be Corporate Change Events or Financial Distress Events if this Contract had then been in force) have occurred since the date of issue of the Assurance.

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- 2.8 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 2.9 of this Part B its initial CRP Information) to the Relevant Authority or Relevant Authorities:
- 2.8.1 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 2.11 of this Part B) unless the Supplier is relieved of the consequences of the Financial Distress Event under Schedule 22, Paragraph 7.1 (Financial Distress);
 - 2.8.2 within 30 days of a Corporate Change Event unless:
 - (a) the Supplier requests and the Relevant Authority (acting reasonably) agrees to a Corporate Change Event Grace Period, in the event of which the time period for the Supplier to comply with this Paragraph shall be extended as determined by the Relevant Authority (acting reasonably) but shall in any case be no longer than 6 months after the Corporate Change Event. During a Corporate Change Event Grace Period the Supplier shall regularly and fully engage with the Relevant Authority to enable it to understand the nature of the Corporate Change Event and the Relevant Authority shall reserve the right to terminate a Corporate Change Event Grace Period at any time if the Supplier fails to comply with this Paragraph; or
 - (b) not required pursuant to Paragraph 2.10;
- 2.9 within 30 days of the date that:
- 2.9.1 the credit rating(s) of each of the Supplier and its Parent Undertakings fail to meet any of the criteria specified in Paragraph 2.10; or
 - 2.9.2 none of the credit rating agencies specified at Paragraph 2.10 hold a public credit rating for the Supplier or any of its Parent Undertakings; and
 - 2.9.3 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 Authority (whichever is the earlier), unless:
 - (a) updated CRP Information has been provided under any of Paragraphs 2.8.1, 2.8.2 or 2.9 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 2.9.3; or
 - (b) unless not required pursuant to Paragraph 2.10.
 - 2.9.4 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 2.8.1 to 2.9.3 of this Part B, the Supplier shall provide at the request of the Relevant Authority or Relevant Authorities and within the applicable timescales for each event as set out in Paragraph 2.8 (or such longer timescales as may be notified to the Supplier by the Authority), the CRP Information to the Relevant Authority or Relevant Authorities.

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2.10 Where the Supplier or a Parent Undertaking of the Supplier has a credit rating of either:

2.10.1 Aa3 or better from Moody's; or

2.10.2 AA- or better from Standard and Poor's; or

2.10.3 AA- or better from Fitch;

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 Schedule 22, Paragraph 7.1 (Financial Distress)) or (ii) the Supplier and its Parent Undertakings cease to fulfil the criteria set out in this Paragraph 2.10, in which cases the Supplier shall provide the updated version of the CRP Information in accordance with Paragraph 2.8.

2.11 Subject to Paragraph 4, where the Supplier demonstrates to the reasonable satisfaction of the Relevant Authority 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 Authority 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 Authority or Relevant Authorities to the extent required under Paragraph 2.8.

3. Termination Rights

3.1 The Authority shall be entitled to terminate this Contract under Clause 31.1.2 (*Termination by the Authority*) if the Supplier is required to provide CRP Information under Paragraph 2 of this Part B and either:

3.1.1 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 Authority's or Relevant Authorities' request; or

3.1.2 the Supplier fails to obtain an Assurance from the Relevant Authority or Relevant Authorities within 4 months of the date that it was first required to provide the CRP Information under this Contract.

4. Confidentiality and usage of CRP Information

4.1 The Authority 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.

4.2 Where the Relevant Authority is the Cabinet Office Markets and Suppliers Team, at the Supplier's request, the Authority 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 Authority under Paragraph 4.1 of this Part B and Clause 19 (Confidentiality).

4.3 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

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to the Relevant Authority or Relevant Authorities pursuant to Paragraph 2 of this Part B subject, where necessary, to the Relevant Authority or Relevant Authorities entering into an appropriate confidentiality agreement in the form required by the third party.

4.4 Where the Supplier is unable to procure consent pursuant to Paragraph 4.3 of this Part B, the Supplier shall use all reasonable endeavours to disclose the CRP Information to the fullest extent possible by limiting the amount of information it withholds including by:

4.4.1 redacting only those parts of the information which are subject to such obligations of confidentiality

4.4.2 providing the information in a form that does not breach its obligations of confidentiality including (where possible) by:

(a) summarising the information;

(b) grouping the information;

(c) anonymising the information; and

(d) presenting the information in general terms

4.5 The Supplier shall provide the Relevant Authority 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.

Annex 1: Exposure Information (Contracts List)

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:
 - 1.1.1 are with any UK public sector bodies including: Crown Bodies 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;
 - 1.1.2 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 1.1.1 of this Annex 1 and where the member of the Supplier Group is acting as a key sub-contractor under the agreement with the end recipient; or
 - 1.1.3 involve or could reasonably be considered to involve CNI;
- 1.2 provide the Relevant Authority 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.

Annex 2: Corporate Resolvability Assessment (Structural Review)

1. The Supplier shall:

- 1.1 provide sufficient information to allow the Relevant Authority to understand the implications on the Supplier Group's UK Public Sector Business and CNI contracts listed pursuant to Annex 1 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 1 and the dependencies between each.

Annex 3: Financial Information And Commentary

1. The Supplier shall:

- 1.1 provide sufficient financial information for the Supplier Group level, contracting operating entities level, and shared services entities' level to allow the Relevant Authority to understand the current financial interconnectedness of the Supplier Group and the current performance of the Supplier as a standalone entity; and
 - 1.2 ensure that the information is presented in a simple, effective and easily understood manner.
2. For the avoidance of doubt the financial information to be provided pursuant to Paragraph 1 of this Annex 3 should be based on the most recent audited accounts for the relevant entities (or interim accounts where available) updated for any material changes since the Accounting Reference Date provided that such accounts are available in a reasonable timeframe to allow the Supplier to comply with its obligations under this Schedule 29 (Service Continuity Plan and Corporate Resolution Planning). If such accounts are not available in that timeframe, financial information should be based on unpublished unaudited accounts or management accounts (disclosure of which to the Cabinet Office Markets and Suppliers Team remains protected by confidentiality).

Schedule 30: 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:
 - 1.4.1 the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the Claim;
 - 1.4.2 the Indemnifier shall not bring the name of the Beneficiary into disrepute;
 - 1.4.3 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
 - 1.4.4 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:
 - 1.5.1 the Indemnifier is not entitled to take conduct of the Claim in accordance with Paragraph 1.3;
 - 1.5.2 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
 - 1.5.3 the Indemnifier fails to comply in any material respect with the provisions of

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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

- 3.1 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:
 - 3.1.1 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
 - 3.1.2 the amount paid to the Beneficiary by the Indemnifier in respect of the Claim under the relevant indemnity.

4. Mitigation

- 4.1 Each of the Authority 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.

Schedule 31: Staff Transfer

1. Definitions

1.1 In this Schedule, the following definitions shall apply:

“Admission Agreement”	either or both of the CSPA Admission Agreement (as defined in Annex B1: CSPA) or the LGPS Admission Agreement) as defined in Annex B3: LGPS), as the context requires;
“Fair Deal Employees”	as defined in Part B;
“Former Supplier”	a supplier supplying services to the Authority before any 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: (a) any amendments to that document immediately prior to the Relevant Transfer Date; (b) any similar pension protection in accordance with the Annexes B1 – B3 inclusive to Part B of this Schedule as notified to the Supplier by the Authority;
“Notified contractor”	Sub- a Sub-contractor identified in the Annex to this Schedule to whom Transferring Authority Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
“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 Date”	Transfer in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part B 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

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Transfer Date shall become references to the Services 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 C2: Staffing Information in the format specified and with the identities of Data Subjects anonymised where possible. The Authority may acting reasonably make changes to the format or information requested in Annex C2: Staffing Information from time to time.

“Statutory Schemes“ means the CSPA, NHSPA or LGPS as defined in the Annexes to Part B 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 Authority Employees“ those employees of the Authority to whom the Employment Regulations will apply on the Relevant Transfer Date;

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

“Transferring Supplier Employees“ those employees of the Supplier and/or the Supplier’s Sub-contractors to whom the Employment Regulations will apply on the Service Transfer Date.

2. Interpretation

- 2.1 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 or warranty to the Authority, Former Supplier, Replacement Supplier or Replacement Sub-contractor, as the case may be.

Part A: No Transfer of Employees Expected at Commencement of Services

1. Procedure in the Event of Transfer

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

2. Indemnities

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

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Liabilities; and

- 2.1.2 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 Authority 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, (a) comply with such obligations as may be imposed upon it under Law and (b) comply with the provisions of Part B (Pensions) and its Annexes of this Staff Transfer Schedule.
- 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 Authority and any Former Supplier, and shall procure that the Sub-contractor shall indemnify the Authority and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-contractor.
- 2.4 The indemnities in Paragraph 2.1:
 - 2.4.1 shall not apply to:
 - (a) any claim for:
 - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Supplier and/or any Sub-contractor; or
 - (b) any claim that the termination of employment was unfair because the Supplier and/or any Sub-contractor neglected to follow a fair dismissal procedure; and
 - 2.4.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any Sub-contractor to the Authority and, if applicable, Former Supplier within six (6) months of the Relevant Transfer Date.

3. Procurement Obligations

- 3.1 Where in this Part A the Authority 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

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the extent that the Authority's contract with the Former Supplier contains a contractual right in that regard which the Authority may enforce, or otherwise so that it requires only that the Authority must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly].

Part B: Pensions

1. Definitions

1.1 In this Part Band Part C, 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 B:

- “Actuary”** a Fellow of the Institute and Faculty of Actuaries;
- “Best Value Direction”** 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 B1 to this Part B;
- “Direction Letter/Determination”** has the meaning in Annex to this Part B;
- “Fair Deal Eligible Employees”** means each of the CSPS Eligible Employees (as defined in Annex B1 to this Part B), the NHSPS Eligible Employees (as defined in Annex B2 to this Part B) and/or the LGPS Eligible Employees (as defined in Annex B3 to this Part B) (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 11 of this Part B);
- “Fair Deal Employees”** any of:
- (a) Transferring Authority Employees;

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- (b) Transferring Former Supplier Employees; and/or
- (c) employees who are not Transferring Authority 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 Paragraph 1.4 of Part A;
- (d) where the Supplier or a Sub-contractor was the Former Supplier, the employees of the Supplier (or Sub-contractor);

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 B as notified by the Authority;

“Fund Actuary“

a Fund Actuary as defined in Annex B3 to this Part B;

“LGPS“

the scheme as defined in Annex B3 to this Part B;

“NHSPS“

the schemes as defined in Annex B2 to this Part B; and

“New Fair Deal“

the revised Fair Deal position set out in the HM Treasury guidance: “*Fair Deal for Staff Pensions: Staff Transfer from Central Government*“ issued in October 2013 including:

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

any similar pension protection in accordance with the subsequent Annex B1-B3 inclusive as notified to the Supplier by the Authority.

2. Participation

- 2.1 In respect of all or any Fair Deal Employees each of Annex B1: CSPS, Annex B2: NHSPS and/or Annex B3: LGPS shall apply, as appropriate.
- 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement 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.
- 2.3 The Supplier undertakes:
 - 2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/Determination or otherwise and

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shall deduct and pay to the Statutory Schemes such employee contributions as are required; and

- 2.3.2 subject to Paragraph 5 of Annex B3: 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 Services Commencement Date, this Part B and its Annexes shall be modified accordingly so that the Supplier (or Sub-contractor) shall comply with its requirements from the Services 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 Authority.

3. Provision of Information

- 3.1 The Supplier undertakes to the Authority:
- 3.1.1 to provide all information which the Authority may reasonably request concerning matters referred to in this Part B as expeditiously as possible;
- 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part B without the consent in writing of the Authority (such consent not to be unreasonably withheld or delayed); and
- 3.1.3 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 Authority, 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:
- 4.1.1 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 B, and/or the CSPA Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement;
- 4.1.2 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

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Broadly Comparable pension scheme provided in accordance with Paragraphs 10 or 11 of this Part B;

4.1.3 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:

(a) 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;

(b) arise out of the failure of the Supplier and/or any relevant Sub-contractor to comply with the provisions of this Part B before the date of termination or expiry of this Contract; and/or

4.1.4 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 B and its Annexes:

4.2.1 shall survive termination of this Contract; and

4.2.2 shall not be affected by the caps on liability contained in Clause 23 (*Limitations on Liability*).

5. Disputes

5.1 The Dispute Resolution Procedure will not apply to any dispute (i) between the Authority 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 B and its Annexes shall in the absence of agreement between the Authority and/or the Supplier be referred to an independent Actuary:

5.1.1 who will act as an expert and not as an arbitrator;

5.1.2 whose decision will be final and binding on the Authority and/or the Supplier; and

5.1.3 whose expenses shall be borne equally by the Authority and/or the Supplier unless the independent Actuary shall otherwise direct.

5.2 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.

6. Third Party Rights

6.1 The Parties agree Clause 41 (*Third Party Rights*) does not apply and that the CRTPA applies to this Part B 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 B, 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

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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 Authority should it breach any obligations it has under this Part B and agrees that the Authority shall be entitled to terminate its Contract for material Default in the event that the Supplier:

7.1.1 commits an irremediable breach of any provision or obligation it has under this Part B; or

7.1.2 commits a breach of any provision or obligation it has under this Part B 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 Authority 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:

8.1.1 notify the Authority as far as reasonably practicable in advance of the transfer to allow the Authority to make the necessary arrangements for participation with the relevant Statutory Scheme(s);

8.1.2 consult with about, and inform those Fair Deal Eligible Employees of, the pension provisions relating to that transfer; and

8.1.3 procure that the employer to which the Fair Deal Eligible Employees are transferred (the “**New Employer**”) complies with the provisions of this Part B 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 C: Employment Exit Provisions (Mandatory) apply in relation to pension issues on expiry or termination of this Contract.

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 CSPA and/or the relevant Administering Authority and/or the Authority 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.

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10. Broadly Comparable Pension Scheme on Relevant Transfer Date

- 10.1 If the terms of any of Paragraphs 4 of Annex B2: NHSPS or 3.1 of Annex B3: 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 Authority.
- 10.2 Such Broadly Comparable pension scheme must be:
 - 10.2.1 established by the Relevant Transfer Date;
 - 10.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
 - 10.2.3 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 Authority);
 - 10.2.4 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 Authority); and
 - 10.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Authority).
- 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):
 - 10.3.1 supply to the Authority 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;
 - 10.3.2 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;
 - 10.3.3 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 Authority (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

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Employee who consents to such a transfer; and

10.3.4 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:

10.4.1 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 10.3.3 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 10.3.3 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

10.4.2 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 10.4.1 been complied with, the Supplier shall (or shall procure that the Sub-contractor shall) pay the amount of the difference to the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Authority shall otherwise direct. The Supplier shall indemnify the Authority or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Authority 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 B1: CSPA, 5.2 of Annex B2: NHSPA and/or

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3.2 of Annex B3: 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 Authority.

11.2 Such Broadly Comparable pension scheme must be:

- 11.2.1 established by the date of cessation of participation in the Statutory Scheme;
- 11.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
- 11.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Authority);
- 11.2.4 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 Authority); and
- 11.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Authority).

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):

- 11.3.1 supply to the Authority 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;
- 11.3.2 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
- 11.3.3 where required to do so by the Authority, 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 Authority (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

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pension scheme; and

- 11.3.4 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 Authority or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Authority directs) for any failure to pay the Shortfall under this Paragraph.

12. Right of Set-Off

- 12.1 The Authority shall have a right to set off against any payments due to the Supplier under this Contract an amount equal to:
 - 12.1.1 any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPA or any CSPA Admission Agreement 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;
 - 12.1.2 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

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- 12.1.3 any unpaid employer's contributions or employee's contributions or any other financial obligations under the LGPS or any LGPS Admission Agreement 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 Authority 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 Authority as result of Paragraphs 12.1 above.

Annex B1: CSPA

1. Definitions

- 1.1 In this Annex B1: CSPA to Part B: Pensions, the following words have the following meanings:

“CSPA Admission Agreement” an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPA in respect of the Services;

“CSPA Eligible Employee” any CSPA Fair Deal Employee who at the relevant time is an active member or eligible to participate in the CSPA under a CSPA Admission Agreement;

“CSPA Fair Deal Employee” a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPA in accordance with the provisions of New Fair Deal;

“CSPA” the “Alpha” pension scheme introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014 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.

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 CSPA 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 CSPA, shall each secure a CSPA Admission Agreement to ensure that CSPA Fair Deal Employees or CSPA Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPA 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 CSPA Fair Deal Employees continue to accrue benefits in the CSPA in accordance with the provisions governing the relevant section of the CSPA for service from (and including) the Relevant Transfer Date.
- 2.2 If the Supplier and/or any of its Sub-contractors enters into a CSPA Admission Agreement in accordance with Paragraph 2.1 but the CSPA Admission Agreement is terminated during the term of this Contract for any reason at a time when the Supplier or Sub-contractor still employs any CSPA Eligible Employees, the Supplier shall (and

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procure that its Sub-contractors shall) at no extra cost to the Authority, offer the remaining CSPA Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPA on the date those CSPA Eligible Employees ceased to participate in the CSPA in accordance with the provisions of Paragraph 11 of Part B.

Part C: Employment Exit Provisions

1. Pre-service Transfer Obligations

- 1.1 The Supplier agrees that within 20 Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;
 - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of this Contract; and
 - 1.1.3 the date which is 12 months before the end of the Term; or
 - 1.1.4 receipt of a written request of the Authority at any time (provided that the Authority 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 2018, 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 Authority.
- 1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Authority or at the direction of the Authority to any Replacement Supplier and/or any Replacement Sub-contractor:
- 1.2.1 the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
 - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 The Authority 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 Authority, 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 1.1.1, 1.1.2 and 1.1.3, 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 Authority (not to be unreasonably withheld or delayed):
- 1.5.1 replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person they replace;
 - 1.5.2 make, promise, propose, permit or implement any material changes to the

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terms and conditions of employment of the Supplier Personnel (including pensions and any payments connected with the termination of employment);

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

and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Authority or, at the direction of the Authority, 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, within 20 Working Days to the Authority any information the Authority may reasonably require relating to the manner in which the Services are organised, which shall include:
 - 1.6.1 the numbers of Supplier Personnel engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each Supplier Personnel engaged in providing the Services;
 - 1.6.3 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 B (Pensions) of this Schedule 31 (Staff Transfer) (as appropriate); and
 - 1.6.4 a description of the nature of the work undertaken by each Supplier Personnel by location.
- 1.7 The Supplier shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the Authority, 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 Authority or, at the direction of the Authority, to any Replacement Supplier and/or any Replacement Sub-

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contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

- 1.7.1 the most recent month's copy pay slip data;
 - 1.7.2 details of cumulative pay for tax and pension purposes;
 - 1.7.3 details of cumulative tax paid;
 - 1.7.4 tax code;
 - 1.7.5 details of any voluntary deductions from pay;
 - 1.7.6 a copy of any personnel file and/or any other records regarding the service of the Transferring Supplier Employee;
 - 1.7.7 a complete copy of the information required to meet the minimum recording keeping requirements under the Working Time Regulations 1998 and the National Minimum Wage Regulations 1998; and
 - 1.7.8 bank/building society account details for payroll purposes.
- 1.8 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that following within 20 Working Days of a request from the Authority it shall and shall procure that each Sub-contractor shall use reasonable endeavours to comply with any request to align and assign Supplier Personnel to any future delivery model proposed by the Authority for Replacement Services within 30 Working Days or such longer timescale as may be agreed.
- 1.9 Any changes necessary to this Contract as a result of alignment referred to in Paragraph 1.8 shall be agreed in accordance with the Change Control Procedure.

2. Employment Regulations Exit Provisions

- 2.1 The Authority 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 will apply. The Authority 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 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 under the Employment Regulations and in particular obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but excluding) 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 any person identified in the Supplier's Final Supplier Personnel

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List all the Transferring Supplier Employees arising in respect of the period up to (and including but excluding) 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 Statutory Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part to the period ending on (and including but excluding) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

2.2.1 the Supplier and/or the Sub-contractor (as appropriate); and

2.2.2 the Replacement Supplier and/or Replacement Sub-contractor.

2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Authority and/or the Replacement Supplier and/or any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of:

2.3.1 any act or omission of the Supplier or any Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;

2.3.2 the breach or non-observance by the Supplier or any Sub-contractor occurring before but excluding the Service Transfer Date of:

2.3.2.1 any collective agreement applicable to the Transferring Supplier Employees; and/or

2.3.2.2 any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;

2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising before but excluding the Service Transfer Date;

2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

2.3.4.1 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 before but excluding the Service Transfer Date; and

2.3.4.2 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 Authority and/or Replacement Supplier and/or any Replacement Sub-contractor, to the

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extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date;

- 2.3.5 a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (but excluding) the Service Transfer Date);
 - 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-contractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Authority 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
 - 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Authority and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or
 - 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 If any person who is not identified in the Supplier's Final Supplier Personnel List claims, or it is determined in relation to any person who is not identified in the Supplier's Final Supplier Personnel List, that his/her contract of employment has been transferred from the Supplier or any Sub-contractor to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations, then:
- 2.5.1 the Authority 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
 - 2.5.2 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

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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 Authority 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 2.5.2 has elapsed:
- 2.7.1 no such offer of employment has been made;
 - 2.7.2 such offer has been made but not accepted; or
 - 2.7.3 the situation has not otherwise been resolved
- the Authority 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.
- 2.8 Subject to the Replacement Supplier and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.9 The indemnity in Paragraph 2.8:
- 2.9.1 shall not apply to:
 - 2.9.1.1 any claim for:
 - 2.9.1.1.1 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
 - 2.9.1.1.2 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
 - 2.9.1.2 any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and
- 2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Sub-contractor to the Supplier within 6 months of the Service Transfer Date.

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- 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, and shall procure that each Sub-contractor shall, promptly provide to the Authority and any Replacement Supplier and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Authority, the Replacement Supplier and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Authority 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.
- 2.12 Subject to Paragraph 2.13, the Authority shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:
- 2.12.1 any act or omission of the Replacement Supplier and/or Replacement Sub-contractor in respect of any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;
 - 2.12.2 the breach or non-observance by the Replacement Supplier and/or Replacement Sub-contractor on or after the Service Transfer Date of:
 - 2.12.2.1 any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or
 - 2.12.2.2 any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List which the Replacement Supplier and/or Replacement Sub-contractor is contractually bound to honour;
 - 2.12.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
 - 2.12.4 any proposal by the Replacement Supplier and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Sub-contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Personnel

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List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;

- 2.12.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-contractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- 2.12.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - 2.12.6.1 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 on and after the Service Transfer Date; and
 - 2.12.6.2 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 on and after the Service Transfer Date;
- 2.12.7 a failure of the Replacement Supplier or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and
- 2.12.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.

- 2.13 The indemnities in Paragraph 2.12 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 C1: List of Notified Sub-contractors

Annex C2: Staffing Information

Employee Information (Anonymised)

Name of Transferor:

Number of Employees in-scope to transfer:

1. Completion notes

- 1.1 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.
- 1.2 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.
- 1.3 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	Date of Birth (dd/mm/yy)	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, NHS, 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 Authority.	If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Agreement.	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 Check Level	Security Clearance Expiry date	Additional info or comments
Emp No 1			
Emp No 2			
Emp No			
Emp No			
Emp No			
Emp No			
Emp No			

Schedule 32 (Key Personnel)

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Schedule 32: Key Personnel

This Schedule lists the key roles (“**Key Roles**”) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Goods Commencement Date and Services Commencement Date (“**Key Personnel**”), as applicable.

The text has been redacted under the exemptions set out by the Freedom of Information Act

Schedule 33 (Deed of Guarantee)

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Schedule 33:– NOT USED

Schedule 34: Processing Personal Data

1. Data Processing

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

1.2 The contact details of the Authority's Data Protection Officer are:

The text has been redacted under the exemptions set out by the Freedom of Information Act

1.3 The contact details of the Supplier's Data Protection Officer are:

The text has been redacted under the exemptions set out by the Freedom of Information Act

1.4 The Processor shall comply with any further written instructions with respect to processing by the Controller.

1.5 Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of Controller for each Category of Personal Data	The Authority is Controller and the Supplier is Processor The Parties acknowledge that in accordance with Clauses 21.2 to 23.15 and for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor of the following Personal Data: The Supplier is providing Goods to End Users to fulfil this Contract. The Authority is providing minimal End User details required to the Supplier to allow End Users to replenish Goods.
Subject matter of the Processing	The processing is needed to ensure the Processor can effectively deliver this Contract to provide the correct Goods to End Users.
Duration of the processing	The Term.
Nature and purposes of the processing	The nature of the processing includes: collection, storage and destruction (once the Contract has expired or been terminated earlier). The purpose of the processing is statutory obligation to clothe End Users so they can perform their duty.
Type of Personal Data being processed	Name, epaulette number, work email address and physical work address (name of Site they are employed at).
Categories of Data Subject	End Users (specifically prison officers).

Schedule 34 (Processing Personal Data)

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Description	Details
Plan for return and destruction of the data once the processing is complete UNLESS requirement under law to preserve that type of data	[To be completed following contract award].
Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract and international transfers and legal gateway	[To be completed following contract award].
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 Data Loss Event	[To be completed following contract award].

Annex 1: Joint Controller Agreement – NOT USED

2. Joint Controller Status and Allocation of Responsibilities

- 2.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 1 (Joint Controller Agreement) in replacement of Clause 21.2 - 21.15 (Where one Party is Controller and the other Party is Processor) and 21.17 - 24.28 (Where the Parties are Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.
- 2.2 The Parties agree that the [Supplier/Authority]:
- 2.2.1 is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the UK GDPR regarding the exercise by Data Subjects of their rights under the UK GDPR;
 - 2.2.2 shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
 - 2.2.3 is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the UK GDPR;
 - 2.2.4 is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Goods and/or Services where consent is the relevant legal basis for that Processing; and
 - 2.2.5 shall make available to Data Subjects the essence of this Joint Controller Agreement (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the [Supplier's/Authority's] privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).
- 2.3 Notwithstanding the terms of Paragraph 2.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Data Controller.

3. Undertakings of Both Parties

- 3.1 The Supplier and the Authority each undertake that they shall:
- 3.1.1 report to the other Party every [x] months on:
 - (a) the volume of Data Subject Access Requests (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
 - (b) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;

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- (c) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- (d) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- (e) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;

that it has received in relation to the subject matter of the Contract during that period;

- 3.1.2 notify each other immediately if it receives any request, complaint or communication made as referred to in Paragraphs 3.1.1.1 to 2.1.1.5; and
- 3.1.3 provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Paragraphs 1.2 and 3.1.1.3 to 2.1.1.5 to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation.
- 3.1.4 not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Goods and/or Services and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under this Contract or is required by Law) that disclosure or transfer of Personal Data is otherwise considered to be lawful processing of that Personal Data in accordance with Article 6 of the UK GDPR or EU GDPR (as the context requires). For the avoidance of doubt to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex.
- 3.1.5 request from the Data Subject only the minimum information necessary to provide the Goods and/or Services and treat such extracted information as Confidential Information.
- 3.1.6 ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data
- 3.1.7 take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
 - (a) are aware of and comply with their duties under this Annex 1 (Joint Controller Agreement) and those in respect of Confidential Information
 - (b) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where that Party would not be permitted to do so;
 - (c) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection

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Legislation;

- 3.1.8 ensure that it has in place Protective Measures as appropriate to protect against a Data Loss Event having taken account of the:
 - (a) nature of the data to be protected;
 - (b) harm that might result from a Data Loss Event;
 - (c) state of technological development; and
 - (d) cost of implementing any measures.
- 3.1.9 ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that the Supplier holds;
- 3.1.10 ensure that it notifies the other Party as soon as it becomes aware of a Data Loss Event;
- 3.1.11 not transfer such Personal Data outside of the UK and/or the EEA unless the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
 - (a) the destination country has been recognised as adequate by the UK government is in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
 - (b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable) as agreed with the non-transferring Party which could include the International Data Transfer Agreement or International Data Transfer Agreement Addendum to the European Commission's SCCs as published by the Information Commissioner's Office and as set out in Schedule 34, Annex 2 (*Processing Personal Data*) (as appropriate), as well as any additional measures;
 - (A) where the transfer is subject to UK GDPR:
 - (i) the UK International Data Transfer Agreement (the "**IDTA**") as published by the Information Commissioner's Office as set out in Schedule 34, Annex 2 (*Processing Personal Data*); or
 - (ii) the European Commission's Standard Contractual Clauses per decision 2021/914/EU set out in Annex 3 to Schedule 34 (*Processing Personal Data*) (the "**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") as set out in Schedule 34, Annex 2 (*Processing Personal Data*); and/or
 - (B) where the transfer is subject to EU GDPR, the EU SCCs,

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(as well as any additional measures determined by the Controller being implemented by the importing party;

- (iii) the Data Subject has enforceable rights and effective legal remedies;
- (iv) the transferring Party 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 non-transferring Party in meeting its obligations); and
- (v) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

3.2 Each Joint Controller shall use its best endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its' obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations

4. Data Protection Breach

4.1 Without prejudice to Paragraph 4.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Data Loss Event or circumstances that are likely to give rise to a Data Loss Event, providing the other Party and its advisors with:

- 4.1.1 sufficient information and in a timescale which allows the other Party to meet any obligations to report a Data Loss Event under the Data Protection Legislation;
- 4.1.2 all reasonable assistance, including:
 - (a) co-operation with the other Party and the Information Commissioner investigating the Data Loss Event and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
 - (b) co-operation with the other Party including taking such reasonable steps as are directed by the Authority to assist in the investigation, mitigation and remediation of a Data Loss Event;
 - (c) co-ordination with the other Party regarding the management of public relations and public statements relating to the Data Loss Event;
 - (d) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Data Loss Event, with complete information relating to the Data Loss Event, including, without limitation, the information set out in Paragraph 4.2.

4.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal

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Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Data Loss Event which is the fault of that Party, as if it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Data Loss Event, including providing the other Party, as soon as possible and within 48 hours of the Data Loss Event relating to the Data Loss Event, in particular:

- 4.2.1 the nature of the Data Loss Event;
- 4.2.2 the nature of Personal Data affected;
- 4.2.3 the categories and number of Data Subjects concerned;
- 4.2.4 the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;
- 4.2.5 measures taken or proposed to be taken to address the Data Loss Event; and
- 4.2.6 describe the likely consequences of the Data Loss Event.

5. Audit

5.1 The Supplier shall permit:

- 5.1.1 the Authority, or a third-party auditor acting under the Authority's direction, to conduct, at the Authority's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 1 and the Data Protection Legislation.
- 5.1.2 the Authority, or a third-party auditor acting under the Authority's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 of the UK GDPR by the Supplier so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Goods and/or Services.

5.2 The Authority may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with Paragraph 5.1 in lieu of conducting such an audit, assessment or inspection.

6. Impact Assessments

6.1 The Parties shall:

- 6.1.1 provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to processing operations, risks and measures);
- 6.1.2 maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with this Contract, in accordance with the terms of Article 30 of the UK GDPR.

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7. ICO Guidance

- 7.1 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner, and/or any relevant Central Government Body and/or any other regulatory authority. The Authority may on not less than thirty (30) Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner or any other regulatory authority.

8. Liabilities for Data Protection Breach

- 8.1 If financial penalties are imposed by the Information Commissioner on either the Authority or the Supplier for a Data Loss Event ("**Financial Penalties**") then the following shall occur:
- 8.1.1 If in the view of the Information Commissioner, the Authority is responsible for the Data Loss Event, in that it is caused as a result of the actions or inaction of the Authority, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Authority, then the Authority shall be responsible for the payment of such Financial Penalties. In this case, the Authority will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such data incident. The Supplier shall provide to the Authority and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such data incident;
- 8.1.2 If in the view of the Information Commissioner, the Supplier is responsible for the Data Loss Event, in that it is not a breach that the Authority is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Authority and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such data incident; or
- 8.2 If no view as to responsibility is expressed by the Information Commissioner, then the Authority and the Supplier shall work together to investigate the relevant data incident and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any Financial Penalties equally if no responsibility for the Data Loss Event can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Schedule 26 (Dispute Resolution Procedure).
- 8.3 If either the Authority or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Data Loss Event, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Data Loss Event shall be liable for the losses arising from such breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
- 8.4 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Data Loss Event (the "Claim Losses"):
- 8.4.1 if the Authority is responsible for the relevant breach, then the Authority shall be responsible for the Claim Losses;
- 8.4.2 if the Supplier is responsible for the relevant breach, then the Supplier shall be

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responsible for the Claim Losses; and

8.4.3 if responsibility is unclear, then the Authority and the Supplier shall be responsible for the Claim Losses equally.

8.5 Nothing in Paragraphs 7.2 – 7.3 shall preclude the Authority and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Data Loss Event, having regard to all the circumstances of the breach and the legal and financial obligations of the Authority.

9. Termination

9.1 If the Supplier is in material Default under any of its obligations under this Annex 1 (*Joint Controller Agreement*), the Authority shall be entitled to terminate this Contract by issuing a Termination Notice to the Supplier in accordance with Clause 31 (*Termination Rights*).

10. Sub-Processing

10.1 In respect of any Processing of Personal performed by a third party on behalf of a Party, that Party shall:

10.1.1 carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by this Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and

10.1.2 ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

11. Data Retention

11.1 The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by a Party for statutory compliance purposes or as otherwise required by this Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

Annex 2: International Data Transfer Agreement and International Data Transfer Agreement Addendum to the EU Commission Standard Contractual Clauses

Part A: International Data Transfer Agreement



Standard Data Protection Clauses to be issued by the Commissioner under S119A(1) Data Protection Act 2018

International Data Transfer Agreement

VERSION A1.0, in force 21 March 2022

This IDTA has been issued by the Information Commissioner for Parties making Restricted Transfers. The Information Commissioner considers that it provides Appropriate Safeguards for Restricted Transfers when it is entered into as a legally binding contract.

Part 1: Tables

Table 1: Parties and signatures

Start date		
The Parties	Exporter (who sends the Restricted Transfer)	Importer (who receives the Restricted Transfer)
Parties' details	Full legal name: Trading name (if different): Main address (if a company registered address): Official registration number (if any) (company number or similar identifier):	Full legal name: Trading name (if different): Main address (if a company registered address): Official registration number (if any) (company number or similar identifier):
Key Contact	Full Name (optional): Job Title: Contact details including email:	Full Name (optional): Job Title: Contact details including email:
Importer Data Subject Contact		Job Title: Contact details including email:
Signatures confirming each Party agrees to be bound by this IDTA	Signed for and on behalf of the Exporter set out above Signed:	Signed for and on behalf of the Importer set out above Signed:

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The Parties	Exporter (who sends the Restricted Transfer)	Importer (who receives the Restricted Transfer)
	Date of signature: Full name: Job title:	Date of signature: Full name: Job title:

Table 2: Transfer Details

UK country's law that governs the IDTA:	England and Wales Northern Ireland Scotland
Primary place for legal claims to be made by the Parties	England and Wales Northern Ireland Scotland
The status of the Exporter	In relation to the Processing of the Transferred Data: Exporter is a Controller Exporter is a Processor or Sub-Processor
The status of the Importer	In relation to the Processing of the Transferred Data: Importer is a Controller Importer is the Exporter's Processor or Sub-Processor Importer is not the Exporter's Processor or Sub-Processor (and the Importer has been instructed by a Third Party Controller)
Whether UK GDPR applies to the Importer	UK GDPR applies to the Importer's Processing of the Transferred Data UK GDPR does not apply to the Importer's Processing of the Transferred Data
Linked Agreement	If the Importer is the Exporter's Processor or Sub-Processor – the agreement(s) between the Parties which sets out the Processor's or Sub-Processor's instructions for Processing the Transferred Data: Name of agreement: Date of agreement: Parties to the agreement: Reference (if any): Other agreements – any agreement(s) between the Parties which set out additional obligations in relation to the Transferred Data, such as a data sharing agreement or service agreement: Name of agreement: Date of agreement: Parties to the agreement:

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	Reference (if any): If the Exporter is a Processor or Sub-Processor – the agreement(s) between the Exporter and the Party(s) which sets out the Exporter's instructions for Processing the Transferred Data: Name of agreement: Date of agreement: Parties to the agreement: Reference (if any):
Term	The Importer may Process the Transferred Data for the following time period: the period for which the Linked Agreement is in force time period: (only if the Importer is a Controller or not the Exporter's Processor or Sub-Processor) no longer than is necessary for the Purpose.
Ending the IDTA before the end of the Term	the Parties cannot end the IDTA before the end of the Term unless there is a breach of the IDTA or the Parties agree in writing. the Parties can end the IDTA before the end of the Term by serving: months' written notice, as set out in Section 29 (How to end this IDTA without there being a breach).
Ending the IDTA when the Approved IDTA changes	Which Parties may end the IDTA as set out in Section 29.2: Importer Exporter neither Party
Can the Importer make further transfers of the Transferred Data?	The Importer MAY transfer on the Transferred Data to another organisation or person (who is a different legal entity) in accordance with Section 16.1 (Transferring on the Transferred Data). The Importer MAY NOT transfer on the Transferred Data to another organisation or person (who is a different legal entity) in accordance with Section 16.1 (Transferring on the Transferred Data).
Specific restrictions when the Importer may transfer on the Transferred Data	The Importer MAY ONLY forward the Transferred Data in accordance with Section 16.1: if the Exporter tells it in writing that it may do so. to: to the authorised receivers (or the categories of authorised receivers) set out in: there are no specific restrictions.
Review Dates	☐ No review is needed as this is a one-off transfer and the Importer does not retain any Transferred Data

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	First review date: The Parties must review the Security Requirements at least once: each month(s) each quarter each 6 months each year each year(s) each time there is a change to the Transferred Data, Purposes, Importer Information, TRA or risk assessment

Table 3: Transferred Data

Transferred Data	The personal data to be sent to the Importer under this IDTA consists of: The categories of Transferred Data will update automatically if the information is updated in the Linked Agreement referred to. The categories of Transferred Data will NOT update automatically if the information is updated in the Linked Agreement referred to. The Parties must agree a change under Section 5.3.
Special Categories of Personal Data and criminal convictions and offences	The Transferred Data includes data relating to: racial or ethnic origin political opinions religious or philosophical beliefs trade union membership genetic data biometric data for the purpose of uniquely identifying a natural person physical or mental health sex life or sexual orientation criminal convictions and offences none of the above set out in: And: The categories of special category and criminal records data will update automatically if the information is updated in the Linked Agreement referred to. The categories of special category and criminal records data will NOT update automatically if the information is updated in the Linked Agreement referred to. The Parties must agree a change under Section 5.3.
Relevant Data Subjects	The Data Subjects of the Transferred Data are:

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	The categories of Data Subjects will update automatically if the information is updated in the Linked Agreement referred to. The categories of Data Subjects will not update automatically if the information is updated in the Linked Agreement referred to. The Parties must agree a change under Section 5.3.
Purpose	The Importer may Process the Transferred Data for the following purposes: The Importer may Process the Transferred Data for the purposes set out in: In both cases, any other purposes which are compatible with the purposes set out above. The purposes will update automatically if the information is updated in the Linked Agreement referred to. The purposes will NOT update automatically if the information is updated in the Linked Agreement referred to. The Parties must agree a change under Section 5.3.

Table 4: Security Requirements

Security of Transmission	
Security of Storage	
Security of Processing	
Organisational security measures	
Technical security minimum requirements	
Updates to the Security Requirements	The Security Requirements will update automatically if the information is updated in the Linked Agreement referred to. The Security Requirements will NOT update automatically if the information is updated in the Linked Agreement referred to. The Parties must agree a change under Section 5.3.

Part 2: Extra Protection Clauses

Extra Protection Clauses:	
(i) Extra technical security protections	
(ii) Extra organisational protections	

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(iii) contractual protections	Extra	

Part 3: Commercial Clauses

Commercial Clauses	

Part 4: Mandatory Clauses

Information that helps you to understand this IDTA

1. This IDTA and Linked Agreements

- 1.1 Each Party agrees to be bound by the terms and conditions set out in the IDTA, in exchange for the other Party also agreeing to be bound by the IDTA.
- 1.2 This IDTA is made up of:
 - 1.2.1 Part one: Tables;
 - 1.2.2 Part two: Extra Protection Clauses;
 - 1.2.3 Part three: Commercial Clauses; and
 - 1.2.4 Part four: Mandatory Clauses.
- 1.3 The IDTA starts on the Start Date and ends as set out in Sections 29 or 30.
- 1.4 If the Importer is a Processor or Sub-Processor instructed by the Exporter: the Exporter must ensure that, on or before the Start Date and during the Term, there is a Linked Agreement which is enforceable between the Parties and which complies with Article 28 UK GDPR (and which they will ensure continues to comply with Article 28 UK GDPR).
- 1.5 References to the Linked Agreement or to the Commercial Clauses are to that Linked Agreement or to those Commercial Clauses only in so far as they are consistent with the Mandatory Clauses.

2. Legal Meaning of Words

- 2.1 If a word starts with a capital letter it has the specific meaning set out in the Legal Glossary in Section 36.
- 2.2 To make it easier to read and understand, this IDTA contains headings and guidance notes. Those are not part of the binding contract which forms the IDTA.

3. You have provided all the information required

- 3.1 The Parties must ensure that the information contained in Part one: Tables is correct and complete at the Start Date and during the Term.
- 3.2 In Table 2: Transfer Details, if the selection that the Parties are Controllers, Processors or Sub-Processors is wrong (either as a matter of fact or as a result of applying the UK Data Protection Laws) then:

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- 3.2.1 the terms and conditions of the Approved IDTA which apply to the correct option which was not selected will apply; and
- 3.2.2 the Parties and any Relevant Data Subjects are entitled to enforce the terms and conditions of the Approved IDTA which apply to that correct option.
- 3.3 In Table 2: Transfer Details, if the selection that the UK GDPR applies is wrong (either as a matter of fact or as a result of applying the UK Data Protection Laws), then the terms and conditions of the IDTA will still apply to the greatest extent possible.

4. How to sign the IDTA

- 4.1 The Parties may choose to each sign (or execute):
 - 4.1.1 the same copy of this IDTA;
 - 4.1.2 two copies of the IDTA. In that case, each identical copy is still an original of this IDTA, and together all those copies form one agreement;
 - 4.1.3 a separate, identical copy of the IDTA. In that case, each identical copy is still an original of this IDTA, and together all those copies form one agreement,unless signing (or executing) in this way would mean that the IDTA would not be binding on the Parties under Local Laws.

5. Changing this IDTA

- 5.1 Each Party must not change the Mandatory Clauses as set out in the Approved IDTA, except only:
 - 5.1.1 to ensure correct cross-referencing: cross-references to Part one: Tables (or any Table), Part two: Extra Protections, and/or Part three: Commercial Clauses can be changed where the Parties have set out the information in a different format, so that the cross-reference is to the correct location of the same information, or where clauses have been removed as they do not apply, as set out below;
 - 5.1.2 to remove those Sections which are expressly stated not to apply to the selections made by the Parties in Table 2: Transfer Details, that the Parties are Controllers, Processors or Sub-Processors and/or that the Importer is subject to, or not subject to, the UK GDPR. The Exporter and Importer understand and acknowledge that any removed Sections may still apply and form a part of this IDTA if they have been removed incorrectly, including because the wrong selection is made in Table 2: Transfer Details;
 - 5.1.3 so the IDTA operates as a multi-party agreement if there are more than two Parties to the IDTA. This may include nominating a lead Party or lead Parties which can make decisions on behalf of some or all of the other Parties which relate to this IDTA (including reviewing Table 4: Security Requirements and Part two: Extra Protection Clauses, and making updates to Part one: Tables (or any Table), Part two: Extra Protection Clauses, and/or Part three: Commercial Clauses); and/or
 - 5.1.4 to update the IDTA to set out in writing any changes made to the Approved

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IDTA under Section 5.4, if the Parties want to. The changes will apply automatically without updating them as described in Section 5.4;

provided that the changes do not reduce the Appropriate Safeguards.

- 5.2 If the Parties wish to change the format of the information included in Part one: Tables, Part two: Extra Protection Clauses or Part three: Commercial Clauses of the Approved IDTA, they may do so by agreeing to the change in writing, provided that the change does not reduce the Appropriate Safeguards.
- 5.3 If the Parties wish to change the information included in Part one: Tables, Part two: Extra Protection Clauses or Part three: Commercial Clauses of this IDTA (or the equivalent information), they may do so by agreeing to the change in writing, provided that the change does not reduce the Appropriate Safeguards.
- 5.4 From time to time, the ICO may publish a revised Approved IDTA which:
 - 5.4.1 makes reasonable and proportionate changes to the Approved IDTA, including correcting errors in the Approved IDTA; and/or
 - 5.4.2 reflects changes to UK Data Protection Laws.

The revised Approved IDTA will specify the start date from which the changes to the Approved IDTA are effective and whether an additional Review Date is required as a result of the changes. This IDTA is automatically amended as set out in the revised Approved IDTA from the start date specified.

6. Understanding this IDTA

- 6.1 This IDTA must always be interpreted in a manner that is consistent with UK Data Protection Laws and so that it fulfils the Parties' obligation to provide the Appropriate Safeguards.
- 6.2 If there is any inconsistency or conflict between UK Data Protection Laws and this IDTA, the UK Data Protection Laws apply.
- 6.3 If the meaning of the IDTA is unclear or there is more than one meaning, the meaning which most closely aligns with the UK Data Protection Laws applies.
- 6.4 Nothing in the IDTA (including the Commercial Clauses or the Linked Agreement) limits or excludes either Party's liability to Relevant Data Subjects or to the ICO under this IDTA or under UK Data Protection Laws.
- 6.5 If any wording in Parts one, two or three contradicts the Mandatory Clauses, and/or seeks to limit or exclude any liability to Relevant Data Subjects or to the ICO, then that wording will not apply.
- 6.6 The Parties may include provisions in the Linked Agreement which provide the Parties with enhanced rights otherwise covered by this IDTA. These enhanced rights may be subject to commercial terms, including payment, under the Linked Agreement, but this will not affect the rights granted under this IDTA.
- 6.7 If there is any inconsistency or conflict between this IDTA and a Linked Agreement or any other agreement, this IDTA overrides that Linked Agreement or any other

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agreements, even if those agreements have been negotiated by the Parties. The exceptions to this are where (and in so far as):

- 6.7.1 the inconsistent or conflicting terms of the Linked Agreement or other agreement provide greater protection for the Relevant Data Subject's rights, in which case those terms will override the IDTA; and
 - 6.7.2 a Party acts as Processor and the inconsistent or conflicting terms of the Linked Agreement are obligations on that Party expressly required by Article 28 UK GDPR, in which case those terms will override the inconsistent or conflicting terms of the IDTA in relation to Processing by that Party as Processor.
- 6.8 The words "include", "includes", "including", "in particular" are used to set out examples and not to set out a finite list.
- 6.9 References to:
- 6.9.1 singular or plural words or people, also includes the plural or singular of those words or people;
 - 6.9.2 legislation (or specific provisions of legislation) means that legislation (or specific provision) as it may change over time. This includes where that legislation (or specific provision) has been consolidated, re-enacted and/or replaced after this IDTA has been signed; and
 - 6.9.3 any obligation not to do something, includes an obligation not to allow or cause that thing to be done by anyone else.

7. Which laws apply to this IDTA

- 7.1 This IDTA is governed by the laws of the UK country set out in Table 2: Transfer Details. If no selection has been made, it is the laws of England and Wales. This does not apply to Section 35 which is always governed by the laws of England and Wales.

How this IDTA provides Appropriate Safeguards

8. The Appropriate Safeguards

- 8.1 The purpose of this IDTA is to ensure that the Transferred Data has Appropriate Safeguards when Processed by the Importer during the Term. This standard is met when and for so long as:
- 8.1.1 both Parties comply with the IDTA, including the Security Requirements and any Extra Protection Clauses; and
 - 8.1.2 the Security Requirements and any Extra Protection Clauses provide a level of security which is appropriate to the risk of a Data Loss Event occurring and the impact on Relevant Data Subjects of such a Data Loss Event, including considering any Special Category Data within the Transferred Data.
- 8.2 The Exporter must:
- 8.2.1 ensure and demonstrate that this IDTA (including any Security Requirements and Extra Protection Clauses) provides Appropriate Safeguards; and

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8.2.2 (if the Importer reasonably requests) provide it with a copy of any TRA.

8.3 The Importer must:

8.3.1 before receiving any Transferred Data, provide the Exporter with all relevant information regarding Local Laws and practices and the protections and risks which apply to the Transferred Data when it is Processed by the Importer, including any information which may reasonably be required for the Exporter to carry out any TRA (the "Importer Information");

8.3.2 co-operate with the Exporter to ensure compliance with the Exporter's obligations under the UK Data Protection Laws;

8.3.3 review whether any Importer Information has changed, and whether any Local Laws contradict its obligations in this IDTA and take reasonable steps to verify this, on a regular basis. These reviews must be at least as frequent as the Review Dates; and

8.3.4 inform the Exporter as soon as it becomes aware of any Importer Information changing, and/or any Local Laws which may prevent or limit the Importer complying with its obligations in this IDTA. This information then forms part of the Importer Information.

8.4 The Importer must ensure that at the Start Date and during the Term:

8.4.1 the Importer Information is accurate;

8.4.2 it has taken reasonable steps to verify whether there are any Local Laws which contradict its obligations in this IDTA or any additional information regarding Local Laws which may be relevant to this IDTA.

8.5 Each Party must ensure that the Security Requirements and Extra Protection Clauses provide a level of security which is appropriate to the risk of a Data Loss Event occurring and the impact on Relevant Data Subjects of such a Data Loss Event.

9. Reviews to ensure the Appropriate Safeguards continue

9.1 Each Party must:

9.1.1 review this IDTA (including the Security Requirements and Extra Protection Clauses and the Importer Information) at regular intervals, to ensure that the IDTA remains accurate and up to date and continues to provide the Appropriate Safeguards. Each Party will carry out these reviews as frequently as the relevant Review Dates or sooner; and

9.1.2 inform the other party in writing as soon as it becomes aware if any information contained in either this IDTA, any TRA or Importer Information is no longer accurate and up to date.

9.2 If, at any time, the IDTA no longer provides Appropriate Safeguards the Parties must Without Undue Delay:

9.2.1 pause transfers and Processing of Transferred Data whilst a change to the Tables is agreed. The Importer may retain a copy of the Transferred Data

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during this pause, in which case the Importer must carry out any Processing required to maintain, so far as possible, the measures it was taking to achieve the Appropriate Safeguards prior to the time the IDTA no longer provided Appropriate Safeguards, but no other Processing;

9.2.2 agree a change to Part one: Tables or Part two: Extra Protection Clauses which will maintain the Appropriate Safeguards (in accordance with Section 5); and

9.2.3 where a change to Part one: Tables or Part two: Extra Protection Clauses which maintains the Appropriate Safeguards cannot be agreed, the Exporter must end this IDTA by written notice on the Importer.

10. The ICO

10.1 Each Party agrees to comply with any reasonable requests made by the ICO in relation to this IDTA or its Processing of the Transferred Data.

10.2 The Exporter will provide a copy of any TRA, the Importer Information and this IDTA to the ICO, if the ICO requests.

10.3 The Importer will provide a copy of any Importer Information and this IDTA to the ICO, if the ICO requests.

The Exporter

11. Exporter's obligations

11.1 The Exporter agrees that UK Data Protection Laws apply to its Processing of the Transferred Data, including transferring it to the Importer.

11.2 The Exporter must:

11.2.1 comply with the UK Data Protection Laws in transferring the Transferred Data to the Importer;

11.2.2 comply with the Linked Agreement as it relates to its transferring the Transferred Data to the Importer; and

11.2.3 carry out reasonable checks on the Importer's ability to comply with this IDTA, and take appropriate action including under Section 9.2, Section 29 or Section 30, if at any time it no longer considers that the Importer is able to comply with this IDTA or to provide Appropriate Safeguards.

11.3 The Exporter must comply with all its obligations in the IDTA, including any in the Security Requirements, and any Extra Protection Clauses and any Commercial Clauses.

11.4 The Exporter must co-operate with reasonable requests of the Importer to pass on notices or other information to and from Relevant Data Subjects or any Third Party Controller where it is not reasonably practical for the Importer to do so. The Exporter may pass these on via a third party if it is reasonable to do so.

11.5 The Exporter must co-operate with and provide reasonable assistance to the Importer, so that the Importer is able to comply with its obligations to the Relevant Data Subjects under Local Law and this IDTA.

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The Importer

12. General Importer obligations

12.1 The Importer must:

- 12.1.1 only Process the Transferred Data for the Purpose;
- 12.1.2 comply with all its obligations in the IDTA, including in the Security Requirements, any Extra Protection Clauses and any Commercial Clauses;
- 12.1.3 comply with all its obligations in the Linked Agreement which relate to its Processing of the Transferred Data;
- 12.1.4 keep a written record of its Processing of the Transferred Data, which demonstrate its compliance with this IDTA, and provide this written record if asked to do so by the Exporter;
- 12.1.5 if the Linked Agreement includes rights for the Exporter to obtain information or carry out an audit, provide the Exporter with the same rights in relation to this IDTA; and
- 12.1.6 if the ICO requests, provide the ICO with the information it would be required on request to provide to the Exporter under this Section 12.1 (including the written record of its Processing, and the results of audits and inspections).

12.2 The Importer must co-operate with and provide reasonable assistance to the Exporter and any Third Party Controller, so that the Exporter and any Third Party Controller are able to comply with their obligations under UK Data Protection Laws and this IDTA.

13. Importer's obligations if it is subject to the UK Data Protection Laws

13.1 If the Importer's Processing of the Transferred Data is subject to UK Data Protection Laws, it agrees that:

- 13.1.1 UK Data Protection Laws apply to its Processing of the Transferred Data, and the ICO has jurisdiction over it in that respect; and
- 13.1.2 it has and will comply with the UK Data Protection Laws in relation to the Processing of the Transferred Data.

13.2 If Section 13.1 applies and the Importer complies with Section 13.1, it does not need to comply with:

- 13.2.1 Section 14 (Importer's obligations to comply with key data protection principles);
- 13.2.2 Section 15 (What happens if there is an Importer Data Loss Event);
- 13.2.3 Section 15 (How Relevant Data Subjects can exercise their data subject rights); and
- 13.2.4 Section 21 (How Relevant Data Subjects can exercise their data subject rights – if the Importer is the Exporter's Processor or Sub-Processor).

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14. Importer's obligations to comply with key data protection principles

- 14.1 The Importer does not need to comply with this Section 14 if it is the Exporter's Processor or Sub-Processor.
- 14.2 The Importer must:
 - 14.2.1 ensure that the Transferred Data it Processes is adequate, relevant and limited to what is necessary for the Purpose;
 - 14.2.2 ensure that the Transferred Data it Processes is accurate and (where necessary) kept up to date, and (where appropriate considering the Purposes) correct or delete any inaccurate Transferred Data it becomes aware of Without Undue Delay; and
 - 14.2.3 ensure that it Processes the Transferred Data for no longer than is reasonably necessary for the Purpose.

15. What happens if there is an Importer Data Loss Event

- 15.1 If there is an Importer Data Loss Event, the Importer must:
 - 15.1.1 take reasonable steps to fix it, including to minimise the harmful effects on Relevant Data Subjects, stop it from continuing, and prevent it happening again. If the Importer is the Exporter's Processor or Sub-Processor: these steps must comply with the Exporter's instructions and the Linked Agreement and be in co-operation with the Exporter and any Third Party Controller; and
 - 15.1.2 ensure that the Security Requirements continue to provide (or are changed in accordance with this IDTA so they do provide) a level of security which is appropriate to the risk of a Data Loss Event occurring and the impact on Relevant Data Subjects of such a Data Loss Event.
- 15.2 If the Importer is a Processor or Sub-Processor: if there is an Importer Data Loss Event, the Importer must:
 - 15.2.1 notify the Exporter Without Undue Delay after becoming aware of the breach, providing the following information:
 - 15.2.1.1 a description of the nature of the Importer Data Loss Event;
 - 15.2.1.2 (if and when possible) the categories and approximate number of Data Subjects and Transferred Data records concerned;
 - 15.2.1.3 likely consequences of the Importer Data Loss Event;
 - 15.2.1.4 steps taken (or proposed to be taken) to fix the Importer Data Loss Event (including to minimise the harmful effects on Relevant Data Subjects, stop it from continuing, and prevent it happening again) and to ensure that Appropriate Safeguards are in place;
 - 15.2.1.5 contact point for more information; and
 - 15.2.1.6 any other information reasonably requested by the Exporter,

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15.2.2 if it is not possible for the Importer to provide all the above information at the same time, it may do so in phases, Without Undue Delay; and

15.2.3 assist the Exporter (and any Third Party Controller) so the Exporter (or any Third Party Controller) can inform Relevant Data Subjects or the ICO or any other relevant regulator or authority about the Importer Data Loss Event Without Undue Delay.

15.3 If the Importer is a Controller: if the Importer Data Loss Event is likely to result in a risk to the rights or freedoms of any Relevant Data Subject the Importer must notify the Exporter Without Undue Delay after becoming aware of the breach, providing the following information:

15.3.1 a description of the nature of the Importer Data Loss Event;

15.3.2 (if and when possible) the categories and approximate number of Data Subjects and Transferred Data records concerned;

15.3.3 likely consequences of the Importer Data Loss Event;

15.3.4 steps taken (or proposed to be taken) to fix the Importer Data Loss Event (including to minimise the harmful effects on Relevant Data Subjects, stop it from continuing, and prevent it happening again) and to ensure that Appropriate Safeguards are in place;

15.3.5 contact point for more information; and

15.3.6 any other information reasonably requested by the Exporter.

If it is not possible for the Importer to provide all the above information at the same time, it may do so in phases, Without Undue Delay.

15.4 If the Importer is a Controller: if the Importer Data Loss Event is likely to result in a high risk to the rights or freedoms of any Relevant Data Subject, the Importer must inform those Relevant Data Subjects Without Undue Delay, except in so far as it requires disproportionate effort, and provided the Importer ensures that there is a public communication or similar measures whereby Relevant Data Subjects are informed in an equally effective manner.

15.5 The Importer must keep a written record of all relevant facts relating to the Importer Data Loss Event, which it will provide to the Exporter and the ICO on request.

This record must include the steps it takes to fix the Importer Data Loss Event (including to minimise the harmful effects on Relevant Data Subjects, stop it from continuing, and prevent it happening again) and to ensure that Security Requirements continue to provide a level of security which is appropriate to the risk of a Data Loss Event occurring and the impact on Relevant Data Subjects of such a Data Loss Event.

16. Transferring on the Transferred Data

16.1 The Importer may only transfer on the Transferred Data to a third party if it is permitted to do so in Table 2: Transfer Details Table, the transfer is for the Purpose, the transfer does not breach the Linked Agreement, and one or more of the following apply:

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- 16.1.1 the third party has entered into a written contract with the Importer containing the same level of protection for Data Subjects as contained in this IDTA (based on the role of the recipient as controller or processor), and the Importer has conducted a risk assessment to ensure that the Appropriate Safeguards will be protected by that contract; or
 - 16.1.2 the third party has been added to this IDTA as a Party; or
 - 16.1.3 if the Importer was in the UK, transferring on the Transferred Data would comply with Article 46 UK GDPR; or
 - 16.1.4 if the Importer was in the UK transferring on the Transferred Data would comply with one of the exceptions in Article 49 UK GDPR; or
 - 16.1.5 the transfer is to the UK or an Adequate Country.
- 16.2 The Importer does not need to comply with Section 16.1 if it is transferring on Transferred Data and/or allowing access to the Transferred Data in accordance with Section 23 (Access Requests and Direct Access).

17. Importer's responsibility if it authorises others to perform its obligations

- 17.1 The Importer may sub-contract its obligations in this IDTA to a Processor or Sub-Processor (provided it complies with Section 16).
- 17.2 If the Importer is the Exporter's Processor or Sub-Processor: it must also comply with the Linked Agreement or be with the written consent of the Exporter.
- 17.3 The Importer must ensure that any person or third party acting under its authority, including a Processor or Sub-Processor, must only Process the Transferred Data on its instructions.
- 17.4 The Importer remains fully liable to the Exporter, the ICO and Relevant Data Subjects for its obligations under this IDTA where it has sub-contracted any obligations to its Processors and Sub-Processors, or authorised an employee or other person to perform them (and references to the Importer in this context will include references to its Processors, Sub-Processors or authorised persons).

What rights do individuals have?

18. The right to a copy of the IDTA

- 18.1 If a Party receives a request from a Relevant Data Subject for a copy of this IDTA:
 - 18.1.1 it will provide the IDTA to the Relevant Data Subject and inform the other Party, as soon as reasonably possible;
 - 18.1.2 it does not need to provide copies of the Linked Agreement, but it must provide all the information from those Linked Agreements referenced in the Tables;
 - 18.1.3 it may redact information in the Tables or the information provided from the Linked Agreement if it is reasonably necessary to protect business secrets or confidential information, so long as it provides the Relevant Data Subject with a summary of those redactions so that the Relevant Data Subject can understand the content of the Tables or the information provided from the

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Linked Agreement.

19. The right to Information about the Importer and its Processing

- 19.1 The Importer does not need to comply with this Section 19 if it is the Exporter's Processor or Sub-Processor.
- 19.2 The Importer must ensure that each Relevant Data Subject is provided with details of:
 - 19.2.1 the Importer (including contact details and the Importer Data Subject Contact);
 - 19.2.2 the Purposes; and
 - 19.2.3 any recipients (or categories of recipients) of the Transferred Data;

The Importer can demonstrate it has complied with this Section 19.2 if the information is given (or has already been given) to the Relevant Data Subjects by the Exporter or another party.

The Importer does not need to comply with this Section 19.2 in so far as to do so would be impossible or involve a disproportionate effort, in which case, the Importer must make the information publicly available.

- 19.3 The Importer must keep the details of the Importer Data Subject Contact up to date and publicly available. This includes notifying the Exporter in writing of any such changes.
- 19.4 The Importer must make sure those contact details are always easy to access for all Relevant Data Subjects and be able to easily communicate with Data Subjects in the English language Without Undue Delay.

20. How Relevant Data Subjects can exercise their data subject rights

- 20.1 The Importer does not need to comply with this Section 20 if it is the Exporter's Processor or Sub-Processor.
- 20.2 If an individual requests, the Importer must confirm whether it is Processing their Personal Data as part of the Transferred Data.
- 20.3 The following Sections of this Section 20, relate to a Relevant Data Subject's Personal Data which forms part of the Transferred Data the Importer is Processing.
- 20.4 If the Relevant Data Subject requests, the Importer must provide them with a copy of their Transferred Data:
 - 20.4.1 Without Undue Delay (and in any event within one month);
 - 20.4.2 at no greater cost to the Relevant Data Subject than it would be able to charge if it were subject to the UK Data Protection Laws;
 - 20.4.3 in clear and plain English that is easy to understand; and
 - 20.4.4 in an easily accessible form
 - 20.4.5 together with
 - 20.4.6 (if needed) a clear and plain English explanation of the Transferred Data so

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that it is understandable to the Relevant Data Subject; and

20.4.7 information that the Relevant Data Subject has the right to bring a claim for compensation under this IDTA.

20.5 If a Relevant Data Subject requests, the Importer must:

20.5.1 rectify inaccurate or incomplete Transferred Data;

20.5.2 erase Transferred Data if it is being Processed in breach of this IDTA;

20.5.3 cease using it for direct marketing purposes; and

20.5.4 comply with any other reasonable request of the Relevant Data Subject, which the Importer would be required to comply with if it were subject to the UK Data Protection Laws.

20.6 The Importer must not use the Transferred Data to make decisions about the Relevant Data Subject based solely on automated processing, including profiling (the “Decision-Making”), which produce legal effects concerning the Relevant Data Subject or similarly significantly affects them, except if it is permitted by Local Law and:

20.6.1 the Relevant Data Subject has given their explicit consent to such Decision-Making; or

20.6.2 Local Law has safeguards which provide sufficiently similar protection for the Relevant Data Subjects in relation to such Decision-Making, as to the relevant protection the Relevant Data Subject would have if such Decision-Making was in the UK; or

20.6.3 the Extra Protection Clauses provide safeguards for the Decision-Making which provide sufficiently similar protection for the Relevant Data Subjects in relation to such Decision-Making, as to the relevant protection the Relevant Data Subject would have if such Decision-Making was in the UK.

21. How Relevant Data Subjects can exercise their data subject rights– if the Importer is the Exporter’s Processor or Sub-Processor

21.1 Where the Importer is the Exporter’s Processor or Sub-Processor: If the Importer receives a request directly from an individual which relates to the Transferred Data it must pass that request on to the Exporter Without Undue Delay. The Importer must only respond to that individual as authorised by the Exporter or any Third Party Controller.

22. Rights of Relevant Data Subjects are subject to the exemptions in the UK Data Protection Laws

22.1 The Importer is not required to respond to requests or provide information or notifications under Sections 18, 19, 20 ,21 and 23 if:

22.1.1 it is unable to reasonably verify the identity of an individual making the request; or

22.1.2 the requests are manifestly unfounded or excessive, including where requests are repetitive. In that case the Importer may refuse the request or may charge the Relevant Data Subject a reasonable fee; or

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- 22.1.3 a relevant exemption would be available under UK Data Protection Laws, were the Importer subject to the UK Data Protection Laws.

If the Importer refuses an individual's request or charges a fee under Section 22.1.2 it will set out in writing the reasons for its refusal or charge, and inform the Relevant Data Subject that they are entitled to bring a claim for compensation under this IDTA in the case of any breach of this IDTA.

How to give third parties access to Transferred Data under Local Laws

23. Access requests and direct access

- 23.1 In this Section 23 an "Access Request" is a legally binding request (except for requests only binding by contract law) to access any Transferred Data and "Direct Access" means direct access to any Transferred Data by public authorities of which the Importer is aware.
- 23.2 The Importer may disclose any requested Transferred Data in so far as it receives an Access Request, unless in the circumstances it is reasonable for it to challenge that Access Request on the basis there are significant grounds to believe that it is unlawful.
- 23.3 In so far as Local Laws allow and it is reasonable to do so, the Importer will Without Undue Delay provide the following with relevant information about any Access Request or Direct Access: the Exporter; any Third Party Controller; and where the Importer is a Controller, any Relevant Data Subjects.
- 23.4 In so far as Local Laws allow, the Importer must:
- 23.4.1 make and keep a written record of Access Requests and Direct Access, including (if known): the dates, the identity of the requestor/accessor, the purpose of the Access Request or Direct Access, the type of data requested or accessed, whether it was challenged or appealed, and the outcome; and the Transferred Data which was provided or accessed; and
 - 23.4.2 provide a copy of this written record to the Exporter on each Review Date and any time the Exporter or the ICO reasonably requests.

24. Giving notice

- 24.1 If a Party is required to notify any other Party in this IDTA it will be marked for the attention of the relevant Key Contact and sent by e-mail to the e-mail address given for the Key Contact.
- 24.2 If the notice is sent in accordance with Section 24.1, it will be deemed to have been delivered at the time the e-mail was sent, or if that time is outside of the receiving Party's normal business hours, the receiving Party's next normal business day, and provided no notice of non-delivery or bounceback is received.
- 24.3 The Parties agree that any Party can update their Key Contact details by giving 14 days' (or more) notice in writing to the other Party.

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25. General clauses

- 25.1 In relation to the transfer of the Transferred Data to the Importer and the Importer's Processing of the Transferred Data, this IDTA and any Linked Agreement:
- 25.1.1 contain all the terms and conditions agreed by the Parties; and
 - 25.1.2 override all previous contacts and arrangements, whether oral or in writing.
- 25.2 If one Party made any oral or written statements to the other before entering into this IDTA (which are not written in this IDTA) the other Party confirms that it has not relied on those statements and that it will not have a legal remedy if those statements are untrue or incorrect, unless the statement was made fraudulently.
- 25.3 Neither Party may novate, assign or obtain a legal charge over this IDTA (in whole or in part) without the written consent of the other Party, which may be set out in the Linked Agreement.
- 25.4 Except as set out in Section 17.1, neither Party may sub contract its obligations under this IDTA without the written consent of the other Party, which may be set out in the Linked Agreement.
- 25.5 This IDTA does not make the Parties a partnership, nor appoint one Party to act as the agent of the other Party.
- 25.6 If any Section (or part of a Section) of this IDTA is or becomes illegal, invalid or unenforceable, that will not affect the legality, validity and enforceability of any other Section (or the rest of that Section) of this IDTA.
- 25.7 If a Party does not enforce, or delays enforcing, its rights or remedies under or in relation to this IDTA, this will not be a waiver of those rights or remedies. In addition, it will not restrict that Party's ability to enforce those or any other right or remedy in future.
- 25.8 If a Party chooses to waive enforcing a right or remedy under or in relation to this IDTA, then this waiver will only be effective if it is made in writing. Where a Party provides such a written waiver:
- 25.8.1 it only applies in so far as it explicitly waives specific rights or remedies;
 - 25.8.2 it shall not prevent that Party from exercising those rights or remedies in the future (unless it has explicitly waived its ability to do so); and
 - 25.8.3 it will not prevent that Party from enforcing any other right or remedy in future.

What happens if there is a breach of this IDTA?

26. Breaches of this IDTA

- 26.1 Each Party must notify the other Party in writing (and with all relevant details) if it:
- 26.1.1 has breached this IDTA; or
 - 26.1.2 it should reasonably anticipate that it may breach this IDTA, and provide any information about this which the other Party reasonably requests.

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- 26.2 In this IDTA “Significant Harmful Impact” means that there is more than a minimal risk of a breach of the IDTA causing (directly or indirectly) significant damage to any Relevant Data Subject or the other Party.

27. Breaches of this IDTA by the Importer

- 27.1 If the Importer has breached this IDTA, and this has a Significant Harmful Impact, the Importer must take steps Without Undue Delay to end the Significant Harmful Impact, and if that is not possible to reduce the Significant Harmful Impact as much as possible.
- 27.2 Until there is no ongoing Significant Harmful Impact on Relevant Data Subjects:
- 27.2.1 the Exporter must suspend sending Transferred Data to the Importer;
 - 27.2.2 If the Importer is the Exporter’s Processor or Sub-Processor: if the Exporter requests, the importer must securely delete all Transferred Data or securely return it to the Exporter (or a third party named by the Exporter); and
 - 27.2.3 if the Importer has transferred on the Transferred Data to a third party receiver under Section 16, and the breach has a Significant Harmful Impact on Relevant Data Subject when it is Processed by or on behalf of that third party receiver, the Importer must:
 - 27.2.3.1 notify the third party receiver of the breach and suspend sending it Transferred Data; and
 - 27.2.3.2 if the third party receiver is the Importer’s Processor or Sub-Processor: make the third party receiver securely delete all Transferred Data being Processed by it or on its behalf, or securely return it to the Importer (or a third party named by the Importer).
- 27.3 If the breach cannot be corrected Without Undue Delay, so there is no ongoing Significant Harmful Impact on Relevant Data Subjects, the Exporter must end this IDTA under Section 30.1.

28. Breaches of this IDTA by the Exporter

- 28.1 If the Exporter has breached this IDTA, and this has a Significant Harmful Impact, the Exporter must take steps Without Undue Delay to end the Significant Harmful Impact and if that is not possible to reduce the Significant Harmful Impact as much as possible.
- 28.2 Until there is no ongoing risk of a Significant Harmful Impact on Relevant Data Subjects, the Exporter must suspend sending Transferred Data to the Importer.
- 28.3 If the breach cannot be corrected Without Undue Delay, so there is no ongoing Significant Harmful Impact on Relevant Data Subjects, the Importer must end this IDTA under Section 30.1.

Ending the IDTA

29. How to end this IDTA without there being a breach

- 29.1 The IDTA will end:
- 29.1.1 at the end of the Term stated in Table 2: Transfer Details; or

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- 29.1.2 if in Table 2: Transfer Details, the Parties can end this IDTA by providing written notice to the other: at the end of the notice period stated;
 - 29.1.3 at any time that the Parties agree in writing that it will end; or
 - 29.1.4 at the time set out in Section 29.2.
- 29.2 If the ICO issues a revised Approved IDTA under Section 5.4, if any Party selected in Table 2 “Ending the IDTA when the Approved IDTA changes”, will as a direct result of the changes in the Approved IDTA have a substantial, disproportionate and demonstrable increase in:
 - 29.2.1 its direct costs of performing its obligations under the IDTA; and/or
 - 29.2.2 its risk under the IDTA,and in either case it has first taken reasonable steps to reduce that cost or risk so that it is not substantial and disproportionate, that Party may end the IDTA at the end of a reasonable notice period, by providing written notice for that period to the other Party before the start date of the revised Approved IDTA.

30. How to end this IDTA if there is a breach

- 30.1 A Party may end this IDTA immediately by giving the other Party written notice if:
 - 30.1.1 the other Party has breached this IDTA and this has a Significant Harmful Impact. This includes repeated minor breaches which taken together have a Significant Harmful Impact, and
 - 30.1.1.1 the breach can be corrected so there is no Significant Harmful Impact, and the other Party has failed to do so Without Undue Delay (which cannot be more than 14 days of being required to do so in writing); or
 - 30.1.1.2 the breach and its Significant Harmful Impact cannot be corrected;
 - 30.1.2 the Importer can no longer comply with Section 8.3, as there are Local Laws which mean it cannot comply with this IDTA and this has a Significant Harmful Impact.

31. What must the Parties do when the IDTA ends?

- 31.1 If the parties wish to bring this IDTA to an end or this IDTA ends in accordance with any provision in this IDTA, but the Importer must comply with a Local Law which requires it to continue to keep any Transferred Data then this IDTA will remain in force in respect of any retained Transferred Data for as long as the retained Transferred Data is retained, and the Importer must:
 - 31.1.1 notify the Exporter Without Undue Delay, including details of the relevant Local Law and the required retention period;
 - 31.1.2 retain only the minimum amount of Transferred Data it needs to comply with that Local Law, and the Parties must ensure they maintain the Appropriate Safeguards, and change the Tables and Extra Protection Clauses, together with any TRA to reflect this; and

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31.1.3 stop Processing the Transferred Data as soon as permitted by that Local Law and the IDTA will then end and the rest of this Section 31 will apply.

31.2 When this IDTA ends (no matter what the reason is):

31.2.1 the Exporter must stop sending Transferred Data to the Importer; and

31.2.2 if the Importer is the Exporter's Processor or Sub-Processor: the Importer must delete all Transferred Data or securely return it to the Exporter (or a third party named by the Exporter), as instructed by the Exporter;

31.2.3 if the Importer is a Controller and/or not the Exporter's Processor or Sub-Processor: the Importer must securely delete all Transferred Data.

31.2.4 the following provisions will continue in force after this IDTA ends (no matter what the reason is):

31.2.4.1 Section 1 (This IDTA and Linked Agreements);

31.2.4.2 Section 2 (Legal Meaning of Words);

31.2.4.3 Section 6 (Understanding this IDTA);

31.2.4.4 Section 7 (Which laws apply to this IDTA);

31.2.4.5 Section 10 (The ICO);

31.2.4.6 Sections 11.1 and 11.4 (Exporter's obligations);

31.2.4.7 Sections 12.1.2, 12.1.3, 12.1.4, 12.1.5 and 12.1.6 (General Importer obligations);

31.2.4.8 Section 13.1 (Importer's obligations if it is subject to UK Data Protection Laws);

31.2.4.9 Section 17 (Importer's responsibility if it authorised others to perform its obligations);

31.2.4.10 Section 24 (*Giving notice*);

31.2.4.11 Section 25 (General clauses);

31.2.4.12 Section 31 (What must the Parties do when the IDTA ends);

31.2.4.13 Section 32 (Your liability);

31.2.4.14 Section 33 (How Relevant Data Subjects and the ICO may bring legal claims);

31.2.4.15 Section 34 (Courts legal claims can be brought in);

31.2.4.16 Section 35 (Arbitration); and

31.2.4.17 Section 36 (*Legal Glossary*).

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How to bring a legal claim under this IDTA

32. Your liability

- 32.1 The Parties remain fully liable to Relevant Data Subjects for fulfilling their obligations under this IDTA and (if they apply) under UK Data Protection Laws.
- 32.2 Each Party (in this Section, “Party One”) agrees to be fully liable to Relevant Data Subjects for the entire damage suffered by the Relevant Data Subject, caused directly or indirectly by:
- 32.2.1 Party One’s breach of this IDTA; and/or
 - 32.2.2 where Party One is a Processor, Party One’s breach of any provisions regarding its Processing of the Transferred Data in the Linked Agreement;
 - 32.2.3 where Party One is a Controller, a breach of this IDTA by the other Party if it involves Party One’s Processing of the Transferred Data (no matter how minimal)
- in each case unless Party One can prove it is not in any way responsible for the event giving rise to the damage.
- 32.3 If one Party has paid compensation to a Relevant Data Subject under Section 32.2, it is entitled to claim back from the other Party that part of the compensation corresponding to the other Party’s responsibility for the damage, so that the compensation is fairly divided between the Parties.
- 32.4 The Parties do not exclude or restrict their liability under this IDTA or UK Data Protection Laws, on the basis that they have authorised anyone who is not a Party (including a Processor) to perform any of their obligations, and they will remain responsible for performing those obligations.

33. How Relevant Data Subjects and the ICO may bring legal claims

- 33.1 The Relevant Data Subjects are entitled to bring claims against the Exporter and/or Importer for breach of the following (including where their Processing of the Transferred Data is involved in a breach of the following by either Party):
- 33.1.1 Section 1 (*This IDTA and Linked Agreements*);
 - 33.1.2 Section 3 (*You have provided all the information required by Part one: Tables and Part two: Extra Protection Clauses*);
 - 33.1.3 Section 8 (*The Appropriate Safeguards*);
 - 33.1.4 Section 9 (*Reviews to ensure the Appropriate Safeguards continue*);
 - 33.1.5 Section 11 (*Exporter’s obligations*);
 - 33.1.6 Section 12 (*General Importer Obligations*);
 - 33.1.7 Section 13 (*Importer’s obligations if it is subject to UK Data Protection Laws*);
 - 33.1.8 Section 14 (*Importer’s obligations to comply with key data protection laws*);

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- 33.1.9 Section 15 (*What happens if there is an Importer Data Loss Event*);
 - 33.1.10 Section 16 (*Transferring on the Transferred Data*);
 - 33.1.11 Section 17 (*Importer's responsibility if it authorises others to perform its obligations*);
 - 33.1.12 Section 18 (*The right to a copy of the IDTA*);
 - 33.1.13 Section 19 (*The Importer's contact details for the Relevant Data Subjects*);
 - 33.1.14 Section 20 (*How Relevant Data Subjects can exercise their data subject rights*);
 - 33.1.15 Section 21 (*How Relevant Data Subjects can exercise their data subject rights– if the Importer is the Exporter's Processor or Sub-Processor*);
 - 33.1.16 Section 23 (*Access Requests and Direct Access*);
 - 33.1.17 Section 26 (*Breaches of this IDTA*);
 - 33.1.18 Section 27 (*Breaches of this IDTA by the Importer*);
 - 33.1.19 Section 28 (*Breaches of this IDTA by the Exporter*);
 - 33.1.20 Section 30 (*How to end this IDTA if there is a breach*);
 - 33.1.21 Section 31 (*What must the Parties do when the IDTA ends*); and
 - 33.1.22 any other provision of the IDTA which expressly or by implication benefits the Relevant Data Subjects.
- 33.2 The ICO is entitled to bring claims against the Exporter and/or Importer for breach of the following Sections: Section 10 (The ICO), Sections 11.1 and 11.2 (Exporter's obligations), Section 12.1.6 (General Importer obligations) and Section 13 (Importer's obligations if it is subject to UK Data Protection Laws).
- 33.3 No one else (who is not a Party) can enforce any part of this IDTA (including under the Contracts (Rights of Third Parties) Act 1999).
- 33.4 The Parties do not need the consent of any Relevant Data Subject or the ICO to make changes to this IDTA, but any changes must be made in accordance with its terms.
- 33.5 In bringing a claim under this IDTA, a Relevant Data Subject may be represented by a not-for-profit body, organisation or association under the same conditions set out in Article 80(1) UK GDPR and sections 187 to 190 of the Data Protection Act 2018.

34. Courts legal claims can be brought in

- 34.1 The courts of the UK country set out in Table 2: Transfer Details have non-exclusive jurisdiction over any claim in connection with this IDTA (including non-contractual claims).
- 34.2 The Exporter may bring a claim against the Importer in connection with this IDTA (including non-contractual claims) in any court in any country with jurisdiction to hear the claim.

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- 34.3 The Importer may only bring a claim against the Exporter in connection with this IDTA (including non-contractual claims) in the courts of the UK country set out in the Table 2: Transfer Details
- 34.4 Relevant Data Subjects and the ICO may bring a claim against the Exporter and/or the Importer in connection with this IDTA (including non-contractual claims) in any court in any country with jurisdiction to hear the claim.
- 34.5 Each Party agrees to provide to the other Party reasonable updates about any claims or complaints brought against it by a Relevant Data Subject or the ICO in connection with the Transferred Data (including claims in arbitration).

35. Arbitration

- 35.1 Instead of bringing a claim in a court under Section 34, any Party, or a Relevant Data Subject may elect to refer any dispute arising out of or in connection with this IDTA (including non-contractual claims) to final resolution by arbitration under the Rules of the London Court of International Arbitration, and those Rules are deemed to be incorporated by reference into this Section 35.
- 35.2 The Parties agree to submit to any arbitration started by another Party or by a Relevant Data Subject in accordance with this Section 35.
- 35.3 There must be only one arbitrator. The arbitrator (1) must be a lawyer qualified to practice law in one or more of England and Wales, or Scotland, or Northern Ireland and (2) must have experience of acting or advising on disputes relating to UK Data Protection Laws.
- 35.4 London shall be the seat or legal place of arbitration. It does not matter if the Parties selected a different UK country as the 'primary place for legal claims to be made' in Table 2: Transfer Details.
- 35.5 The English language must be used in the arbitral proceedings.
- 35.6 English law governs this Section 35. This applies regardless of whether or not the parties selected a different UK country's law as the 'UK country's law that governs the IDTA' in Table 2: Transfer Details.

36. Legal Glossary

Word or Phrase	Legal definition (this is how this word or phrase must be interpreted in the IDTA)
Access Request	As defined in Section 23, as a legally binding request (except for requests only binding by contract law) to access any Transferred Data.
Adequate Country	A third country, or: (a) a territory; (b) one or more sectors or organisations within a third country; (c) an international organisation;

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Word or Phrase	Legal definition (this is how this word or phrase must be interpreted in the IDTA)
	which the Secretary of State has specified by regulations provides an adequate level of protection of Personal Data in accordance with Section 17A of the Data Protection Act 2018.
Appropriate Safeguards	The standard of protection over the Transferred Data and of the Relevant Data Subject's rights, which is required by UK Data Protection Laws when you are making a Restricted Transfer relying on standard data protection clauses under Article 46(2)(d) UK GDPR.
Approved IDTA	The template IDTA A1.0 issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 5.4.
Commercial Clauses	The commercial clauses set out in Part three.
Controller	As defined in the UK GDPR.
Damage	All material and non-material loss and damage.
Data Subject	As defined in the UK GDPR.
Decision-Making	As defined in Section 20.6, as decisions about the Relevant Data Subjects based solely on automated processing, including profiling, using the Transferred Data.
Direct Access	As defined in Section 23 as direct access to any Transferred Data by public authorities of which the Importer is aware.
Exporter	The exporter identified in Table 1: Parties & Signature.
Extra Protection Clauses	The clauses set out in Part two: Extra Protection Clauses.
ICO	The Information Commissioner.
Importer	The importer identified in Table 1: Parties & Signature.
Importer Data Subject Contact	The Importer Data Subject Contact identified in Table 1: Parties & Signature, which may be updated in accordance with Section 19.
Importer Information	As defined in Section 8.3.1, as all relevant information regarding Local Laws and practices and the protections and risks which apply to the Transferred Data when it is Processed by the Importer, including for the Exporter to carry out any TRA.
Importer Data Loss Event	A 'personal data breach' as defined in UK GDPR, in relation to the Transferred Data when Processed by the Importer.
Linked Agreement	The linked agreements set out in Table 2: Transfer Details (if any).
Local Laws	Laws which are not the laws of the UK and which bind the Importer.
Mandatory Clauses	Part four: Mandatory Clauses of this IDTA.
Notice Period	As set out in Table 2: Transfer Details.
Party/Parties	The parties to this IDTA as set out in Table 1: Parties & Signature.

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Word or Phrase	Legal definition (this is how this word or phrase must be interpreted in the IDTA)
Personal Data	As defined in the UK GDPR.
Data Loss Event	As defined in the UK GDPR.
Processing	As defined in the UK GDPR. When the IDTA refers to Processing by the Importer, this includes where a third party Sub-Processor of the Importer is Processing on the Importer's behalf.
Processor	As defined in the UK GDPR.
Purpose	The 'Purpose' set out in Table 2: Transfer Details, including any purposes which are not incompatible with the purposes stated or referred to.
Relevant Data Subject	A Data Subject of the Transferred Data.
Restricted Transfer	A transfer which is covered by Chapter V of the UK GDPR
Review Dates	The review dates or period for the Security Requirements set out in Table 2: Transfer Details, and any review dates set out in any revised Approved IDTA.
Significant Harmful Impact	As defined in Section 26.2 as where there is more than a minimal risk of the breach causing (directly or indirectly) significant harm to any Relevant Data Subject or the other Party.
Special Category Data	As described in the UK GDPR, together with criminal conviction or criminal offence data.
Start Date	As set out in Table 1: Parties and signature.
Sub-Processor	A Processor appointed by another Processor to Process Personal Data on its behalf. This includes Sub-Processors of any level, for example a Sub-Sub-Processor.
Tables	The Tables set out in Part one of this IDTA.
Term	As set out in Table 2: Transfer Details.
Third Party Controller	The Controller of the Transferred Data where the Exporter is a Processor or Sub-Processor If there is not a Third Party Controller this can be disregarded.
Transfer Risk Assessment or TRA	A risk assessment in so far as it is required by UK Data Protection Laws to demonstrate that the IDTA provides the Appropriate Safeguards
Transferred Data	Any Personal Data which the Parties transfer, or intend to transfer under this IDTA, as described in Table 2: Transfer Details
UK Data Protection Laws	All laws relating to data protection, the processing of personal data, privacy and/or electronic communications in force from time to time in the UK, including the UK GDPR and the Data Protection Act 2018.
UK GDPR	As defined in Section 3 of the Data Protection Act 2018.

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Word or Phrase	Legal definition (this is how this word or phrase must be interpreted in the IDTA)
Without Undue Delay	Without undue delay, as that phrase is interpreted in the UK GDPR.

Alternative Part 4 Mandatory Clauses:

Mandatory Clauses	Part 4: Mandatory Clauses of the Approved IDTA, being the template IDTA A.1.0 issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 5.4 of those Mandatory Clauses.

Part B: International Data Transfer Agreement Addendum to the EU Commission Standard Contractual Clauses



Standard Data Protection Clauses to be issued by the Commissioner under S119A(1) Data Protection Act 2018

International Data Transfer Addendum to the EU Commission Standard Contractual Clauses

VERSION B1.0, in force 21 March 2022

This Addendum has been issued by the Information Commissioner for Parties making Restricted Transfers. The Information Commissioner considers that it provides Appropriate Safeguards for Restricted Transfers when it is entered into as a legally binding contract.

Part 1: Tables

Table 1: Parties

Start date		
The Parties	Exporter (who sends the Restricted Transfer)	Importer (who receives the Restricted Transfer)
Parties' details	Full legal name:	Full legal name:

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The Parties	Exporter (who sends the Restricted Transfer)	Importer (who receives the Restricted Transfer)
	Trading name (if different): Main address (if a company registered address): Official registration number (if any) (company number or similar identifier):	Trading name (if different): Main address (if a company registered address): Official registration number (if any) (company number or similar identifier):
Key Contact	Full Name (optional): Job Title: Contact details including email:	Full Name (optional): Job Title: Contact details including email:
Signature required for the purposes of Section 2)		

Table 2: Selected SCCs, Modules and Selected Clauses

Addendum EU SCCs	☐ The version of the Approved EU SCCs which this Addendum is appended to, detailed below, including the Appendix Information: Date: Reference (if any): Other identifier (if any): Or ☐ the Approved EU SCCs, including the Appendix Information and with only the following modules, clauses or optional provisions of the Approved EU SCCs brought into effect for the purposes of this Addendum:

Module	Module in operation	Clause 7 (Docking Clause)	Clause 11 (Option)	Clause 9a (Prior Authorisation or General Authorisation)	Clause 9a (Time period)	Is personal data received from the Importer combined with personal data collected by the Exporter?

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Table 3: Appendix Information

“**Appendix Information**” means the information which must be provided for the selected modules as set out in the Appendix of the Approved EU SCCs (other than the Parties), and which for this Addendum is set out in:

Annex 1A: List of Parties: 

Annex 1B: Description of Transfer: 

Annex II: Technical and organisational measures including technical and organisational measures to ensure the security of the data: 

Annex III: List of Sub processors (Modules 2 and 3 only): 

Table 4: Ending this Addendum when the Approved Addendum Changes

Ending this Addendum when the Approved Addendum changes	this the Which Parties may end this Addendum as set out in Section 19: ☐ Importer ☐ Exporter ☐ neither Party

Part 2: Mandatory Clauses

Entering into this Addendum

1. Each Party agrees to be bound by the terms and conditions set out in this Addendum, in exchange for the other Party also agreeing to be bound by this Addendum.
2. Although Annex 1A and Clause 7 of the Approved EU SCCs require signature by the Parties, for the purpose of making Restricted Transfers, the Parties may enter into this Addendum in any way that makes them legally binding on the Parties and allows data subjects to enforce their rights as set out in this Addendum. Entering into this Addendum will have the same effect as signing the Approved EU SCCs and any part of the Approved EU SCCs.

Interpretation of this Addendum

3. Where this Addendum uses terms that are defined in the Approved EU SCCs those terms shall have the same meaning as in the Approved EU SCCs. In addition, the following terms have the following meanings:

Addendum	This International Data Transfer Addendum which is made up of this Addendum incorporating the Addendum EU SCCs.
Addendum EU SCCs	The version(s) of the Approved EU SCCs which this Addendum is appended to, as set out in Table 2, including the Appendix Information.
Appendix Information	As set out in Table 3.
Appropriate Safeguards	The standard of protection over the personal data and of data subjects' rights, which is required by UK Data Protection Laws when you are making a Restricted Transfer relying on standard data protection clauses under Article 46(2)(d) UK GDPR.

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Approved Addendum	The template Addendum issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 18.
Approved EU SCCs	The Standard Contractual Clauses set out in the Annex of Commission Implementing Decision (EU) 2021/914 of 4 June 2021.
ICO	The Information Commissioner.
Restricted Transfer	A transfer which is covered by Chapter V of the UK GDPR.
UK	The United Kingdom of Great Britain and Northern Ireland.
UK Data Protection Laws	All laws relating to data protection, the processing of personal data, privacy and/or electronic communications in force from time to time in the UK, including the UK GDPR and the Data Protection Act 2018.
UK GDPR	As defined in section 3 of the Data Protection Act 2018.

4. This Addendum must always be interpreted in a manner that is consistent with UK Data Protection Laws and so that it fulfils the Parties' obligation to provide the Appropriate Safeguards.
5. If the provisions included in the Addendum EU SCCs amend the Approved SCCs in any way which is not permitted under the Approved EU SCCs or the Approved Addendum, such amendment(s) will not be incorporated in this Addendum and the equivalent provision of the Approved EU SCCs will take their place.
6. If there is any inconsistency or conflict between UK Data Protection Laws and this Addendum, UK Data Protection Laws applies.
7. If the meaning of this Addendum is unclear or there is more than one meaning, the meaning which most closely aligns with UK Data Protection Laws applies.
8. Any references to legislation (or specific provisions of legislation) means that legislation (or specific provision) as it may change over time. This includes where that legislation (or specific provision) has been consolidated, re-enacted and/or replaced after this Addendum has been entered into.

Hierarchy

9. Although Clause 5 of the Approved EU SCCs sets out that the Approved EU SCCs prevail over all related agreements between the parties, the parties agree that, for Restricted Transfers, the hierarchy in Section 10 will prevail.
10. Where there is any inconsistency or conflict between the Approved Addendum and the Addendum EU SCCs (as applicable), the Approved Addendum overrides the Addendum EU SCCs, except where (and in so far as) the inconsistent or conflicting terms of the Addendum EU SCCs provides greater protection for data subjects, in which case those terms will override the Approved Addendum.
11. Where this Addendum incorporates Addendum EU SCCs which have been entered into to protect transfers subject to the General Data Protection Regulation (EU) 2016/679 then the Parties acknowledge that nothing in this Addendum impacts those Addendum EU SCCs.

Incorporation of and changes to the EU SCCs

12. This Addendum incorporates the Addendum EU SCCs which are amended to the extent necessary so that:
- (a) together they operate for data transfers made by the data exporter to the data importer, to the extent that UK Data Protection Laws apply to the data exporter's processing when making that data transfer, and they provide Appropriate Safeguards for those data transfers;
 - (b) Sections 9 to 11 override Clause 5 (*Hierarchy*) of the Addendum EU SCCs; and
 - (c) this Addendum (including the Addendum EU SCCs incorporated into it) is (1) governed by the laws of England and Wales and (2) any dispute arising from it is resolved by the courts of England and Wales, in each case unless the laws and/or courts of Scotland or Northern Ireland have been expressly selected by the Parties.
13. Unless the Parties have agreed alternative amendments which meet the requirements of Section 12, the provisions of Section 15 will apply.
14. No amendments to the Approved EU SCCs other than to meet the requirements of Section 12 may be made.
15. The following amendments to the Addendum EU SCCs (for the purpose of Section 12) are made:
- (a) References to the "Clauses" means this Addendum, incorporating the Addendum EU SCCs;
 - (b) In Clause 2, delete the words:
"and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679";
 - (c) Clause 6 (Description of the transfer(s)) is replaced with:
"The details of the transfers(s) and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred) are those specified in Annex I.B where UK Data Protection Laws apply to the data exporter's processing when making that transfer.";
 - (d) Clause 8.7(i) of Module 1 is replaced with:
"it is to a country benefitting from adequacy regulations pursuant to Section 17A of the UK GDPR that covers the onward transfer";
 - (e) Clause 8.8(i) of Modules 2 and 3 is replaced with:
"the onward transfer is to a country benefitting from adequacy regulations pursuant to Section 17A of the UK GDPR that covers the onward transfer";
 - (f) References to "Regulation (EU) 2016/679", "Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement

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of such data (General Data Protection Regulation)“ and “that Regulation“ are all replaced by “UK Data Protection Laws“. References to specific Article(s) of “Regulation (EU) 2016/679“ are replaced with the equivalent Article or Section of UK Data Protection Laws;

- (g) References to Regulation (EU) 2018/1725 are removed;
- (h) References to the “European Union“, “Union“, “EU“, “EU Member State“, “Member State“ and “EU or Member State“ are all replaced with the “UK“;
- (i) The reference to “Clause 12(c)(i)“ at Clause 10(b)(i) of Module one, is replaced with “Clause 11(c)(i)“;
- (j) Clause 13(a) and Part C of Annex I are not used;
- (k) The “competent supervisory authority“ and “supervisory authority“ are both replaced with the “Information Commissioner“;
- (l) In Clause 16(e), subsection (i) is replaced with:
“the Secretary of State makes regulations pursuant to Section 17A of the Data Protection Act 2018 that cover the transfer of personal data to which these clauses apply;“;
- (m) Clause 17 is replaced with:
“These Clauses are governed by the laws of England and Wales.“;
- (n) Clause 18 is replaced with:
“Any dispute arising from these Clauses shall be resolved by the courts of England and Wales. A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of any country in the UK. The Parties agree to submit themselves to the jurisdiction of such courts.“; and
- (o) The footnotes to the Approved EU SCCs do not form part of the Addendum, except for footnotes 8, 9, 10 and 11.

Amendments to this Addendum

- 16. The Parties may agree to change Clauses 17 and/or 18 of the Addendum EU SCCs to refer to the laws and/or courts of Scotland or Northern Ireland.
- 17. If the Parties wish to change the format of the information included in Part 1: Tables of the Approved Addendum, they may do so by agreeing to the change in writing, provided that the change does not reduce the Appropriate Safeguards.
- 18. From time to time, the ICO may issue a revised Approved Addendum which:
 - (a) makes reasonable and proportionate changes to the Approved Addendum, including correcting errors in the Approved Addendum; and/or
 - (b) reflects changes to UK Data Protection Laws;

The revised Approved Addendum will specify the start date from which the changes to the Approved Addendum are effective and whether the Parties need to review this Addendum

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including the Appendix Information. This Addendum is automatically amended as set out in the revised Approved Addendum from the start date specified.

19. If the ICO issues a revised Approved Addendum under Section 18, if any Party selected in Table 4 “Ending the Addendum when the Approved Addendum changes“, will as a direct result of the changes in the Approved Addendum have a substantial, disproportionate and demonstrable increase in:

- (a) its direct costs of performing its obligations under the Addendum; and/or
- (b) its risk under the Addendum,

and in either case it has first taken reasonable steps to reduce those costs or risks so that it is not substantial and disproportionate, then that Party may end this Addendum at the end of a reasonable notice period, by providing written notice for that period to the other Party before the start date of the revised Approved Addendum.

20. The Parties do not need the consent of any third party to make changes to this Addendum, but any changes must be made in accordance with its terms.

Alternative Part 2 Mandatory Clauses:

Mandatory Clauses	Part 2: Mandatory Clauses of the Approved Addendum, being the template Addendum B.1.0 issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 18 of those Mandatory Clauses.

Annex 3: Standard Contractual Clauses for EU GDPR Compliant Transfers

Part A: Processor to Controller Standard Contractual Clauses

Standard Contractual Clauses for Personal Data Transfers from an EU Processor to a Controller Established in a Third Country (Processor-to-Controller Transfers)

SECTION I

CLAUSE 1

Purpose and scope

- (a) The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)[[FN1](#)] for the transfer of personal data to a third country.
- (b) The Parties:
 - (i) the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter 'entity/ies') transferring the personal data, as listed in Annex I.A (hereinafter each 'data exporter'), and

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- (ii) the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A (hereinafter each 'data importer')

have agreed to these standard contractual clauses (hereinafter: 'Clauses').

- (c) These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.
- (d) The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

CLAUSE 2

Effect and invariability of the Clauses

- (a) These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46(2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.
- (b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

CLAUSE 3

Third-party beneficiaries

- (a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:
 - (i) Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;
 - (ii) Clause 8 – Module One: Clause 8.5 (e) and Clause 8.9(b); Module Two: Clause 8.1(b), 8.9(a), (c), (d) and (e); Module Three: Clause 8.1(a), (c) and (d) and Clause 8.9(a), (c), (d), (e), (f) and (g); Module Four: Clause 8.1 (b) and Clause 8.3(b);
 - (iii) Clause 9 – Module Two: Clause 9(a), (c), (d) and (e); Module Three: Clause 9(a), (c), (d) and (e);
 - (iv) Clause 12 – Module One: Clause 12(a) and (d); Modules Two and Three: Clause 12(a), (d) and (f);
 - (v) Clause 13;
 - (vi) Clause 15.1(c), (d) and (e);

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- (vii) Clause 16(e);
- (viii) Clause 18 – Modules One, Two and Three: Clause 18(a) and (b); Module Four: Clause 18.
- (b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

CLAUSE 4

Interpretation

- (a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.
- (b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.
- (c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

CLAUSE 5

Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

CLAUSE 6

Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

CLAUSE 7 – Not Used

SECTION II – OBLIGATIONS OF THE PARTIES

CLAUSE 8

Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

8.1 Instructions

- (a) The data exporter shall process the personal data only on documented instructions from the data importer acting as its controller.

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- (b) The data exporter shall immediately inform the data importer if it is unable to follow those instructions, including if such instructions infringe Regulation (EU) 2016/679 or other Union or Member State data protection law.
- (c) The data importer shall refrain from any action that would prevent the data exporter from fulfilling its obligations under Regulation (EU) 2016/679, including in the context of sub-processing or as regards cooperation with competent supervisory authorities.
- (d) After the end of the provision of the processing services, the data exporter shall, at the choice of the data importer, delete all personal data processed on behalf of the data importer and certify to the data importer that it has done so, or return to the data importer all personal data processed on its behalf and delete existing copies.

8.2 Security of processing

- (a) The Parties shall implement appropriate technical and organisational measures to ensure the security of the data, including during transmission, and protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter 'personal data breach'). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature of the personal data[[FN7](#)], the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects, and in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner.
- (b) The data exporter shall assist the data importer in ensuring appropriate security of the data in accordance with paragraph 8.2(a). In case of a personal data breach concerning the personal data processed by the data exporter under these Clauses, the data exporter shall notify the data importer without undue delay after becoming aware of it and assist the data importer in addressing the breach.
- (c) The data exporter shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

8.3 Documentation and compliance

- (a) The Parties shall be able to demonstrate compliance with these Clauses.
- (b) The data exporter shall make available to the data importer all information necessary to demonstrate compliance with its obligations under these Clauses and allow for and contribute to audits.

CLAUSE 9

Use of sub-processors

N/A

CLAUSE 10

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Data subject rights

The Parties shall assist each other in responding to enquiries and requests made by data subjects under the local law applicable to the data importer or, for data processing by the data exporter in the EU, under Regulation (EU) 2016/679.

CLAUSE 11

Redress

- (a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.

CLAUSE 12

Liability

- (a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.
- (b) Each Party shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages that the Party causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter under Regulation (EU) 2016/679.
- (c) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.
- (d) The Parties agree that if one Party is held liable under paragraph (c), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its/their responsibility for the damage.
- (e) The data importer may not invoke the conduct of a processor or sub-processor to avoid its own liability.

CLAUSE 13

Supervision

N/A

SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES

CLAUSE 14

Local laws and practices affecting compliance with the Clauses *(where the EU processor combines the personal data received from the third country-controller with personal data collected by the processor in the EU)*

- (a) The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.
- (b) The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:
 - (i) the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;
 - (ii) the laws and practices of the third country of destination – including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards^[FN12];
 - (iii) any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.
- (c) The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.
- (d) The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.
- (e) The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under

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paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).

- (f) Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and 16(e) shall apply.

CLAUSE 15

Obligations of the data importer in case of access by public authorities (*where the EU processor combines the personal data received from the third country-controller with personal data collected by the processor in the EU*)

15.1 Notification

- (a) The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:
 - (i) receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or
 - (ii) becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.
- (b) If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.
- (c) Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).

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- (d) The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.
- (e) Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2 Review of legality and data minimisation

- (a) The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).
- (b) The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.
- (c) The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

SECTION IV – FINAL PROVISIONS

CLAUSE 16

Non-compliance with the Clauses and termination

- (a) The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.
- (b) In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).
- (c) The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:
 - (i) the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;

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- (ii) the data importer is in substantial or persistent breach of these Clauses; or
- (iii) the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

- (d) Personal data collected by the data exporter in the EU that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall immediately be deleted in its entirety, including any copy thereof. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.
- (e) Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

CLAUSE 17

Governing law

These Clauses shall be governed by the law of a country allowing for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify country*).

CLAUSE 18

Choice of forum and jurisdiction

Any dispute arising from these Clauses shall be resolved by the courts of _____ (*specify country*).

Official European Commission Footnotes

[FN1](#): Where the data exporter is a processor subject to Regulation (EU) 2016/679 acting on behalf of a Union institution or body as controller, reliance on these Clauses when engaging another processor (sub-processing) not subject to Regulation (EU) 2016/679 also ensures compliance with Article 29(4) of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ([OJ L 295, 21.11.2018, p. 39](#)), to the extent these Clauses and the data protection

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obligations as set out in the contract or other legal act between the controller and the processor pursuant to Article 29(3) of Regulation (EU) 2018/1725 are aligned. This will in particular be the case where the controller and processor rely on the standard contractual clauses included in Decision 2021/915.

[FN7](#): This includes whether the transfer and further processing involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences.

[FN11](#): The data importer may offer independent dispute resolution through an arbitration body only if it is established in a country that has ratified the New York Convention on Enforcement of Arbitration Awards.

[FN12](#): As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

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APPENDIX

EXPLANATORY NOTE:

It must be possible to clearly distinguish the information applicable to each transfer or category of transfers and, in this regard, to determine the respective role(s) of the Parties as data exporter(s) and/or data importer(s). This does not necessarily require completing and signing separate appendices for each transfer/category of transfers and/or contractual relationship, where this transparency can be achieved through one appendix. However, where necessary to ensure sufficient clarity, separate appendices should be used.

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ANNEX I

A. LIST OF PARTIES

Data exporter(s): *[Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union]*

1. Name:
Address:
Contact person's name, position and contact details:
Activities relevant to the data transferred under these Clauses:
Signature and date:
Role (controller/processor):

2. ...

Data importer(s): *[Identity and contact details of the data importer(s), including any contact person with responsibility for data protection]*

1. Name:
Address:
Contact person's name, position and contact details:
Activities relevant to the data transferred under these Clauses:
Signature and date:
Role (controller/processor):

2. ...

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred

.....

Categories of personal data transferred

.....

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

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.....
The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

.....
Nature of the processing

.....
Purpose(s) of the data transfer and further processing

.....
The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

.....
For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing

Part B: Controller to Processor Standard Contractual Clauses

Standard Contractual Clauses for Personal Data Transfers from an EU Controller to a Processor Established in a Third Country (Controller-to-Processor Transfers)

SECTION I

CLAUSE 1

Purpose and scope

- (a) The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)[[FN1](#)] for the transfer of personal data to a third country.
- (b) The Parties:
 - (i) the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter 'entity/ies') transferring the personal data, as listed in Annex I.A (hereinafter each 'data exporter'), and
 - (ii) the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A (hereinafter each 'data importer')have agreed to these standard contractual clauses (hereinafter: 'Clauses').
- (c) These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.
- (d) The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

CLAUSE 2

Effect and invariability of the Clauses

- (a) These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46(2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or

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additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.

- (b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

CLAUSE 3

Third-party beneficiaries

- (a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:
 - (i) Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;
 - (ii) Clause 8 – Module One: Clause 8.5 (e) and Clause 8.9(b); Module Two: Clause 8.1(b), 8.9(a), (c), (d) and (e); Module Three: Clause 8.1(a), (c) and (d) and Clause 8.9(a), (c), (d), (e), (f) and (g); Module Four: Clause 8.1 (b) and Clause 8.3(b);
 - (iii) Clause 9 – Module Two: Clause 9(a), (c), (d) and (e); Module Three: Clause 9(a), (c), (d) and (e);
 - (iv) Clause 12 – Module One: Clause 12(a) and (d); Modules Two and Three: Clause 12(a), (d) and (f);
 - (v) Clause 13;
 - (vi) Clause 15.1(c), (d) and (e);
 - (vii) Clause 16(e);
 - (viii) Clause 18 – Modules One, Two and Three: Clause 18(a) and (b); Module Four: Clause 18.
- (b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

CLAUSE 4

Interpretation

- (a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.
- (b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.

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- (c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

CLAUSE 5

Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

CLAUSE 6

Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

CLAUSE 7 Not Used

SECTION II – OBLIGATIONS OF THE PARTIES

CLAUSE 8

Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

8.1 Instructions

- (a) The data importer shall process the personal data only on documented instructions from the data exporter. The data exporter may give such instructions throughout the duration of the contract.
- (b) The data importer shall immediately inform the data exporter if it is unable to follow those instructions.

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B, unless on further instructions from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including the measures described in Annex II and personal data, the data exporter may redact part of the text of the Appendix to these Clauses prior to sharing a copy, but shall provide a

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meaningful summary where the data subject would otherwise not be able to understand the its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information. This Clause is without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to erase or rectify the data.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the data exporter and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

- (a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter 'personal data breach'). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.
- (b) The data importer shall grant access to the personal data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process

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the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

- (c) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify the data exporter without undue delay after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the breach including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.
- (d) The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter 'sensitive data'), the data importer shall apply the specific restrictions and/or additional safeguards described in Annex I.B.

8.8 Onward transfers

- (a) The data importer shall only disclose the personal data to a third party on documented instructions from the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union[[FN4](#)] (in the same country as the data importer or in another third country, hereinafter 'onward transfer') if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:
 - (i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
 - (ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation of (EU) 2016/679 with respect to the processing in question;

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- (iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or
 - (iv) the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.
- (b) Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.9 Documentation and compliance

- (a) The data importer shall promptly and adequately deal with enquiries from the data exporter that relate to the processing under these Clauses.
- (b) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the data exporter.
- (c) The data importer shall make available to the data exporter all information necessary to demonstrate compliance with the obligations set out in these Clauses and at the data exporter's request, allow for and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or audit, the data exporter may take into account relevant certifications held by the data importer.
- (d) The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.
- (e) The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

CLAUSE 9

Use of sub-processors

OPTION 1: SPECIFIC PRIOR AUTHORISATION The data importer shall not sub-contract any of its processing activities performed on behalf of the data exporter under these Clauses to a sub-processor without the data exporter's prior specific written authorisation. The data importer shall submit the request for specific authorisation at least [*Specify time period*] prior to the engagement of the sub-processor, together with the information necessary to enable the data exporter to decide on the authorisation. The list of sub-processors already authorised by the data exporter can be found in Annex III. The Parties shall keep Annex III up to date.

OPTION 2: GENERAL WRITTEN AUTHORISATION The data importer has the data exporter's general authorisation for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the data exporter in writing of any intended changes to that list through the addition or replacement of sub-processors at least

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[Specify time period] in advance, thereby giving the data exporter sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the data exporter with the information necessary to enable the data exporter to exercise its right to object.

- (a) Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the data exporter), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects. [FN8] The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.
- (b) The data importer shall provide, at the data exporter's request, a copy of such a sub-processor agreement and any subsequent amendments to the data exporter. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.
- (c) The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.
- (d) The data importer shall agree a third-party beneficiary clause with the sub-processor whereby – in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent – the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

CLAUSE 10

Data subject rights

- (a) The data importer shall promptly notify the data exporter of any request it has received from a data subject. It shall not respond to that request itself unless it has been authorised to do so by the data exporter.
- (b) The data importer shall assist the data exporter in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.
- (c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the data exporter.

CLAUSE 11

Redress

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- (a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.

In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.

- (b) Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:
 - (i) lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;
 - (ii) refer the dispute to the competent courts within the meaning of Clause 18.
- (c) The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.
- (d) The data importer shall abide by a decision that is binding under the applicable EU or Member State law.
- (e) The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

CLAUSE 12

Liability

- (a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.
- (b) The data importer shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data importer or its sub-processor causes the data subject by breaching the third-party beneficiary rights under these Clauses.
- (c) Notwithstanding paragraph (b), the data exporter shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data exporter or the data importer (or its sub-processor) causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter and, where the data exporter is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.

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- (d) The Parties agree that if the data exporter is held liable under paragraph (c) for damages caused by the data importer (or its sub-processor), it shall be entitled to claim back from the data importer that part of the compensation corresponding to the data importer's responsibility for the damage.
- (e) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.
- (f) The Parties agree that if one Party is held liable under paragraph (e), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its/their responsibility for the damage.
- (g) The data importer may not invoke the conduct of a sub-processor to avoid its own liability.

CLAUSE 13

Supervision

- (a) [Where the data exporter is established in an EU Member State:] The supervisory authority with responsibility for ensuring compliance by the data exporter with Regulation (EU) 2016/679 as regards the data transfer, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) and has appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679:] The supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) without however having to appoint a representative pursuant to Article 27(2) of Regulation (EU) 2016/679:] The supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.

- (b) The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES

CLAUSE 14

Local laws and practices affecting compliance with the Clauses

- (a) The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.
- (b) The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:
 - (i) the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;
 - (ii) the laws and practices of the third country of destination – including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards[\[FN12\]](#);
 - (iii) any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.
- (c) The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.
- (d) The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.
- (e) The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).
- (f) Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g.

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technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

CLAUSE 15

Obligations of the data importer in case of access by public authorities

15.1 Notification

- (a) The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:
 - (i) receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or
 - (ii) becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.
- (b) If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.
- (c) Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).
- (d) The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.
- (e) Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2 Review of legality and data minimisation

- (a) The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).
- (b) The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.
- (c) The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

SECTION IV – FINAL PROVISIONS

CLAUSE 16

Non-compliance with the Clauses and termination

- (a) The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.
- (b) In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).
- (c) The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:
 - (i) the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph(b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;
 - (ii) the data importer is in substantial or persistent breach of these Clauses; or
 - (iii) the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

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In these cases, it shall inform the competent supervisory authority of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

- (d) Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.
- (e) Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

CLAUSE 17

Governing law

[OPTION 1: These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify Member State*).]

[OPTION 2: These Clauses shall be governed by the law of the EU Member State in which the data exporter is established. Where such law does not allow for third-party beneficiary rights, they shall be governed by the law of another EU Member State that does allow for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify Member State*).]

CLAUSE 18

Choice of forum and jurisdiction

- (a) Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.
- (b) The Parties agree that those shall be the courts of _____ (*specify Member State*).
- (c) A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.
- (d) The Parties agree to submit themselves to the jurisdiction of such courts.

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Official European Commission Footnotes

FN1: Where the data exporter is a processor subject to Regulation (EU) 2016/679 acting on behalf of a Union institution or body as controller, reliance on these Clauses when engaging another processor (sub-processing) not subject to Regulation (EU) 2016/679 also ensures compliance with Article 29(4) of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ([OJ L 295, 21.11.2018, p. 39](#)), to the extent these Clauses and the data protection obligations as set out in the contract or other legal act between the controller and the processor pursuant to Article 29(3) of Regulation (EU) 2018/1725 are aligned. This will in particular be the case where the controller and processor rely on the standard contractual clauses included in Decision 2021/915.

FN4: The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purpose of these Clauses.

FN8: This requirement may be satisfied by the sub-processor acceding to these Clauses under the appropriate Module, in accordance with Clause 7.

FN11: The data importer may offer independent dispute resolution through an arbitration body only if it is established in a country that has ratified the New York Convention on Enforcement of Arbitration Awards.

FN12: As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

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APPENDIX

EXPLANATORY NOTE:

It must be possible to clearly distinguish the information applicable to each transfer or category of transfers and, in this regard, to determine the respective role(s) of the Parties as data exporter(s) and/or data importer(s). This does not necessarily require completing and signing separate appendices for each transfer/category of transfers and/or contractual relationship, where this transparency can be achieved through one appendix. However, where necessary to ensure sufficient clarity, separate appendices should be used.

ANNEX I

A. LIST OF PARTIES

Data exporter(s): *[Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union]*

1. Name:
Address:
Contact person's name, position and contact details:
Activities relevant to the data transferred under these Clauses:
Signature and date:
Role (controller/processor):

2. ...

Data importer(s): *[Identity and contact details of the data importer(s), including any contact person with responsibility for data protection]*

1. Name:
Address:
Contact person's name, position and contact details:
Activities relevant to the data transferred under these Clauses:
Signature and date:
Role (controller/processor):

2. ...

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred

.....

Categories of personal data transferred

.....

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

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.....
The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

.....
Nature of the processing

.....
Purpose(s) of the data transfer and further processing

.....
The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

.....
For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing

C. COMPETENT SUPERVISORY AUTHORITY

Identify the competent supervisory authority/ies in accordance with Clause 13.

ANNEX II

TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

EXPLANATORY NOTE:

The technical and organisational measures must be described in specific (and not generic) terms. See also the general comment on the first page of the Appendix, in particular on the need to clearly indicate which measures apply to each transfer/set of transfers.

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

[Examples of possible measures:

Measures of pseudonymisation and encryption of personal data

Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services

Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident

Processes for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures in order to ensure the security of the processing

Measures for user identification and authorisation

Measures for the protection of data during transmission

Measures for the protection of data during storage

Measures for ensuring physical security of locations at which personal data are processed

Measures for ensuring events logging

Measures for ensuring system configuration, including default configuration

Measures for internal IT and IT security governance and management

Measures for certification/assurance of processes and products

Measures for ensuring data minimisation

Measures for ensuring data quality

Measures for ensuring limited data retention

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Measures for ensuring accountability

Measures for allowing data portability and ensuring erasure]

For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter

ANNEX III

LIST OF SUB-PROCESSORS

EXPLANATORY NOTE:

This Annex must be completed in case of the specific authorization of sub-processors (Clause 9(a), Option 1).

The controller has authorised the use of the following sub-processors:

1. Name:

Address:

Contact person's name, position and contact details:
.....

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised):
.....

2.

Part C: Processor to Processor Standard Contractual Clauses

Standard Contractual Clauses for Personal Data Transfers from an EU Processor to a Processor Established in a Third Country (Processor-to-Processor Transfers)

SECTION I

CLAUSE 1

Purpose and scope

- (a) The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) for the transfer of personal data to a third country.
- (b) The Parties:
 - (i) the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter 'entity/ies') transferring the personal data, as listed in Annex I.A (hereinafter each 'data exporter'), and
 - (ii) the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A (hereinafter each 'data importer')have agreed to these standard contractual clauses (hereinafter: 'Clauses').
- (c) These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.
- (d) The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

CLAUSE 2

Effect and invariability of the Clauses

- (a) These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46(2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.

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- (b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

CLAUSE 3

Third-party beneficiaries

- (a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:
 - (i) Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;
 - (ii) Clause 8 – Module One: Clause 8.5 (e) and Clause 8.9(b); Module Two: Clause 8.1(b), 8.9(a), (c), (d) and (e); Module Three: Clause 8.1(a), (c) and (d) and Clause 8.9(a), (c), (d), (e), (f) and (g); Module Four: Clause 8.1 (b) and Clause 8.3(b);
 - (iii) Clause 9 – Module Two: Clause 9(a), (c), (d) and (e); Module Three: Clause 9(a), (c), (d) and (e);
 - (iv) Clause 12 – Module One: Clause 12(a) and (d); Modules Two and Three: Clause 12(a), (d) and (f);
 - (v) Clause 13;
 - (vi) Clause 15.1(c), (d) and (e);
 - (vii) Clause 16(e);
 - (viii) Clause 18 – Modules One, Two and Three: Clause 18(a) and (b); Module Four: Clause 18.
- (b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

CLAUSE 4

Interpretation

- (a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.
- (b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.
- (c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

CLAUSE 5

Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

CLAUSE 6

Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

[CLAUSE 7 - Optional]

Docking clause

- (a) An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.
- (b) Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.
- (c) The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.]

SECTION II - OBLIGATIONS OF THE PARTIES

CLAUSE 8

Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

8.1 Instructions

- (a) The data exporter has informed the data importer that it acts as processor under the instructions of its controller(s), which the data exporter shall make available to the data importer prior to processing.
- (b) The data importer shall process the personal data only on documented instructions from the controller, as communicated to the data importer by the data exporter, and any additional documented instructions from the data exporter. Such additional instructions shall not conflict with the instructions from the controller. The controller or data exporter may give further documented instructions regarding the data processing throughout the duration of the contract.

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- (c) The data importer shall immediately inform the data exporter if it is unable to follow those instructions. Where the data importer is unable to follow the instructions from the controller, the data exporter shall immediately notify the controller.
- (d) The data exporter warrants that it has imposed the same data protection obligations on the data importer as set out in the contract or other legal act under Union or Member State law between the controller and the data exporter[[FN5](#)].

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B, unless on further instructions from the controller, as communicated to the data importer by the data exporter, or from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including personal data, the data exporter may redact part of the text of the Appendix prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to rectify or erase the data.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the controller and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

- (a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or

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unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter 'personal data breach'). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subject. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter or the controller. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

- (b) The data importer shall grant access to the data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- (c) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify, without undue delay, the data exporter and, where appropriate and feasible, the controller after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the data breach, including measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.
- (d) The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify its controller so that the latter may in turn notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter 'sensitive data'), the data importer shall apply the specific restrictions and/or additional safeguards set out in Annex I.B.

8.8 Onward transfers

- (a) The data importer shall only disclose the personal data to a third party on documented instructions from the controller, as communicated to the data importer by the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union[FN6] (in the same country as the data importer or in another third country, hereinafter 'onward transfer') if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:
 - (i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
 - (ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 of Regulation (EU) 2016/679;
 - (iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or
 - (iv) the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.
- (b) Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.9 Documentation and compliance

- (a) The data importer shall promptly and adequately deal with enquiries from the data exporter or the controller that relate to the processing under these Clauses.
- (b) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the controller.
- (c) The data importer shall make all information necessary to demonstrate compliance with the obligations set out in these Clauses available to the data exporter, which shall provide it to the controller.
- (d) The data importer shall allow for and contribute to audits by the data exporter of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. The same shall apply where the data exporter requests an audit on instructions of the controller. In deciding on an audit, the data exporter may take into account relevant certifications held by the data importer.
- (e) Where the audit is carried out on the instructions of the controller, the data exporter shall make the results available to the controller.
- (f) The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.

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- (g) The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

CLAUSE 9

Use of sub-processors

OPTION 1: SPECIFIC PRIOR AUTHORISATION The data importer shall not sub-contract any of its processing activities performed on behalf of the data exporter under these Clauses to a sub-processor without the prior specific written authorisation of the controller. The data importer shall submit the request for specific authorisation at least [*Specify time period*] prior to the engagement of the sub-processor, together with the information necessary to enable the controller to decide on the authorisation. It shall inform the data exporter of such engagement. The list of sub-processors already authorised by the controller can be found in Annex III. The Parties shall keep Annex III up to date.

OPTION 2: GENERAL WRITTEN AUTHORISATION The data importer has the controller's general authorisation for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the controller in writing of any intended changes to that list through the addition or replacement of sub-processors at least [*Specify time period*] in advance, thereby giving the controller sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the controller with the information necessary to enable the controller to exercise its right to object. The data importer shall inform the data exporter of the engagement of the sub-processor(s).

- (a) Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the controller), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects. [\[FN9\]](#) The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.
- (b) The data importer shall provide, at the data exporter's or controller's request, a copy of such a sub-processor agreement and any subsequent amendments. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.
- (c) The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.
- (d) The data importer shall agree a third-party beneficiary clause with the sub-processor whereby – in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent – the data exporter shall have the

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right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

CLAUSE 10

Data subject rights

- (a) The data importer shall promptly notify the data exporter and, where appropriate, the controller of any request it has received from a data subject, without responding to that request unless it has been authorised to do so by the controller.
- (b) The data importer shall assist, where appropriate in cooperation with the data exporter, the controller in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.
- (c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the controller, as communicated by the data exporter.

CLAUSE 11

Redress

- (a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.

[OPTION: The data importer agrees that data subjects may also lodge a complaint with an independent dispute resolution body[[FN11](#)] at no cost to the data subject. It shall inform the data subjects, in the manner set out in paragraph (a), of such redress mechanism and that they are not required to use it, or follow a particular sequence in seeking redress.]

- (b) In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.
- (c) Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:
 - (i) lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;
 - (ii) refer the dispute to the competent courts within the meaning of Clause 18.

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- (d) The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.
- (e) The data importer shall abide by a decision that is binding under the applicable EU or Member State law.
- (f) The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

CLAUSE 12

Liability

- (a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.
- (b) The data importer shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data importer or its sub-processor causes the data subject by breaching the third-party beneficiary rights under these Clauses.
- (c) Notwithstanding paragraph (b), the data exporter shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data exporter or the data importer (or its sub-processor) causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter and, where the data exporter is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.
- (d) The Parties agree that if the data exporter is held liable under paragraph (c) for damages caused by the data importer (or its sub-processor), it shall be entitled to claim back from the data importer that part of the compensation corresponding to the data importer's responsibility for the damage.
- (e) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.
- (f) The Parties agree that if one Party is held liable under paragraph (e), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its/their responsibility for the damage.
- (g) The data importer may not invoke the conduct of a sub-processor to avoid its own liability.

CLAUSE 13

Supervision

- (a) [Where the data exporter is established in an EU Member State:] The supervisory authority with responsibility for ensuring compliance by the data exporter with Regulation (EU) 2016/679 as regards the data transfer, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) and has appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679:] The supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) without however having to appoint a representative pursuant to Article 27(2) of Regulation (EU) 2016/679:] The supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.

- (b) The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES

CLAUSE 14

Local laws and practices affecting compliance with the Clauses

- (a) The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.

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- (b) The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:
 - (i) the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;
 - (ii) the laws and practices of the third country of destination – including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards^[FN12];
 - (iii) any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.
- (c) The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.
- (d) The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.
- (e) The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a). The data exporter shall forward the notification to the controller.
- (f) Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation, if appropriate in consultation with the controller. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the controller or the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

CLAUSE 15

Obligations of the data importer in case of access by public authorities

15.1 Notification

- (a) The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:
 - (i) receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or
 - (ii) becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.

The data exporter shall forward the notification to the controller.

- (b) If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.
- (c) Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.). The data exporter shall forward the information to the controller.
- (d) The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.
- (e) Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2 Review of legality and data minimisation

- (a) The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same

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conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).

- (b) The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request. The data exporter shall make the assessment available to the controller.
- (c) The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

SECTION IV – FINAL PROVISIONS

CLAUSE 16

Non-compliance with the Clauses and termination

- (a) The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.
- (b) In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).
- (c) The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:
 - (i) the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;
 - (ii) the data importer is in substantial or persistent breach of these Clauses; or
 - (iii) the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority and the controller of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

- (d) Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any

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copies of the data. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

- (e) Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

CLAUSE 17

Governing law

[OPTION 1: These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify Member State*).]

[OPTION 2: These Clauses shall be governed by the law of the EU Member State in which the data exporter is established. Where such law does not allow for third-party beneficiary rights, they shall be governed by the law of another EU Member State that does allow for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify Member State*).]

CLAUSE 18

Choice of forum and jurisdiction

- (a) Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.
- (b) The Parties agree that those shall be the courts of _____ (*specify Member State*).
- (c) A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.
- (d) The Parties agree to submit themselves to the jurisdiction of such courts.

Official European Commission Footnotes

[FN1](#): Where the data exporter is a processor subject to Regulation (EU) 2016/679 acting on behalf of a Union institution or body as controller, reliance on these Clauses when engaging another processor (sub-processing) not subject to Regulation (EU) 2016/679 also ensures compliance with Article 29(4) of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the

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free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ([OJ L 295, 21.11.2018, p. 39](#)), to the extent these Clauses and the data protection obligations as set out in the contract or other legal act between the controller and the processor pursuant to Article 29(3) of Regulation (EU) 2018/1725 are aligned. This will in particular be the case where the controller and processor rely on the standard contractual clauses included in Decision 2021/915.

FN5: See Article 28(4) of Regulation (EU) 2016/679 and, where the controller is an EU institution or body, Article 29(4) of Regulation (EU) 2018/1725.

FN6: The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purposes of these Clauses.

FN9: This requirement may be satisfied by the sub-processor acceding to these Clauses under the appropriate Module, in accordance with Clause 7.

FN11: The data importer may offer independent dispute resolution through an arbitration body only if it is established in a country that has ratified the New York Convention on Enforcement of Arbitration Awards.

FN12: As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

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APPENDIX

EXPLANATORY NOTE:

It must be possible to clearly distinguish the information applicable to each transfer or category of transfers and, in this regard, to determine the respective role(s) of the Parties as data exporter(s) and/or data importer(s). This does not necessarily require completing and signing separate appendices for each transfer/category of transfers and/or contractual relationship, where this transparency can be achieved through one appendix. However, where necessary to ensure sufficient clarity, separate appendices should be used.

ANNEX I

A. LIST OF PARTIES

Data exporter(s): *[Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union]*

1. Name:
Address:
Contact person's name, position and contact details:
Activities relevant to the data transferred under these Clauses:
Signature and date:
Role (controller/processor):

2. ...

Data importer(s): *[Identity and contact details of the data importer(s), including any contact person with responsibility for data protection]*

1. Name:
Address:
Contact person's name, position and contact details:
Activities relevant to the data transferred under these Clauses:
Signature and date:
Role (controller/processor):

2. ...

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred

.....

Categories of personal data transferred

.....

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

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.....

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

.....

Nature of the processing

.....

Purpose(s) of the data transfer and further processing

.....

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

.....

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing

.....

C. COMPETENT SUPERVISORY AUTHORITY

Identify the competent supervisory authority/ies in accordance with Clause 13

ANNEX II

TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

EXPLANATORY NOTE:

The technical and organisational measures must be described in specific (and not generic) terms. See also the general comment on the first page of the Appendix, in particular on the need to clearly indicate which measures apply to each transfer/set of transfers.

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

[Examples of possible measures:

Measures of pseudonymisation and encryption of personal data

Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services

Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident

Processes for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures in order to ensure the security of the processing

Measures for user identification and authorisation

Measures for the protection of data during transmission

Measures for the protection of data during storage

Measures for ensuring physical security of locations at which personal data are processed

Measures for ensuring events logging

Measures for ensuring system configuration, including default configuration

Measures for internal IT and IT security governance and management

Measures for certification/assurance of processes and products

Measures for ensuring data minimisation

Measures for ensuring data quality

Measures for ensuring limited data retention

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Measures for ensuring accountability

Measures for allowing data portability and ensuring erasure]

For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter

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ANNEX III

EXPLANATORY NOTE:

This Annex must be completed in case of the specific authorisation of sub-processors (Clause 9(a), Option 1).

The controller has authorised the use of the following sub-processors:

1. Name:

Address:

Contact person's name, position and contact details:
.....

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised):
.....

2.]

Schedule 35: Intellectual Property Rights

1. Intellectual Property Rights – General Provisions

- 1.1 Except as expressly provided for in this Contract or otherwise agreed in writing:
 - 1.1.1 the Authority does not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, namely:
 - (a) the Supplier Software;
 - (b) the Third Party Software;
 - (c) the Third Party IPRs;
 - (d) the Supplier Background IPRs; and
 - (e) any Know-How, trade secrets or Confidential Information of the Supplier contained in any Specially Written Software or Project Specific IPR; and
 - 1.1.2 the Supplier does not acquire any right, title or interest in or to the Intellectual Property Rights of the Authority or its licensors, including:
 - (a) the Authority Software;
 - (b) the Government Data; and
 - (c) the Authority Background IPRs; and
 - 1.1.3 neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks.
- 1.2 Where either Party acquires, by operation of law, ownership of Intellectual Property Rights that is inconsistent with the requirements of this Schedule 35 (Intellectual Property Rights), it must assign in writing the Intellectual Property Rights concerned to the other Party on the other Party's request (whenever made).
- 1.3 If the Supplier becomes aware at any time, including after the Term, that the Authority has not received the licences to the Supplier Software, the Third Party Software, the Third Party IPRs and the Supplier Background IPRs required by Paragraphs 3, 4 and 6, the Supplier must, within 10 Working Days notify the Authority:
 - 1.3.1 the specific Intellectual Property Rights the Authority has not received licences to; and
 - 1.3.2 the Goods; Services and/or Deliverables affected.
- 1.4 Where a patent owned by the Supplier is infringed by the use of the Specially Written Software or Project Specific IPR by the Authority or any Replacement Supplier, the Supplier hereby grants to the Authority and the Replacement Supplier a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software.
- 1.5 Unless otherwise agreed in writing, the Supplier will record in the table at Annex 1 to this

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Schedule and keep updated throughout the Term:

1.5.1 any Specially Written Software and Project Specific IPR; and

1.5.2 where:

- (a) the Specially Written Software or Project Specific IPR adapts Supplier Software, Third Party Software, Third Party IPRs, or Supplier Background IPRs; or
- (b) Supplier Software, Third Party Software, Third Party IPRs, or Supplier Background IPRs is embedded in, or forms an integral part of, the Specially Written Software or Project Specific IPR;

full details of the Supplier Software, Third Party Software, Third Party IPRs, or Supplier Background IPRs.

1.6 For the avoidance of doubt:

1.6.1 except as provided for in Paragraph 1.1.1(a)(ii), the expiry or termination of this Contract does not of itself terminate the licences granted to the Authority under Paragraph 3;

1.6.2 the award of this Contract or the ordering of any Goods. Services and Deliverables does not constitute an authorisation by the Crown under:

- (a) Sections 55 and 56 of the Patents Act 1977;
- (b) section 12 of the Registered Designs Act 1949; or
- (c) sections 240 to 243 of the Copyright, Designs and Patents Act 1988.

2. Ownership and delivery of IPR created under the Contract

2.1 Subject to Paragraph 1.1.1., the Supplier agrees to:

2.1.1 transfer to the Authority, or procure the transfer to the Authority of all Intellectual Property Rights in the Specially Written Software and Project Specific IPRs, including:

- (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**”); and

2.1.2 execute all such assignments required to transfer properly any rights in the Specially Written Software and Project Specific IPRs to the Authority.

2.2 The Supplier must deliver to the Authority:

2.2.1 the Specially Written Software;

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2.2.2 any software elements of the Project Specific IPR;

2.2.3 relevant Documentation; and

2.2.4 all related Software Supporting Materials,

within 5 Working Days of:

2.2.5 either:

(a) initial release or deployment; or

(b) if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone; and

2.2.6 each subsequent release or deployment of the Specially Written Software and any software elements of the Project Specific IPR.

2.3 Where the Supplier delivers materials to the Authority under Paragraph 2.2, it must do so in a format specified by the Authority. Where the Authority specifies the material is to be delivered on media, the Authority becomes the owner of the media containing the material on delivery.

3. Use of Supplier or Third Party Non-COTS Software or Non-COTS Background IPR

3.1 The Supplier must not use any:

3.1.1 Supplier Non-COTS Software; or

3.1.2 Supplier Non-COTS Background IPR;

in the provision of the Goods and/or Services or in any Deliverable (including in any Specially Written Software or in the software element of Project Specific IPRs) unless:

3.1.3 in the case of Supplier Non-COTS Software and the software elements of Supplier Non-COTS Background IPR, it is:

(a) detailed in Schedule 15 (*Software*); or

approved by the Authority; and

3.1.4 in the case of non-software elements of Supplier Non-COTS Background IPR, it is approved by the Authority in writing.

3.2 The Supplier must not use any:

3.2.1 Third Party Non-COTS Software; or

3.2.2 Third Party Non-COTS Background IPR,

3.2.3 in the provision of the Goods and/or Services or in any Deliverable (including in any Specially Written Software or in the software element of Project Specific IPRs) unless:

3.2.4 in the case of Third Party Non-COTS Software and the software elements of Third Party Non-COTS Background IPR, it is:

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- (a) detailed in Schedule 15 (*Software*); or
- (b) approved by the Authority; and
- (c) one of the following conditions is met:
 - (i) the owner or an authorised licensor of the relevant IPR has granted the Authority a direct licence on the terms equivalent to those set out in Paragraph 6; or
 - (ii) if the Supplier cannot, after commercially reasonable endeavours, meet the condition in Paragraph 3.2.4.3(i), all the following conditions are met:
 - (A) the Supplier has notified the Authority in writing giving details of:
 - (1) what licence terms can be obtained from the relevant third party; and
 - (2) whether there are providers which the Supplier could seek to use and the licence terms obtainable from those third parties;
 - (B) the Authority approves the licence terms of one of those third parties; and
 - (C) the owner and authorised licensor of the Third Party IPR has granted a direct licence of the Third Party IPR to the Authority on those terms; or
 - (iii) if the Supplier cannot meet the conditions in Paragraphs 1.1.1(a)(i) and 1.1.1(a)(ii), the Authority has provided written approval to use the relevant IPR without a licence, with reference to the acts authorised and the specific IPR involved; or

3.2.5 in the case of non-software elements of Third-Party Non-COTS Background IPR, it is approved by the Authority in writing.

4. Use of Supplier or Third Party COTS Software or COTS Background IPR

4.1 The Supplier must not use any:

- 4.1.1 Supplier COTS Software;
- 4.1.2 Supplier COTS Background IPR;
- 4.1.3 Third Party COTS Software; or
- 4.1.4 Third Party COTS Background IPR,

in the provision of the Goods and/or Services or in any Deliverable (including in any Specially Written Software or in the software element of Project Specific IPRs) unless:

4.1.5 in the case of Supplier COTS Software, Third Party COTS Software and the

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software elements of Supplier COTS Background IPR and Supplier COTS Background IPR, it is either:

- (a) detailed in Schedule 15 (Commercially Sensitive Information); or
- (b) approved by the Authority; and

4.1.6 all the following conditions are met:

- (a) the Supplier has provided the Authority with the applicable terms for the IPRs (which must be at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available); and
- (b) the Authority has not (in its absolute discretion) rejected those licence terms within 10 Working Days of the date on which they were provided to the Authority.

5. Licences granted by the Authority

5.1 The Authority grants the Supplier a licence to the:

- 5.1.1 the Project-Specific IPR;
- 5.1.2 the Specially Written Software;
- 5.1.3 the Authority Software;
- 5.1.4 the Government Data; and
- 5.1.5 the Authority Background IPRs

that:

- 5.1.6 is non-exclusive, royalty-free and non-transferable;
- 5.1.7 is sub-licensable to any Sub-contractor where

- (a) the Sub-contractor enters into a confidentiality undertaking with the Supplier on the same terms as set out in Schedule 15, Annex 1 (*Software*); and
- (b) the sub-licence does not purport to provide the sub-licensee with any wider rights than those granted to the Supplier under this Paragraph;

5.1.8 allows the Supplier and any sub-licensee to use, copy and adapt any licensed IPRs for the purpose of fulfilling its obligations under this Contract; and

5.1.9 terminates at the later of:

- (a) the expiry of the Term; or
- (b) the end of any Termination Assistance Period.

5.2 When the licence granted under Paragraph 5.1 terminates, the Supplier must, and must ensure that each Sub-contractor granted a sub-licence under Paragraph 5.1.7:

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- 5.2.1 immediately cease all use of the licensed IPR;
- 5.2.2 either:
 - (a) at the discretion of the Authority, return or destroy documents and other tangible materials that contain any of the licensed IPR; or
 - (b) if the Authority has not made an election within six months of the termination of the licence, destroy the documents and other tangible materials that contain any of the licensed IPR; and
- 5.2.3 ensure, so far as reasonably practicable, that any licensed IPR held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier.

6. Licences in respect of Supplier Non-COTS Software and Supplier Non-COTS Background IPR

- 6.1 Subject to the Authority approving the use of Supplier Non-COTS Software and Supplier Non-COTS Background IPR under Paragraph 3, the Supplier grants the Authority a Supplier Existing IPR Licence on the terms set out in Paragraph 6.2 where:
 - 6.1.1 the Supplier Non-COTS Software and Supplier Non-COTS Background IPR is embedded in the Goods, Services and/or any Deliverable;
 - 6.1.2 the Supplier Non-COTS Software and Supplier Non-COTS Background IPR is necessary for the Authority to use the Goods, Services and/or any Deliverable for any purposes set out in Paragraph 6.3; or
 - 6.1.3 the Goods, Services and/or any Deliverable is a customisation or adaptation of Supplier Non-COTS Software and Supplier Non-COTS Background IPR.
- 7.6 The categories of Supplier Non-COTS Software and Supplier Non-COTS Background IPR set out in Paragraph 6.1 are mutually exclusive.
- 6.2 The Supplier Existing IPR Licence granted by the Supplier to the Authority is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:
 - 6.2.1 in the case of Supplier Non-COTS Software and Supplier Non-COTS Background IPR embedded in the Goods, Services and/or any Deliverable:
 - (a) has no restriction on the identity of any transferee or sub-licensee;
 - (b) is sub-licensable for any of the purposes set out in Paragraph 6.3;
 - (c) allows the Authority and any transferee or sub-licensee to use, copy and adapt the Supplier Non-COTS Software and Supplier Non-COTS Background IPR for any of the purposes set out in Paragraph 6.3; and
 - 6.2.2 in the case of Supplier Non-COTS Software and Supplier Non-COTS Background IPR that is necessary for the Authority to use the Goods, Services and/or any Deliverable for its intended purpose or has been customised or adapted to provide the Goods, Services and/or any Deliverable:

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- (a) allows the Authority and any transferee or sublicensee to use and copy, but not adapt, disassemble or reverse engineer the relevant Supplier Non-COTS Software and Supplier Non-COTS Background IPR for any of the purposes set out in Paragraph 6.3;
 - (b) is transferrable to only:
 - (i) a Crown Body;
 - (ii) any body (including any private sector body) that performs or carries out any of the functions or activities that the Authority had previously performed or carried out; or
 - (iii) a person or organisation that is not a direct competitor of the Supplier; where that transferee:
 - (A) enters into a direct arrangement with the Supplier in the form set out in Schedule 15, Annex 1 (*Commercially Sensitive Information*); or
 - (B) enters into a confidentiality arrangement with the Authority in terms equivalent to those set out in set out in Clause 19 (*Confidentiality*);
 - (c) is sub-licensable to the Replacement Supplier (including where the Replacement Supplier is a competitor of the Supplier) where the Replacement Supplier:
 - (i) enters into a direct arrangement with the Supplier in the form set out in Schedule 15, Annex 1 (*Software*); or
 - (ii) enters into a confidentiality arrangement with the Authority in terms equivalent to those set out in set out in Clause 19 (*Confidentiality*);
- 6.2.3 includes a perpetual, royalty-free, non-exclusive licence to use, copy and adapt any Know-How, trade secrets or Confidential Information of the Supplier contained within any Supplier Non-COTS Software and Supplier Non-COTS Background IPR;
- 6.2.4 continues in effect following the expiry or earlier termination of this Contract; and
- 6.2.5 is subject to the restrictions that:
 - (a) no sub-licence granted to the Supplier Non-COTS Software and Supplier Non-COTS Background IPR shall purport to provide the sub-licensee with any wider rights than those granted to the Authority under this Paragraph; and
 - (b) any transferee or sublicensee of the Supplier Non-COTS Software and Supplier Non-COTS Background IPR must either:
 - (i) enter into a direct arrangement with the Supplier in the form set out in Annex 1 of Schedule 15 (*Software*); or
 - (ii) enter into a confidentiality arrangement with the Authority in

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terms equivalent to those set out in set out in Clause 19 (*Confidentiality*).

- 6.3 For the purposes of Paragraphs 6.1 and 6.2, the relevant purposes are:
- 6.3.1 to allow the Authority or any End User to receive and use the Goods, Services and the Deliverables;
 - 6.3.2 to commercially exploit (including by publication under Open Licence) the Project Specific IPR, Specially Written Software and Software Supporting Materials; and
 - 6.3.3 for any purpose relating to the exercise of the Authority's (or, if the Authority is a Public Sector Body, any other Public Sector Body's) business or function.
- 6.4 Where the legal status of the Authority changes, such that it ceases to be a Crown Body:
- 6.4.1 the Supplier Existing IPR Licence is unaffected; and
 - 6.4.2 any Successor Body of the Authority that is a Crown Body shall have the benefit of the Supplier Existing IPR Licence.
- 6.5 Where the Supplier Existing IPR Licence is transferred under Paragraph 6.3.1.1 or 6.3.1.2 or there is a change in the Authority's legal status to which Paragraph 6.4 applies, the transferee or Successor Body do not acquire any wider rights than those granted to the Authority under this Paragraph.

7. Open Licence Publication

- 7.1 Subject to Paragraph 7.8, the Supplier agrees that the Authority may at its sole discretion publish under Open Licence all or part of the Project Specific IPR, the Specially Written Software or the Software Supporting Materials.
- 7.2 The Supplier warrants that:
- 7.2.1 the Project Specific IPR, the Specially Written Software or the Software Supporting Materials are suitable for release under Open Licence;
 - 7.2.2 in developing Project Specific IPR, the Specially Written Software or the Software Supporting Materials it has used reasonable endeavours to ensure that:
 - (a) the publication by the Authority will not:
 - (i) allow a third party to use them in to compromise the operation, running or security of the Specially Written Software, the Project Specific IPRs, the Authority System or the Supplier System;
 - (ii) cause any harm or damage to any party using them; or
 - (iii) breach the rights of any third party; and
 - (b) they do not contain any material which would bring the Authority into disrepute if published.

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- 7.3 The Supplier must not include in the Project Specific IPR, the Specially Written Software or the Software Supporting Materials provided for publication by Open Licence any Supplier Software, Supplier Background IPR, or Know-How, trade secrets or Confidential Information of the Supplier contained in any Specially Written Software or Project Specific IPR unless the Supplier consents to:
- 7.3.1 their publication by the Authority under Open Licence; and
 - 7.3.2 their subsequent licence and treatment as Open Licence under the terms of the licence chosen by the Authority.
- 7.4 The Authority will not be liable in the event that any Supplier Software, Supplier Background IPR, or Know-How, trade secrets or Confidential Information of the Supplier contained in any Specially Written Software or Project Specific IPR is included in the Open Licence Publication Material published by the Authority
- 7.5 The Supplier must supply any or all the Project Specific IPR, the Specially Written Software or the Software Supporting Materials in a format (whether it is provided in any other format or not) suitable for publication under an Open Licence (the “Open Licence Publication Material”) within 30 Working Days of written request from the Authority (“Authority Open Licence Request”).
- 7.6 The Supplier may within 15 Working Days of Authority Open Licence Request under Paragraph 7.5 request in writing that the Authority excludes all or part of:
- 7.6.1 the Project Specific IPR, the Specially Written Software or the Software Supporting Materials Items; or
 - 7.6.2 the Supplier Software, the Third Party Software, the Third Party IPRs, the Supplier Background IPRs, or any Know-How, trade secrets or Confidential Information of the Supplier contained in any Specially Written Software or Project Specific IPR that would otherwise be included in the Open Licence Publication Material supplied to the Authority pursuant to Paragraph 7.5,
- from Open Licence publication.
- 7.7 The Supplier’s request under Paragraph 7.5 must include the Supplier’s assessment of the impact the Authority’s agreeing to the request would have on its ability to publish other Project Specific IPR, Specially Written Software or Software Supporting Materials under an Open Licence.
- 7.8 Any decision to Approve any such request from the Supplier under Paragraph 7.5 shall be at the Authority’s sole discretion, not to be unreasonably withheld or delayed, or made subject to unreasonable conditions.
- 7.9 The Supplier hereby indemnifies the Authority against all claims in which the Authority is, or is threatened to be, a party for any alleged infringement of any third party rights arising from publication of the Specially Written Software and any software element of the Project Specific IPR as Open Licence under Paragraph 7.1.

Annex 1: Project Specific IPR and Specially Written Software

Name of Project Specific IPR	Details

Name of Specially Written Software	Details

Name of adapted or embedded Supplier Software, Third Party Software, Third Party IPRs, or Supplier Background IPRs	Details

Schedule 36 (Authority Policies)

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Schedule 36: Authority Policies

The Supplier shall adhere to and comply with the following policies (as amended from time to time) by the Authority (the “**Policies**“):

1.	Drivers Handbook v5
2.	Cyber Essentials Guide
3.	Prison Addresses/Access and Gate Restrictions
4.	Anti-Slavery Policy
5.	Ministry of Justice Security Policy
6.	Possession of Prohibited Items and Other Related Offences

Divers Handbook

The document/text has been redacted under the exemptions set out by the Freedom of Information Act

All other documents were issued as part of the ITT.