

# Framework Schedule 6 (Order Form Template and Call-Off Schedules)

## Order Form Template

CALL-OFF REFERENCE:	<b>K280022534</b>
THE BUYER:	<b>Driver and Vehicle Standards Agency (DVSA)</b>
BUYER ADDRESS	<b>Berkeley House, Croydon Street, Bristol, BS5 0DA</b>
SUPPLIER REFERENCE	<b>N/A</b>
THE SUPPLIER:	<b>North SV Limited</b>
SUPPLIER ADDRESS:	<b>Titanium 1, Kings Inch Place, Renfrew, PA4 8WF</b>
REGISTRATION NUMBER:	<b>SC201642</b>
DUNS NUMBER:	<b>238881036</b>
SID4GOV ID:	<b>N/A</b>

### APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Call-Off Deliverables and dated 29 January 2025.

It's issued under the Framework Contract with the reference number RM6116 for the provision of Network and CCTV Infrastructure Field Services.

### CALL-OFF LOT(S):

Lot 3a: IoT and Smart Cities (Smart shared and connected spaces)

## CALL-OFF INCORPORATED TERMS

The following documents are incorporated into this Call-Off Contract. Where numbers are missing we are not using those schedules. If the documents conflict, the following order of precedence applies:

1. This Order Form, including the Call-Off Special Terms and Call-Off Special Schedules.
2. Joint Schedule 1 (Definitions and Interpretation) RM6116
3. Framework Special Terms
4. The following Schedules in equal order of precedence:
  - Joint Schedules for RM6116
    - Joint Schedule 2 (Variation Form)
    - Joint Schedule 3 (Insurance Requirements)
    - Joint Schedule 4 (Commercially Sensitive Information)
    - Joint Schedule 6 (Key Subcontractors)
    - Joint Schedule 7 (Financial Difficulties)  
including Annex 5 – Optional Terms for Bronze Contracts
    - Joint Schedule 10 (Rectification Plan)
    - Joint Schedule 11 (Processing Data)
    - Joint Schedule 12 (Supply Chain Visibility)
  - Call-Off Schedules for RM6116
    - Call-Off Schedule 1 (Transparency Reports)
    - Call-Off Schedule 2 (Staff Transfer)
    - Call-Off Schedule 3 (Continuous Improvement)
    - Call-Off Schedule 5 (Pricing Details)
    - Call-Off Schedule 7 (Key Supplier Staff)
    - Call-Off Schedule 8 (Business Continuity and Disaster Recovery  
amended for a Bronze Contract as per paragraph 10 of Part A of  
that Schedule)
    - Call-Off Schedule 9 (Security)
    - Call-Off Schedule 10 (Exit Management)
    - Call-Off Schedule 11 (Installation Works)
    - Call-Off Schedule 13 (Implementation Plan and Testing)
    - Call-Off Schedule 14 (Service Levels)
    - Call-Off Schedule 15 (Call-Off Contract Management)
    - Call-Off Schedule 18 (Background Checks)
    - Call-Off Schedule 20 (Call-Off Specification)
5. CCS Core Terms (version 3.0.11)
6. Joint Schedule 5 (Corporate Social Responsibility) RM6116
7. Call-Off Schedule 4 (Call-Off Tender) as long as any parts of the Call-Off Tender that offer a better commercial position for the Buyer (as decided by the Buyer) take precedence over the documents above.

No other Supplier terms are part of the Call-Off Contract. That includes any terms written on the back of, added to this Order Form, or presented at the time of delivery.

#### CALL-OFF SPECIAL TERMS

The following Special Terms are incorporated into this Call-Off Contract:

None

CALL-OFF START DATE: **03 February 2025**

CALL-OFF EXPIRY DATE: **02 February 2028**

CALL-OFF INITIAL PERIOD: **Three Years, Zero Months**

CALL-OFF OPTIONAL EXTENSION PERIOD: **Twelve Months**

MINIMUM PERIOD OF NOTICE FOR WITHOUT REASON TERMINATION – 30 Days

#### CALL-OFF DELIVERABLES VIA FURTHER COMPETITION

See details in Call-Off Schedule 20 (Call-Off Specification)]

#### MAXIMUM LIABILITY

The limitation of liability for this Call-Off Contract is stated in Clause 11.2 of the Core Terms.

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is **£83,333.33**

#### CALL-OFF CHARGES

See details in Call-Off Schedule 5 (Pricing Details)

The Charges will not be impacted by any change to the Framework Prices. The Charges can only be changed by agreement in writing between the Buyer and the Supplier because of:

- Indexation
- Specific Change in Law

#### REIMBURSABLE EXPENSES

As per Appendix F - Travel and Subsistence Annex

#### PAYMENT METHOD

BACS (30 days in arrears upon receipt of a valid invoice)

Redacted Under FOIA Section 40, Personal Information

**A valid purchase order number must be included on all invoices and contract number.**

#### BUYER'S INVOICE ADDRESS:

Redacted Under FOIA Section 40, Personal Information

#### BUYER'S AUTHORISED REPRESENTATIVE

Redacted Under FOIA Section 40, Personal Information

Redacted Under FOIA Section 40, Personal Information

Redacted Under FOIA Section 40, Personal Information

Berkeley House, Croydon Street, Bristol, BS5 0DA

#### BUYER'S ENVIRONMENTAL POLICY

Policy Paper: DVSA Sustainability Policy – Date: 12<sup>th</sup> March 2024. Available online at:

<https://www.gov.uk/government/publications/dvsa-sustainability-strategy/dvsa-sustainability-strategy>

#### BUYER'S SECURITY POLICY

#### SUPPLIER'S AUTHORISED REPRESENTATIVE

Redacted Under FOIA Section 40, Personal Information

Redacted Under FOIA Section 40, Personal Information

Redacted Under FOIA Section 40, Personal Information

Titanium 1

King's Inch Place

Braehead Renfrewshire PA4 8WF

#### SUPPLIER'S CONTRACT MANAGER

Redacted Under FOIA Section 40, Personal Information

Redacted Under FOIA Section 40, Personal Information

Redacted Under FOIA Section 40, Personal Information

Titanium 1

King's Inch Place

Braehead Renfrewshire PA4 8WF

United Kingdom

#### PROGRESS REPORT FREQUENCY

A quarterly service report should be provided

**PROGRESS MEETING FREQUENCY**

Service Review meetings will be quarterly, with a Contract Review meeting to be held annually (these can be the same meeting on that occasion)

**KEY STAFF**

Buyer guidance: Review Call-Off Schedule 7 (Key Supplier Staff)]:

Redacted Under FOIA Section 40, Personal Information

Redacted Under FOIA Section 40, Personal Information

Redacted Under FOIA Section 40, Personal Information

Titanium 1

King's Inch Place

Braehead Renfrewshire PA4 8WF

**KEY SUBCONTRACTOR(S)**

**N/A**

**COMMERCIALLY SENSITIVE INFORMATION**

The pricing element of this response to be commercially sensitive information

**SERVICE CREDITS**

Service Credits will accrue in accordance with Call-Off Schedule 14 (Service Levels).

**ADDITIONAL INSURANCES**

Not Applicable

**SOCIAL VALUE COMMITMENT**

The Supplier agrees, in providing the Deliverables and performing its obligations under the Call-Off Contract, that it will comply with the social value commitments in Call-Off Schedule 4 (Call-Off Tender)

For and on behalf of the Supplier:		For and on behalf of the Buyer:	
Signature:		Signature:	
Name:	Redacted Under FOIA Section 40, Personal Information	Name:	Redacted Under FOIA Section 40, Personal Information
Role:		Role:	Information
Date:		Date:	

## **Call-Off Schedule 1 (Transparency Reports)**

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in the Framework Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

**Call-Off Schedule 1 (Transparency Reports)**

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**Annex A: List of Transparency Reports**

<b>Title</b>	<b>Content</b>	<b>Format</b>	<b>Frequency</b>
Contract Performance and performance against agreed SoWs	Performance against Contract KPIs SoWs	Excel (Other formats may be acceptable, subject to Buyer approval)	Quarterly, no later than the 5 <sup>th</sup> working day of the month
Call-Off Contract Charges	Accumulative report of all charges under this contract	Excel (Other formats may be acceptable, subject to Buyer approval)	Quarterly, no later than the 5 <sup>th</sup> working day of the month
Sub-Contractors	Organisation detail and key personnel details	Excel (Other formats may be acceptable, subject to Buyer approval)	Quarterly, no later than the 5 <sup>th</sup> working day of the month
Social Value	Performance against social value commitments as per the Supplier's tender response	Excel or PowerPoint (Other formats may be acceptable, subject to Buyer approval)	Quarterly, no later than the 5 <sup>th</sup> working day of the month

## Call-Off Schedule 2 (Staff Transfer)

Buyers will need to ensure that appropriate provisions are included to deal with staff transfer on both entry and exit, and, irrespective of whether TUPE does apply on entry if there are employees eligible for New Fair Deal pension protection then the appropriate pensions provisions will also need to be selected.

If there is a staff transfer from the Buyer on entry (1st generation) then Part A shall apply.

If there is a staff transfer from former/incumbent supplier on entry (2nd generation), Part B shall apply.

If there is both a 1st and 2nd generation staff transfer on entry, then both Part A and Part B shall apply.

If either Part A and/or Part B apply, then consider whether Part D (Pensions) shall apply and the Buyer shall indicate on the Order Form which Annex shall apply (either D1 (CSPS), D2 (NHSPS), D3 (LGPS) or D4 (Other Schemes)). Part D pensions may also apply where there is not a TUPE transfer for example where the incumbent provider is successful.

If there is no staff transfer (either 1st generation or 2nd generation) at the Start Date then Part C shall apply and Part D pensions may also apply where there is not a TUPE transfer for example where the incumbent provider is successful.

If the position on staff transfers is not known at the bid stage, include Parts A, B, C and D at the bid stage and then update the Buyer Contract Details before signing to specify whether Parts A and/or B, or C and D apply to the Contract.

Part E (dealing with staff transfer on exit) shall apply to every Contract.

For further guidance on this Schedule contact Government Legal Department's Employment Law Group]

### 1. Definitions

1.1 In this Schedule, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**“Acquired Rights Directive”** 1 the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;

2



**"Employee  
Liability"**

**3** all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- b) unfair, wrongful or constructive dismissal compensation;
- c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- d) compensation for less favourable treatment of part-time workers or fixed term employees;
- e) outstanding employment debts and unlawful deduction of wages including any PAYE and National Insurance Contributions;
- f) employment claims whether in tort, contract or statute or otherwise;
- g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

**"Former  
Supplier"**

a supplier supplying services to the Buyer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Subcontractor of such supplier (or any Subcontractor of any such Subcontractor);

<b>"New Fair Deal"</b>	<p>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:</p> <ul style="list-style-type: none"><li>(i) any amendments to that document immediately prior to the Relevant Transfer Date; and</li><li>(ii) any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer;</li></ul>
<b>"Old Fair Deal"</b>	<p>HM Treasury Guidance "<i>Staff Transfers from Central Government: A Fair Deal for Staff Pensions</i>" issued in June 1999 including the supplementary guidance "<i>Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues</i>" issued in June 2004;</p>
<b>"Partial Termination"</b>	<p>the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 10.4 (When CCS or the Buyer can end this contract) or 10.6 (When the Supplier can end the contract);</p>
<b>"Relevant Transfer"</b>	<p>a transfer of employment to which the Employment Regulations applies;</p>
<b>"Relevant Transfer Date"</b>	<p>in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part D: Pensions and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date;</p>

**"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, such information as the Buyer may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement, gender and place of work;
- (b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting Party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries, bonuses and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;

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<b>"Supplier's Final Supplier Personnel List"</b>	a list provided by the Supplier of all Supplier Staff whose will transfer under the Employment Regulations on the Service Transfer Date;
<b>"Supplier's Provisional Supplier Personnel List"</b>	a list prepared and updated by the Supplier of all Supplier Staff 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;
<b>"Term"</b>	the period commencing on the Start Date and ending on the expiry of the Initial Period or any Extension Period or on earlier termination of the relevant Contract;
<b>"Transferring Buyer Employees"</b>	those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date;
<b>"Transferring Former Supplier Employees"</b>	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date.

## 2. INTERPRETATION

- 2.1 Where a provision in this Schedule imposes any obligation on the Supplier including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to CCS, the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.
- 2.2 The provisions of Paragraphs 2.1 and 2.6 of Part A, Paragraph 3.1 of Part B, Paragraphs 1.5, 1.7 and 1.9 of Part C, Part D and Paragraphs 1.4, 2.3 and 2.8 of Part E of this Schedule (together "Third Party Provisions") confer benefits on third parties (each such person a "Third Party Beneficiary") and are intended to be enforceable by Third Party Beneficiaries by virtue of the CRTPA.
- 2.3 Subject to Paragraph 2.2 above, a person who is not a Party to this Call-Off Contract has no right under the CRTPA to enforce any term of this Call-Off Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 2.4 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.
- 2.5 Any amendments or modifications to this Call-Off Contract may be made, and any rights created under Paragraph 2.2 above may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

**Call-Off Schedule 2 (Staff Transfer)**

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**3. Which parts of this Schedule apply**

Only the following parts of this Schedule shall apply to this Call Off Contract:

It is not expected that this Schedule will apply to this Call Off Contract

## **PART A: STAFF TRANSFER AT THE START DATE**

### **OUTSOURCING FROM THE BUYER**

#### **1. What is a relevant transfer**

##### **1.1 The Buyer and the Supplier agree that:**

- 1.1.1 the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Buyer Employees; and
- 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between the Buyer and the Transferring Buyer Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Sub-contractor and each such Transferring Buyer Employee.

##### **1.2 The Buyer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Buyer; and (ii) the Supplier and/or any Subcontractor (as appropriate).**

#### **2. Indemnities the Buyer must give**

##### **2.1 Subject to Paragraph 2.2, the Buyer shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:**

- 2.1.1 any act or omission by the Buyer in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee occurring before the Relevant Transfer Date;
- 2.1.2 the breach or non-observance by the Buyer before the Relevant Transfer Date of:
  - (a) any collective agreement applicable to the Transferring Buyer Employees; and/or
  - (b) any custom or practice in respect of any Transferring Buyer Employees which the Buyer is contractually bound to honour;
- 2.1.3 any claim by any trade union or other body or person representing the Transferring Buyer Employees arising from or connected with any failure by the Buyer to comply with any legal

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- obligation to such trade union, body or person arising before the Relevant Transfer Date;
- 2.1.4 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:
- (a) in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Buyer Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Buyer to the Supplier and/or any Subcontractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
- 2.1.5 a failure of the Buyer to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Buyer Employees arising before the Relevant Transfer Date;
- 2.1.6 any claim made by or in respect of any person employed or formerly employed by the Buyer other than a Transferring Buyer Employee for whom it is alleged the Supplier and/or any Subcontractor as appropriate may be liable by virtue of the Employment Regulations and/or the Acquired Rights Directive; and
- 2.1.7 any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Buyer in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:
- 2.2.1 arising out of the resignation of any Transferring Buyer Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier and/or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or

## Call-Off Schedule 2 (Staff Transfer)

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- 2.2.2 arising from the failure by the Supplier or any Subcontractor to comply with its obligations under the Employment Regulations.

2.3 If any person who is not identified by the Buyer as a Transferring Buyer Employee claims, or it is determined in relation to any person who is not identified by the Buyer as a Transferring Buyer Employee, that his/her contract of employment has been transferred from the Buyer to the Supplier and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

- 2.3.1 the Supplier shall, or shall procure that the Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing; and

- 2.3.2 the Buyer may offer (or may procure that a third party may offer) employment to such person, or take such other reasonable steps as the Buyer considers appropriate to deal with the matter provided always that such steps are in compliance with Law, within 15 Working Days of receipt of notice from the Supplier and/or any Subcontractor.

2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Buyer, the Supplier shall, or shall procure that a Subcontractor shall, immediately release the person from his/her employment or alleged employment;

2.5 If by the end of the 15 Working Day period referred to in Paragraph 2.3.2:

- 2.5.1 no such offer of employment has been made;
- 2.5.2 such offer has been made but not accepted; or
- 2.5.3 the situation has not otherwise been resolved,

the Supplier and/or any Subcontractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2.6 Subject to the Supplier and/or any Subcontractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in applicable Law and subject also to Paragraph 2.7, the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or procures that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.7 The indemnity in Paragraph 2.6:

- 2.7.1 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,



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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 Subcontractor; or

- (b) any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and

2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Subcontractor (as appropriate) to the Buyer within 6 months of the Start Date

- 2.8 If any such person as is referred to in Paragraph 2.3 is neither re-employed by the Buyer nor dismissed by the Supplier and/or any Subcontractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall, or shall procure that the relevant Subcontractor shall, comply with such obligations as may be imposed upon it under applicable Law.

### 3. Indemnities the Supplier must give and its obligations

- 3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer against any Employee Liabilities arising from or as a result of:

3.1.1 any act or omission by the Supplier or any Subcontractor in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee whether occurring before, on or after the Relevant Transfer Date;

3.1.2 the breach or non-observance by the Supplier or any Subcontractor on or after the Relevant Transfer Date of:

- (a) any collective agreement applicable to the Transferring Buyer Employees; and/or
- (b) any custom or practice in respect of any Transferring Buyer Employees which the Supplier or any Subcontractor is contractually bound to honour;

3.1.3 any claim by any trade union or other body or person representing any Transferring Buyer Employees arising from or connected with any failure by the Supplier or any Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;

3.1.4 any proposal by the Supplier or a Subcontractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any

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- Transferring Buyer Employees to their material detriment on or after their transfer to the Supplier or the relevant Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Buyer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5 any statement communicated to or action undertaken by the Supplier or any Subcontractor to, or in respect of, any Transferring Buyer Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer in writing;
- 3.1.6 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:
- (a) in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Buyer Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Buyer to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Buyer Employees in respect of the period from (and including) the Relevant Transfer Date;
- 3.1.8 any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Supplier or any Subcontractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Buyer's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
- 3.1.9 a failure by the Supplier or any Sub-contractor to comply with its obligations under paragraph 2.8 above.

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- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Buyer whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Buyer's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of the Transferring Buyer Employees, from (and including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Buyer and the Supplier.

## **4. Information the Supplier must provide**

- 4.1 The Supplier shall, and shall procure that each Subcontractor shall, promptly provide to the Buyer in writing such information as is necessary to enable the Buyer to carry out its duties under regulation 13 of the Employment Regulations. The Buyer shall promptly provide to the Supplier and any Subcontractor in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

## **5. Cabinet Office requirements**

- 5.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.
- 5.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Buyer Employee as set down in:
- 5.2.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;
  - 5.2.2 Old Fair Deal; and/or
  - 5.2.3 The New Fair Deal.
- 5.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Variation Procedure.

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**6. Pensions**

6.1 The Supplier shall, and/or shall procure that each of its Subcontractors shall, comply with:

6.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and

6.1.2 Part D: Pensions (and its Annexes) to this Schedule.

## **PART B: STAFF TRANSFER AT THE START DATE**

### **TRANSFER FROM A FORMER SUPPLIER**

#### **1. What is a relevant transfer**

##### **1.1 The Buyer and the Supplier agree that:**

- 1.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and
- 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Subcontractor and each such Transferring Former Supplier Employee.

##### **1.2 The Buyer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Buyer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.**

#### **2. Indemnities given by the Former Supplier**

##### **2.1 Subject to Paragraph 2.2, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:**

- 2.1.1 any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;
- 2.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:
  - (a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or

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- (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;
  - 2.1.3 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:
    - (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
    - (b) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Subcontractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
  - 2.1.4 a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
  - 2.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Subcontractor as appropriate may be liable by virtue of the relevant Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
  - 2.1.6 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:

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- 2.2.1 arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or
  - 2.2.2 arising from the failure by the Supplier and/or any Subcontractor to comply with its obligations under the Employment Regulations.
- 2.3 If any person who is not identified by the Former Supplier as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by the Former Supplier as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
  - 2.3.1 the Supplier shall, or shall procure that the Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer and in writing and, where required by the Buyer, notify the relevant Former Supplier in writing; and
  - 2.3.2 the Former Supplier may offer (or may procure that a third party may offer) employment to such person, or take such other steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law, within 15 Working Days of receipt of notice from the Supplier and/or the Subcontractor (as appropriate).
- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, , or if the situation has otherwise been resolved by the Former Supplier and/or the Buyer, the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5 If by the end of the 15 Working Day period referred to in Paragraph 2.3.2:
  - 2.5.1 no such offer of employment has been made;
  - 2.5.2 such offer has been made but not accepted; or
  - 2.5.3 the situation has not otherwise been resolved,the Supplier and/or any Subcontractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person;
- 2.6 Subject to the Supplier and/or any Subcontractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law and subject also to Paragraph 2.7, the Buyer shall procure that the Former Supplier will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or shall procure that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7 The indemnity in Paragraph 2.6:
  - 2.7.1 shall not apply to:
    - (a) any claim for:

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- (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 Subcontractor; or

- (b) any claim that the termination of employment was unfair because the Supplier and/or Subcontractor neglected to follow a fair dismissal procedure; and

2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Subcontractor (as appropriate) to the Buyer and, if applicable, the Former Supplier, within 6 months of the Start Date.

2.8 If Subcontractor any such person as is described in Paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Subcontractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under applicable Law.

### 3. Indemnities the Supplier must give and its obligations

3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer and/or the Former Supplier against any Employee Liabilities arising from or as a result of:

- 3.1.1 any act or omission by the Supplier or any Subcontractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date;
- 3.1.2 the breach or non-observance by the Supplier or any Subcontractor on or after the Relevant Transfer Date of:
  - (a) any collective agreement applicable to the Transferring Former Supplier Employee; and/or
  - (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;
- 3.1.3 any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade



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- union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4 any proposal by the Supplier or a Subcontractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5 any statement communicated to or action undertaken by the Supplier or a Subcontractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer and/or the Former Supplier in writing;
- 3.1.6 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:
- (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;
- 3.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring

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Former Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations; and

- 3.1.9 a failure by the Supplier or any Subcontractor to comply with its obligations under Paragraph 2.8 above

3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.

3.3 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including (without limit) 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 under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

## **4. Information the Supplier must give**

The Supplier shall, and shall procure that each Subcontractor shall, promptly provide to the Buyer and/or at the Buyer's direction, the Former Supplier, in writing such information as is necessary to enable the Buyer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Former Supplier shall promptly provide to the Supplier and any Subcontractor in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

## **5. Cabinet Office requirements**

5.1 The Supplier shall, and shall procure that each Subcontractor shall, comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Former Supplier Employee as set down in:

- 5.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
- 5.1.2 Old Fair Deal; and/or

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### **5.1.3 The New Fair Deal.**

- 5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Variation Procedure.

## **6. Limits on the Former Supplier's obligations**

Notwithstanding any other provisions of this Part B, where in this Part B the Buyer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Buyer's contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

## **7. Pensions**

- 7.1 The Supplier shall, and shall procure that each Subcontractor shall, comply with:

7.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; ; and

7.1.2 Part D: Pensions (and its Annexes) to this Schedule.

## **PART C: NO STAFF TRANSFER ON THE START DATE**

### **1. What happens if there is a staff transfer**

- 1.1 The Buyer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Buyer and/or any Former Supplier.
- 1.2 If any employee of the Buyer and/or a Former Supplier claims, or it is determined in relation to any employee of the Buyer and/or a Former Supplier, that his/her contract of employment has been transferred from the Buyer and/or the Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
  - 1.2.1 the Supplier shall, and shall procure that the relevant Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing and, where required by the Buyer, notify the Former Supplier in writing; and
  - 1.2.2 the Buyer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification from the Supplier or the Subcontractor (as appropriate) or take such other reasonable steps as the Buyer or Former Supplier (as the case may be) it 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 Buyer and/or the Former Supplier),, the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from his/her employment or alleged employment.
- 1.4 If by the end of the 15 Working Day period referred to 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 may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 1.5 Subject to the Supplier and/or the relevant Subcontractor 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 1.8 the Buyer shall:
  - 1.5.1 indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the

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- Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities; and
- 1.5.2 procure that the Former Supplier indemnifies the Supplier and/or any Subcontractor 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 Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 1.6 If any such person as is described in Paragraph 1.2 is neither re employed by the Buyer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Subcontractor 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 Subcontractor (as appropriate) and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under Law.
- 1.7 Where any person remains employed by the Supplier and/or any Subcontractor pursuant to Paragraph 1.6, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Subcontractor and the Supplier shall indemnify the Buyer and any Former Supplier, and shall procure that the Subcontractor shall indemnify the Buyer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.
- 1.8 The indemnities in Paragraph 1.5:
- 1.8.1 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 Subcontractor; or
- (b) any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and
- 1.8.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any Subcontractor to the Buyer and, if applicable, Former Supplier within 6 months of the Start Date.

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- 1.9 If the Supplier and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Subcontractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.

**2. Limits on the Former Supplier's obligations**

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

## PART D: PENSIONS

### 1. Definitions

In this Part D and Part E, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes to this Part D:

<b>"Actuary"</b>		a Fellow of the Institute and Faculty of Actuaries;
<b>"Admission Agreement"</b>		either or both of the CSPA Admission Agreement (as defined in Annex D1: CSPA) or the LGPS Admission Agreement (as defined in Annex D3: LGPS), as the context requires;
<b>"Best Direction"</b>	<b>Value</b>	the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);
<b>"Broadly Comparable"</b>		<p>(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and/or</p> <p>(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,</p> <p>and <b>"Broad Comparability"</b> shall be construed accordingly;</p>
<b>"CSPA"</b>		the schemes as defined in Annex D1 to this Part D;
<b>"Direction Letter/Determination"</b>		has the meaning in Annex D2 to this Part D;

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<b>"Fair Deal Eligible Employees"</b>	each of the CSPA Eligible Employees, the NHSPS Eligible Employees and/or the LGPS Eligible Employees (as applicable) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with paragraph 10 or 11 of this Part D);
<b>"Fair Deal Employees"</b>	<p>any of:</p> <ul style="list-style-type: none"><li>(a) Transferring Buyer Employees;</li><li>(b) Transferring Former Supplier Employees;</li><li>(c) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.5 of Parts A or B or Paragraph 1.4 of Part C;</li><li>(d) where the Supplier or a Subcontractor was the Former Supplier, the employees of the Supplier (or Subcontractor);</li></ul> <p>who at the Relevant Transfer Date are or become entitled to New Fair Deal or Best Value Direction protection in respect of any of the Statutory Schemes or a Broadly Comparable pension scheme provided in accordance with paragraph 10 of this Part D as notified by the Buyer;</p>
<b>"Fund Actuary"</b>	a Fund Actuary as defined in Annex D3 to this Part D;
<b>"LGPS"</b>	the scheme as defined in Annex D3 to this Part D;
<b>"NHSPS"</b>	<p>the schemes as defined in Annex D2 to this Part D;</p> <ul style="list-style-type: none"><li>(a)</li><li>(b)</li></ul>
<b>"Statutory Schemes"</b>	means the CSPA, NHSPS or LGPS.



## **2. Supplier obligations to participate in the pension schemes**

- 2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPA, Annex D2: NHSPA and/or Annex D3: LGPS shall apply, as appropriate.
- 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission 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 shall deduct and pay to the Statutory Schemes such employee contributions as are required; and
  - 2.3.2 subject to paragraph 5 of Annex D3: LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.
- 2.4 Where the Supplier is the Former Supplier (or a Subcontractor is a Subcontractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor) at the Start Date, this Part D and its Annexes shall be modified accordingly so that the Supplier (or Subcontractor) shall comply with its requirements from the Start 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 Subcontractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer<sup>1</sup>.

## **3. Supplier obligation to provide information**

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

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<sup>1</sup> We recommend that you seek specific legal advice on this clause.

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- 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 the relevant Contract.

### **4. Indemnities the Supplier must give**

- 4.1 The Supplier shall indemnify and keep indemnified CCS, [NHS Pensions], the Buyer and/or any Replacement Supplier and/or any Replacement Subcontractor 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 arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Supplier of this Part D, 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 Subcontractor on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with paragraphs 10 or 11 of this Part D;
- 4.1.3 relate to claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:

Subcontractor:

- (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 the relevant Contract; or
- (b) arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this Part D before the date of termination or expiry of the relevant Contract; and/or
- 4.1.4 arise out of or in connection with the Supplier (or its Subcontractor) allowing anyone who is not an NHSPS Fair Deal Employee to join or claim membership of the NHSPS at any time during the Term.

- 4.2 The indemnities in this Part D and its Annexes:

- 4.2.1 shall survive termination of the relevant Contract; and

- 4.2.2 shall not be affected by the caps on liability contained in Clause 11 (How much you can be held responsible for).

## **5. What happens if there is a dispute**

- 5.1 The Dispute Resolution Procedure will not apply to any dispute (i) between the CCS and/or the Buyer and/or the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the CCS and/or the Buyer 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 CCS and/or the Buyer and/or the Supplier; and
  - 5.1.3 whose expenses shall be borne equally by the CCS and/or the Buyer and/or the Supplier unless the independent Actuary shall otherwise direct.

The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

## **6. Other people's rights**

- 6.1 The Parties agree Clause 19 (Other people's rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.
- 6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in his or her or its own right under section 1(1) of the CRTPA.

## **7. What happens if there is a breach of this Part D**

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

## **8. Transferring Fair Deal Employees**

- 8.1 Save on expiry or termination of the relevant Contract, if the employment of any Fair Deal Eligible Employee transfers to another employer (by way of a transfer

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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 Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangements for participation with the relevant Statutory Scheme(s);
- 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 D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Eligible Employees so transferred to the New Employer.

## 9. What happens to pensions if this Contract ends

- 9.1 The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of the relevant Contract.
- 9.2 The Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant 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 Buyer and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

## 10. Broadly Comparable Pension Schemes on the Relevant Transfer Date

- 10.1 If the terms of any of paragraphs 4 of Annex D2: NHSPS or 3.1 of Annex D3: LGPS applies, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 10.2 Such Broadly Comparable pension scheme must be:
  - 10.2.1 established by the Relevant Transfer Date<sup>2</sup>;

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<sup>2</sup>We recommend that you seek specific legal advice on this clause.

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- 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 Buyer);
  - 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 Buyer); and
  - 10.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 10.3 Where the Supplier has set up a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall):
- 10.3.1 supply to the Buyer details of its (or its Subcontractor'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 Buyer (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer<sup>3</sup>; 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 Subcontractor and are still eligible for

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<sup>3</sup> We recommend that you seek specific legal advice on this clause.

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New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is 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 Subcontractors shall) prior to the termination of the relevant 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 Subcontractor (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 Subcontractor 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 Buyer shall otherwise direct. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the difference as required under this paragraph.

## **11. Broadly Comparable Pension Scheme in Other Circumstances**

- 11.1 If the terms of any of paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 11.2 Such Broadly Comparable pension scheme must be:
- 11.2.1 established by the date of cessation of participation in the Statutory Scheme<sup>4</sup>;
  - 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 Buyer);
  - 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 Buyer); and
  - 11.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 11.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall):
- 11.3.1 supply to the Buyer details of its (or its Subcontractor'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;

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<sup>4</sup> We recommend that you seek specific legal advice on this clause.



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- 11.3.3 where required to do so by the Buyer, instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing a bulk transfer process with the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). The Supplier must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Supplier shall be fully responsible for any costs of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme<sup>5</sup>; 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 Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor'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 Subcontractors shall) prior to the termination of the relevant 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 Subcontractor (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

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<sup>5</sup> We recommend that you seek specific legal advice on this clause.



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in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the Shortfall under this paragraph.

### **12. Right of Set-off**

12.1 The Buyer shall have a right to set off against any payments due to the Supplier under the relevant 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 Subcontractor 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 Subcontractor or due from any third party under any indemnity, bond or guarantee; or

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 Subcontractor or due from any third party under any indemnity, bond or guarantee;

and shall pay such set off amount to the relevant Statutory Scheme.

12.2 The Buyer shall also have a right to set off against any payments due to the Supplier under the relevant Contract all reasonable costs and expenses incurred by the Buyer as result of Paragraphs 12.1 above.

## Annex D1:

### Civil Service Pensions Schemes (CSPS)

#### 1. Definitions

In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"CSPS Admission Agreement"</b>	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services;
<b>"CSPS Eligible Employee"</b>	any CSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the CSPS under a CSPS Admission Agreement;
<b>"CSPS Fair Deal Employee"</b>	a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPS in accordance with the provisions of New Fair Deal;
<b>"CSPS"</b>	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

#### 2. Access to equivalent pension schemes after transfer

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any CSPS Fair Deal Employee compulsorily transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not an employer which participates automatically in the CSPS, shall each secure a CSPS Admission Agreement to ensure that CSPS Fair Deal Employees or CSPS Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date. The Supplier and/or any of its Subcontractors shall procure that the CSPS Fair Deal Employees continue to accrue benefits in the CSPS in accordance with the provisions governing the relevant section of the CSPS for service from (and including) the Relevant Transfer Date.

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- 2.2 If the Supplier and/or any of its Subcontractors enters into a CSPA Admission Agreement in accordance with paragraph 2.1 but the CSPA Admission Agreement is terminated during the term of the relevant Contract for any reason at a time when the Supplier or Subcontractor still employs any CSPA Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, 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 D.

## Annex D2: NHS Pension Schemes

### 1. Definitions

In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Direction Letter/Determination"</b>	an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Subcontractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Subcontractor in the NHSPS in respect of the NHSPS Fair Deal Employees;
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<b>"NHS Comparable Employees"</b>	<b>Broadly</b> each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:
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(a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or

(b) their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),

but who is now ineligible to participate in the NHSPS under the rules of the NHSPS and in respect of whom the Buyer has agreed are to be provided with a Broadly Comparable pension scheme to provide Pension Benefits that are Broadly Comparable to those provided under the NHSPS.

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<b>"NHSPS Employees"</b>	<b>Eligible</b>	any NHSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the NHSPS under a Direction Letter/Determination Letter.
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<b>"NHSPS Fair Deal Employees"</b>	<b>Deal</b>	other than the NHS Broadly Comparable Employees, each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:
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- (a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or
- (b) their employment with a Former Supplier who provides access to the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),

and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).

For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter/Determination or other NHSPS "access" facility but who has never been employed directly by the Buyer, an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Fair Deal Employee;

<b>"NHS Body"</b>	has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;
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<b>"NHS Pensions"</b>	NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS;
<b>"NHSPS"</b>	the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and the Public Service Pensions Act 2013 governed by subsequent regulations under those Acts including the NHS Pension Scheme Regulations;
<b>"NHS Pension Scheme Regulations"</b>	as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time;
<b>"NHS Premature Retirement Rights"</b>	rights to which any NHS Fair Deal Employee (had they remained in the employment of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS) would have been or is entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury Benefits) Regulations 1995 (SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time;
<b>"Pension Benefits"</b>	any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor's benefits provided under an occupational pension scheme.

## **2. Membership of the NHS Pension Scheme**

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any NHSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an NHS Body or other employer which participates automatically in the

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NHSPS, shall each secure a Direction Letter/Determination to enable the NHSPS Fair Deal Employees to retain either continuous active membership of or eligibility for the NHSPS for so long as they remain employed in connection with the delivery of the Services under the relevant Contract.

- 2.2 Where it is not possible for the Supplier and/or any of its Subcontractors to secure a Direction Letter/Determination on or before the Relevant Transfer Date, the Supplier must secure a Direction Letter/Determination as soon as possible after the Relevant Transfer Date, and in the period between the Relevant Transfer Date and the date the Direction Letter/Determination is secure, the Supplier must ensure that:
- (a) all employer's and NHSPS Fair Deal Employees' contributions intended to go to the NHSPS are kept in a separate bank account; and
  - (b) the Pension Benefits and Premature Retirement Rights of NHSPS Fair Deal Employees are not adversely affected.
- 2.3 The Supplier must supply to the Buyer a complete copy of each Direction Letter/Determination within 5 Working Days of receipt of the Direction Letter/Determination.
- 2.4 The Supplier must ensure (and procure that each of its Sub-Contracts (if any) ensures) that all of its NHSPS Fair Deal Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter/Determination.
- 2.5 The Supplier will (and will procure that its Subcontractors (if any) will) comply with the terms of the Direction Letter/Determination, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health and Social Care in respect of the NHSPS Fair Deal Employees for so long as it remains bound by the terms of any such Direction Letter/Determination.
- 2.6 Where any employee omitted from the Direction Letter/Determination supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Fair Deal Employee, the Supplier will (and will procure that its Subcontractors (if any) will) treat that person as if they had been an NHSPS Fair Deal Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.
- 2.7 The Supplier will (and will procure that its Subcontractors (if any) will) Subcontractor provide any guarantee, bond or indemnity required by NHS Pensions in relation to a Direction Letter/Determination.

### **3. Continuation of early retirement rights after transfer**

- 3.1 From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Subcontractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS Fair Deal Employees that are identical to the benefits they would have received had they remained employees of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS.

#### **4. NHS Broadly Comparable Employees**

- 4.1 The Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the NHSPS Broadly Comparable Employees membership of a pension scheme which is Broadly Comparable to NHSPS on the Relevant Transfer Date in accordance with paragraph 10 of Part D. For the avoidance of doubt, this requirement is separate from any requirement to offer a Broadly Comparable pension scheme in accordance with paragraph 5.2 below.

#### **5. What the buyer can do if the Supplier breaches its pension obligations**

- 5.1 The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Subcontractor) breaches the terms of its Direction Letter/Determination. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Subcontractor) breaches the terms of its Direction Letter/Determination.
- 5.2 If the Supplier (or its Subcontractors, if relevant) ceases to participate in the NHSPS for whatever reason, the Supplier (or any such Subcontractor, as appropriate) shall offer to offer the NHSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the NHSPS on the date the NHSPS Eligible Employees ceased to participate in the NHSPS in accordance with the provisions of paragraph 11 of Part D. Subcontractor.

#### **6. Compensation when pension scheme access can't be provided**

- 6.1 If the Supplier (or its Subcontractor, if relevant) is unable to provide the NHSPS Fair Deal Employees with either membership of:
- 6.1.1 the NHSPS (having used its best endeavours to secure a Direction Letter/Determination); or
  - 6.1.2 a Broadly Comparable pension scheme,
- the Buyer may in its sole discretion permit the Supplier (or any of its Subcontractors) to compensate the NHSPS Fair Deal Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Subcontractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Fair Deal Employees. The Supplier must meet (or must procure that the relevant Subcontractor meets) the costs of the Buyer determining whether the level of compensation offered is reasonable in the circumstances.
- 6.2 This flexibility for the Buyer to allow compensation in place of Pension Benefits is in addition to and not instead of the Buyer's right to terminate the Contract.
- #### **7. Indemnities that a Supplier must give**
- 7.1 The Supplier must indemnify and keep indemnified the CCS, the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Fair Deal Employee or any NHS Broadly Comparable Employees that



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the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.

## Annex D3:

### Local Government Pension Schemes (LGPS)

Note the LGPS unlike the CSPA & NHSPA is a funded scheme which has associated cost implications as follows:

There is not 1 LGPS but approx. 90 different Funds, each with their own separate Scheme Employer and Administering Buyer, it is important to identify the correct one(s) and amend the definition of "Fund" accordingly.

It is important to check whether CCS and or the Buyer can actually participate in the LGPS. Where a government department is taking on services which were formerly the responsibility of a Local Authority it may be necessary to obtain secretary of state approval for participation in the LGPS, this is because the services are being provided to Gov. Dept. and not to a Local Authority.

Unlike New Fair Deal the 2007 Best Value pension direction does not provide a right to bulk transfer past service. Whilst typically before the 2007 direction LA did provide such a right, it is a significant additional cost and therefore bulk transfer wording has been excluded. If required take legal advice due to the exceptionally high costs which can result from a requirement to provide bulk transfers.]

#### 1. Definitions

In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"2013 Regulations"</b>	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time);
<b>"Administering Buyer"</b>	in relation to <b>the Fund [insert name]</b> , the relevant Administering Buyer of that Fund for the purposes of the 2013 Regulations;
<b>"Fund Actuary"</b>	the actuary to a Fund appointed by the Administering Buyer of that Fund;
<b>"Fund"</b>	<b>[insert name], a pension fund within the LGPS;</b>
<b>["Initial Contribution Rate"<sup>6</sup>]</b>	[XX %] of pensionable pay (as defined in the 2013 Regulations);]

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<sup>6</sup> We recommend that you seek specific legal advice on this definition.

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<b>"LGPS"</b>	the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme;
<b>"LGPS Admission Agreement"</b>	an admission agreement within the meaning in Schedule 1 of the 2013 Regulations;
<b>"LGPS Admission Body"</b>	an admission body (within the meaning of Part 3 of Schedule 2 of the 2013 Regulations);
<b>"LGPS Eligible Employees"</b>	any LGPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the LGPS under an LGPS Admission Agreement;
<b>"LGPS Fair Deal Employees"</b>	any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the LGPS or a pension scheme that is Broadly Comparable to the LGPS in accordance with the provisions in accordance with the provisions of New Fair Deal and/or the Best Value Direction; ;
<b>"LGPS Regulations"</b>	the 2013 Regulations and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525), and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS.

## **2. Supplier to become an LGPS Admission Body**

- 2.1 In accordance with the principles of New Fair Deal and/or the Best Value Direction, the Supplier and/or any of its Subcontractors to which the employment of any LGPS Fair Deal Employee compulsorily transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not a scheme employer which participates automatically in the LGPS, shall each become an LGPS Admission Body by entering into an LGPS Admission Agreement on or before the Relevant Transfer Date to enable the LGPS Fair Deal Employees to retain either continuous active membership of or eligibility for the LGPS on and from the Relevant Transfer Date for so long as they remain employed in connection with the delivery of the Services under the relevant Contract.

## **OPTION 1<sup>7</sup>**

### **2.2 [Any LGPS Fair Deal Employees who:**

2.2.1 were active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall be admitted to the LGPS with effect on and from the Relevant Transfer Date; and

2.2.2 were eligible to join the LGPS (or a Broadly Comparable pension scheme) but were not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall retain the ability to join the LGPS on or after the Relevant Transfer Date if they wish to do so. ]

## **OPTION 2**

### **[Any LGPS Fair Deal Employees whether:**

2.2.3 active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date; or

2.2.4 eligible to join the LGPS (or a Broadly Comparable pension scheme) but not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date

shall be admitted to the LGPS with effect on and from the Relevant Transfer Date. The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Fair Deal Employees in any pension scheme other than the LGPS unless they cease to be eligible for membership of the LGPS.]

2.3 The Supplier will (and will procure that its Subcontractors (if any) will) provide at its own cost any indemnity, bond or guarantee required by an Administering Buyer in relation to an LGPS Admission Agreement.

## **3. Broadly Comparable Scheme**

3.1 If the Supplier and/or any of its Subcontractors is unable to obtain an LGPS Admission Agreement in accordance with paragraph 2.1 because the Administering Buyer will not allow it to participate in the Fund, the Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the LGPS Fair Deal Employees membership of a pension scheme which is Broadly Comparable to LGPS on the Relevant Transfer Date in accordance with the provisions of paragraph 10 of Part D.

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<sup>7</sup> We recommend that you seek specific legal advice on this clause.

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- 3.2 If the Supplier and/or any of its Subcontractors becomes an LGPS Admission Body in accordance with paragraph 2.1 but the LGPS Admission Agreement is terminated during the term of the relevant Contract for any reason at a time when the Supplier or Subcontractors still employs any LGPS Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining LGPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the LGPS on the date the LGPS Eligible Employees ceased to participate in the LGPS in accordance with the provisions of paragraph 11 of Part D.

## **4. Discretionary Benefits**

Where the Supplier and/or any of its Subcontractors is an LGPS Admission Body, the Supplier shall (and procure that its Subcontractors shall) comply with its obligations under regulation 60 of the 2013 Regulations in relation to the preparation of a discretionary policy statement.

## **5. LGPS RISK SHARING<sup>8</sup>**

- 5.1 Subject to paragraphs 5.4 to 5.10, if at any time during the term of the relevant Contract the Administering Buyer, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or other payments to the Fund in aggregate in excess of the Initial Contribution Rate, the excess of employer contributions above the Initial Contribution Rate for a Contract Year (the "Excess Amount") shall be paid by the Supplier or the Subcontractor, as the case may be, and the Supplier shall be reimbursed by the Buyer.
- 5.2 Subject to paragraphs 5.4 to 5.9 and 5.11, if at any time during the term of the relevant Contract, the Administering Buyer, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or payments to the Fund in aggregate below the Initial Contribution Rate for a Contract Year, the Supplier shall reimburse the Buyer an amount equal to  $A - B$  (the "Refund Amount") where:
- A = the amount which would have been paid if contributions and payments had been paid equal to the Initial Contribution Rate for that Contract Year; and
- B = the amount of contributions or payments actually paid by the Supplier or Subcontractor for that Contract Year, as the case may be, to the Fund.
- 5.3 Subject to paragraphs 5.4 to 5.10, where the Administering Buyer obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any

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<sup>8</sup> We recommend that you seek specific legal advice on this clause.

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Subcontractor is required to pay any exit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Payment**”), such Exit Payment shall be paid by the Supplier or any Subcontractor (as the case may be) and the Supplier shall be reimbursed by the Buyer.

- 5.4 The Supplier and any Subcontractors shall at all times be responsible for the following costs:
- 5.4.1 any employer contributions relating to the costs of early retirement benefits arising on redundancy or as a result of business efficiency under Regulation 30(7) of the 2013 Regulations or otherwise;
  - 5.4.2 any payment of Fund benefits to active members on the grounds of ill health or infirmity of mind or body under Regulation 35 of the 2013 Regulations or otherwise<sup>9</sup>;
  - 5.4.3 any payment of Fund benefits to deferred or deferred pensioner members on the grounds of ill health or infirmity of mind or body under Regulation 38 of the 2013 Regulations or otherwise;
  - 5.4.4 any employer contributions relating to the costs of early or flexible retirement where the actuarial reduction is waived in whole or in part or a cost neutral reduction is not applied with the consent of the Supplier or any relevant Subcontractor including without limitation any decision made under Regulation 30(8) of the 2013 Regulations or Schedule 2 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;
  - 5.4.5 any employer contributions relating to the costs of enhanced benefits made at the discretion of the Supplier or any relevant Subcontractors including without limitation additional pension awarded under Regulation 31 of the 2013 Regulations or otherwise;
  - 5.4.6 any increase to the employer contribution rate resulting from the award of pay increases by the Supplier or relevant Subcontractors in respect of all or any of the LGPS Eligible Employees in excess of the pay increases assumed in the Fund's most recent actuarial valuation (unless the Supplier and/or any Subcontractor is contractually bound to provide such increases on the Relevant Transfer Date);
  - 5.4.7 to the extent not covered above, any other costs arising out of or in connection with the exercise of any discretion or the grant of any consent under the LGPS Regulations by the Supplier or any relevant Subcontractors where a member does not have an absolute entitlement to that benefit under the LGPS;
  - 5.4.8 any cost of the administration of the Fund that are not met through the Supplier's or Subcontractor's employer contribution

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<sup>9</sup> We recommend that you seek specific legal advice on this clause.

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- rate, including without limitation an amount specified in a notice given by the Administering Buyer under Regulation 70 of the 2013 Regulations;
- 5.4.9 the costs of any reports and advice requested by or arising from an instruction given by the Supplier or a Subcontractor from the Fund Actuary; and/or
- 5.4.10 any interest payable under the 2013 Regulations or LGPS Administration Agreement.
- 5.5 For the purposes of calculating any Exit Payment, Excess Amount or Refund Amount, any part of such an amount which is attributable to any costs which the Supplier or Subcontractors are responsible for in accordance with paragraph 5.4 above shall be disregarded and excluded from the calculation. In the event of any dispute as to level of any cost that should be excluded from the calculation, the opinion of the Fund Actuary shall be final and binding.
- 5.6 Where the Administering Buyer obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor receives payment of an exit credit payment under Regulation 64(2) of the 2013 Regulations (the **"Exit Credit"**), the Supplier shall (or procure that any Subcontractor shall) reimburse the Buyer an amount equal to the Exit Credit within twenty (20) Working Days of receipt of the Exit Credit.
- 5.7 The Supplier shall (or procure that the Subcontractor shall) notify the Buyer in writing within twenty (20) Working Days:
  - 5.7.1 of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of the Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated; and
  - 5.7.2 of being informed by the Administering Buyer of any Exit Payment or Exit Credit that is determined by as being due from or to the Supplier or a Subcontractor and provide a copy of any revised rates and adjustments certificate detailing the Exit Payment or Exit Credit and its calculation.
- 5.8 Within twenty (20) Working Days of receiving the notification under paragraph 5.7 above, the Buyer shall either:
  - 5.8.1 notify the Supplier in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;
  - 5.8.2 request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Supplier; and/or
  - 5.8.3 request a meeting with the Supplier to discuss or clarify the information or evidence provided.
- 5.9 Where the Excess Amount, Refund Amount or Exit Payment is agreed following the receipt of further information or evidence or following a meeting in accordance with paragraph 5.8 above, the Buyer shall notify the Supplier in

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writing. In the event that the Supplier and the Buyer are unable to agree the amount of the Excess Amount, Refund Amount or Exit Payment then they shall follow the Dispute Resolution Procedure.

- 5.10 Any Excess Amount or Exit Payment agreed by the Buyer or in accordance with the Dispute Resolution Procedure shall be paid by the Buyer within timescales as agreed between Buyer and Supplier. The amount to be paid by the Buyer shall be an amount equal to the Excess Amount or Exit Payment less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount or Exit Payment by the Supplier or a Subcontractor.
- 5.11 Any Refund Amount agreed by the Buyer or in accordance with the Dispute Resolution Procedure as payable by the Supplier or any Subcontractor to the Buyer, shall be paid by the Supplier or any Subcontractor forthwith as the liability has been agreed. In the event the Supplier or any Subcontractor fails to pay any agreed Refund Amount, the Buyer shall demand in writing the immediate payment of the agreed Refund Amount by the Supplier and the Supplier shall make payment within seven (7) Working Days of such demand.
- 5.12 This paragraph 5 shall survive termination of the relevant Contract.



## Annex D4: Other Schemes

**[Guidance:** Placeholder for Pension Schemes other than LGPS, CSPA & NHSPS]

## Part E: Staff Transfer on Exit

### 1. Obligations before a Staff Transfer

- 1.1 The Supplier agrees that within 20 Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
  - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract;
  - 1.1.3 the date which is 12 Months before the end of the Term; and
  - 1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any 6 Month period),
- it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Buyer.
- 1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor (i) the Supplier's Final Supplier Personnel List, which shall identify the basis upon which they are Transferring Supplier Employees and (ii) the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.
- 1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor 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 Subcontractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Buyer (not to be unreasonably withheld or delayed):
- :
- 1.5.1 replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces

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- 1.5.2 make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Staff (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 Staff 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);
- 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 Subcontractor shall promptly notify, the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any notice to terminate employment given by the Supplier or relevant Subcontractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

- 1.6 On or around each anniversary of the Start Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide, and shall procure that each Subcontractor shall provide, to the Buyer such information as the Buyer may reasonably require relating to the manner in which the Services are organised, which shall include:

- 1.6.1 the numbers of employees engaged in providing the Services;
- 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
- 1.6.3 the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part D (Pensions) (as appropriate); and
- 1.6.4 a description of the nature of the work undertaken by each employee by location.

- 1.7 The Supplier shall provide, and shall procure that each Subcontractor shall provide, all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service

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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 Subcontractor shall provide, to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (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; and
- 1.7.6 bank/building society account details for payroll purposes.

## **2. Staff Transfer when the contract ends**

- 2.1 The Buyer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of the relevant Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Buyer and the Supplier agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Subcontractor (as the case may be) and each such Transferring Supplier Employee.
- 2.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements, and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the

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Subcontractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Subcontractor.

2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:

2.3.1 any act or omission of the Supplier or any Subcontractor 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 Subcontractor occurring on or before the Service Transfer Date of:

(a) any collective agreement applicable to the Transferring Supplier Employees; and/or

(b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Subcontractor 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 Subcontractor to comply with any legal obligation to such trade union, body or person arising on or before 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:

(a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and

(b) in relation to any employee who is not identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;

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- 2.3.5 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
  - 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of the relevant Contract and/or the Employment Regulations and/or the Acquired Rights Directive; 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 Subcontractor 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 Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor 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 Subcontractor 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 Subcontractor'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 Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
  - 2.5.1 the Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor will, within 5 Working Days of

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becoming aware of that fact, notify the Buyer and the Supplier in writing; and

- 2.5.2 the Supplier may offer (or may procure that a Subcontractor may offer) employment to such person, or take such other reasonable steps as it considered appropriate to deal the matter provided always that such steps are in compliance with Law, within 15 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor.

- 2.6 If such offer of is accepted, or if the situation has otherwise been resolved by the Supplier or a Subcontractor, Buyer shall procure that the Replacement Supplier shall, or procure that the and/or Replacement Subcontractor shall, immediately release or procure the release 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 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 Buyer shall advise the Replacement Supplier and/or Replacement Subcontractor (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's and/or Replacement Subcontractor 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 and subject to Paragraph 2.9 below, the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor 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:

- (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,

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In any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Subcontractor, or

- (b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor 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 Subcontractor to the Supplier within 6 months of the Service Transfer Date..

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Subcontractor nor dismissed by the Replacement Supplier and/or Replacement Subcontractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee. .

2.11 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Personnel List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

(b) the Supplier and/or any Subcontractor; and

(c) the Replacement Supplier and/or the Replacement Subcontractor.

2.12 The Supplier shall, and shall procure that each Subcontractor shall, promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

2.13 Subject to Paragraph 2.14, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any



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Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:

- 2.13.1 any act or omission of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee 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;
- 2.13.2 the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:
  - (a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or
  - (b) 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 Subcontractor is contractually bound to honour;
- 2.13.3 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 Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- 2.13.4 any proposal by the Replacement Supplier and/or Replacement Subcontractor 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 Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under 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;
- 2.13.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Subcontractor 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;

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- 2.13.6 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:
- (a) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
  - (b) 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 Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- 2.13.7 a failure of the Replacement Supplier or Replacement Subcontractor 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
- 2.13.8 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 Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.
- 2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (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 Subcontractor (as applicable) to comply with its obligations under the Employment Regulations.

## **Call-Off Schedule 3 (Continuous Improvement)**

### **1. Buyer's Rights**

- 1.1 This Schedule shall apply only when so specified by a Buyer that has undertaken a Further Competition. The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Buyer may give CCS the right to enforce the Buyer's rights under this Schedule.

### **2. Supplier's Obligations**

- 2.1 The Supplier shall have an ongoing obligation throughout the Contract Period, to identify new or potential improvements to the provision of the Deliverables in accordance with this Call Off Schedule 3 with a view to reducing the Buyer's costs (including the Call-Off Contract Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer. As part of this obligation the Supplier shall identify and report to the Buyer once every twelve (12) months regarding:

- 2.1.1 the emergence of new and evolving relevant technologies which could improve the ICT Environment and/or the provision of the Deliverables, and those technological advances potentially available to the Supplier and the Buyer which the Parties may wish to adopt;
- 2.1.2 new or potential improvements to the Deliverables or the provision of the Deliverables including in respect of the quality, responsiveness, procedures, benchmarking methods, ways of performing the Services and customer support services in relation to the Deliverables;
- 2.1.3 changes in business processes and working practices that would enable the Deliverables to be provided at lower cost and/or with greater benefits to the Buyer;
- 2.1.4 changes to the ICT Environment, business processes and working practices that would enable reductions in the total energy consumed in the provision of the Deliverables;
- 2.1.5 improvements which the Supplier uses or is planning to use with its other customers;
- 2.1.6 proposals as to how any investment required for continuous improvement could be shared with other customers of the Supplier;
- 2.1.7 a zero usage report to identify opportunities for cost avoidance;
- 2.1.8 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the

### **Call-Off Schedule 3 (Continuous Improvement)**

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Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives;

- 2.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 2.3 The initial Continuous Improvement Plan for the first (1<sup>st</sup>) Contract Year shall be submitted by the Supplier to the Buyer for Approval within one hundred (100) Working Days of the first Order or six (6) Months following the Start Date, whichever is earlier.
- 2.4 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.
- 2.5 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 2.6 If the Buyer wishes to incorporate any improvement identified by the Supplier into this Contract, including any impact on the Charges declared by the Supplier as part of that improvement, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer or CCS.
- 2.7 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 2.5:
  - 2.7.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
  - 2.7.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 2.8 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1<sup>st</sup>) Contract Year) in accordance with the procedure and timescales set out in Paragraph 2.3.
- 2.9 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.

### **Call-Off Schedule 3 (Continuous Improvement)**

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- 2.10 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 2.11 At any time during the Contract Period of the Call-Off Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.
- 2.12 Notwithstanding anything to the contrary in this Call-Off Contract, the Parties may not change or improve the Deliverables in any way which adversely affects or may adversely affect any relevant PSN Standards or HSCN obligations and processes.

## **Call-Off Schedule 4 (Call-Off Tender)**

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## **Call-Off Schedule 4 (Call Off Tender)**

This Schedule should be used where the Supplier provides a proposal which the Buyer wants the Supplier to be bound by because it may include elements that are either (i) additional to the Call Off Order requirements; or (ii) indicate a specific methods of achieving the Call Off Order requirements. i.e. where the Further Competition Procedure is used.

Redacted Under FOIA Section 43 Commercial Interests

## **Call-Off Schedule 5 (Pricing Details)**

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## **Call-Off Schedule 5 (Pricing Details)**

This Schedule should be used to show further detailed pricing information, in addition to the pricing in the Order Form

Redacted Under FOIA Section 43, Commercial Interests

## Call-Off Schedule 7 (Key Supplier Staff)

- 1.1 The Order Form lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date.
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
  - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
  - 1.4.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
  - 1.4.3 the person's employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
  - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
  - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
  - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff's employment contract, this will mean at least three (3) Months' notice;
  - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
  - 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully



competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.

- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

## Call-Off Schedule 8 (Business Continuity and Disaster Recovery)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>“Annual Revenue”</b>	means, for the purposes of determining whether an entity is a Public Sector Dependent Supplier, the audited consolidated aggregate revenue (including share of revenue of joint ventures and Associates) reported by the Supplier or, as appropriate, the Supplier Group in its most recent published accounts, subject to the following methodology:  (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;
<b>“Appropriate Authority” or “Appropriate Authorities”</b>	means the Buyer and the Cabinet Office Markets and Suppliers Team or, where the Supplier is a Strategic Supplier, the Cabinet Office Markets and Suppliers Team;
<b>“Associates”</b>	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
<b>"BCDR Plan"</b>	

**Call-Off Schedule 8 (Business Continuity and Disaster Recovery)**

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	<p>a plan which details the processes and arrangements that the Supplier shall follow to:</p> <ul style="list-style-type: none"><li>(a) ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and</li><li>(b) the recovery of the Deliverables in the event of a Disaster;</li></ul>
<b>"Business Continuity Plan"</b>	has the meaning given to it in Paragraph 1.3.2 of this Schedule;
<b>"Class 1 Transaction"</b>	has the meaning set out in the listing rules issued by the UK Listing Authority;
<b>"Control"</b>	the possession by a 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 <b>"Controls"</b> and <b>"Controlled"</b> shall be interpreted accordingly;
<b>"Corporate Change Event"</b>	<p>means:</p> <ul style="list-style-type: none"><li>(a) any change of Control of the Supplier or a Parent Undertaking of the Supplier;</li><li>(b) any change of Control of any member of the Supplier Group which, in the reasonable opinion of the Buyer, could have a material adverse effect on the Deliverables;</li><li>(c) any change to the business of the Supplier or any member of the Supplier Group which, in the reasonable opinion of the Buyer, could have a material adverse effect on the Deliverables;</li><li>(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;</li><li>(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;</li><li>(f) payment of dividends by the Supplier or the ultimate Parent Undertaking of the Supplier Group exceeding 25% of the Net</li></ul>

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	<p>Asset Value of the Supplier or the ultimate Parent Undertaking of the Supplier Group respectively in any 12 month period;</p> <p>(g) an order is made or an effective resolution is passed for the winding up of any member of the Supplier Group;</p> <p>(h) any member of the Supplier Group stopping payment of its debts generally or becoming unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986 or any member of the Supplier Group ceasing to carry on all or substantially all its business, or any compromise, composition, arrangement or agreement being made with creditors of any member of the Supplier Group;</p> <p>(i) the appointment of a receiver, administrative receiver or administrator in respect of or over all or a material part of the undertaking or assets of any member of the Supplier Group; and/or</p> <p>(j) any process or events with an effect analogous to those in paragraphs (e) to (g) inclusive above occurring to a member of the Supplier Group in a jurisdiction outside England and Wales;</p>
<b>“Critical National Infrastructure”</b>	<p>means those critical elements of UK national infrastructure (namely assets, facilities, systems, networks or processes and the essential workers that operate and facilitate them), the loss or compromise of which could result in:</p> <p>(a) major detrimental impact on the availability, integrity or delivery of essential services – including those services whose integrity, if compromised, could result in significant loss of life or casualties – taking into account significant economic or social impacts; and/or</p> <p>(b) significant impact on the national security, national defence, or the functioning of the UK;</p>
<b>“Critical Service Contract”</b>	<p>a service contract which the Buyer has categorised as a Gold Contract using the Cabinet Office Contract Tiering Tool or which</p>

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	the Buyer otherwise considers should be classed as a Critical Service Contract;
<b>“CRP Information”</b>	means, together, the:  Group Structure Information and Resolution Commentary; and  UK Public Sector and CNI Contract Information;
<b>“Dependent Parent Undertaking”</b>	means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into the Contract, including for the avoidance of doubt the provision of the Deliverables in accordance with the terms of the Contract;
<b>"Disaster"</b>	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);
<b>"Disaster Recovery Deliverables"</b>	the Deliverables embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
<b>"Disaster Recovery Plan"</b>	has the meaning given to it in Paragraph 1.3.3 of this Schedule;
<b>"Disaster Recovery System"</b>	the system embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
<b>“Group Structure Information and Resolution Commentary”</b>	means the information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraphs 2 to 4 and Appendix 1 to Part C;
<b>“Parent Undertaking”</b>	has the meaning set out in section 1162 of the Companies Act 2006;
<b>“Public Sector Dependent Supplier”</b>	means a supplier where that supplier, or that supplier’s group has Annual Revenue of £50

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	million or more of which over 50% is generated from UK Public Sector Business;
<b>"Related Supplier"</b>	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
<b>"Review Report"</b>	has the meaning given to it in Paragraph 6.3 of Part B of this Schedule;
<b>"Strategic Supplier"</b>	means those suppliers to government listed at <a href="https://www.gov.uk/government/publications/strategic-suppliers">https://www.gov.uk/government/publications/strategic-suppliers</a> ;
<b>"Subsidiary Undertaking"</b>	has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Supplier Group"</b>	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
<b>"Supplier's Proposals"</b>	has the meaning given to it in Paragraph 6.3 of Part B of this Schedule;
<b>"UK Public Sector Business"</b>	means any goods, service or works provision to UK public sector bodies, including Central Government Departments and their arm's length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police, fire and rescue, education bodies and devolved administrations; and
<b>"UK Public Sector / CNI Contract Information"</b>	means the information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraphs 2 to 4 of Part C and Appendix 2 of Part C;

## Part A: BCDR Plan

**Unless otherwise specified in this Schedule, this Part A shall apply only to Call-Off Contracts which have been awarded via Direct Award in accordance with Framework Schedule 7 (Call-Off Contract Award Procedure).**

### 1. BCDR Plan

- 1.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.
- 1.2 Promptly (and in any event within 30 days) after the Start Date, the Supplier shall provide to the Buyer its BCDR Plan.
- 1.3 The Supplier shall ensure at all times that its BCDR Plan conforms with Good Industry Practice.
- 1.4 The Supplier may from time to time during the Contract Period review, update, and/or test its BCDR Plan. The Supplier shall ensure that any use by it or any Subcontractor of "live" buyer data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 1.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test of its BCDR Plan, provide to the Buyer a report setting out:
  - 1.5.1 the outcome of the test;
  - 1.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
  - 1.5.3 the Supplier's proposals for remedying any such failures.
- 1.6 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke its BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.
- 1.7 To the extent the BCDR Plan contains processes, procedures, and/or other content which is designed to permit the continuity of the business operations of the Buyer supported by the Deliverables through continued provision of the Deliverables following an Insolvency Event of the Supplier, any Key Sub-contractor and/or any supplier, the BCDR Plan shall be invoked by the Supplier:
  - 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 Deliverables; and/or
  - where there is an Insolvency Event of the Supplier and the insolvency arrangements enable the Supplier to invoke the plan.

## Part B: BCDR Plan - Long Form

This Part B shall apply to all Call-Off Contracts which have been awarded via a Further Competition procedure in accordance with Framework Schedule 7 (Call-Off Contract Award Procedure) and shall not apply to any Call-Off Contracts awarded via Direct Award.

### 1. BCDR Plan

1.1 At least ninety (90) Working Days prior to the Start Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a "**BCDR Plan**"), which shall detail the processes and arrangements that the Supplier shall follow to:

1.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and

1.1.2 the recovery of the Deliverables in the event of a Disaster

1.2 The BCDR Plan shall be divided into four sections:

1.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan

1.2.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**");

1.2.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**"); and 1.2.4 Section 4 which shall relate to an Insolvency Event of the Supplier, and Key-Subcontractors and/or any Supplier Group member (the "**Insolvency Continuity Plan**").

1.3 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

1.4 To the extent the Supplier fails to supply its BCDR Plan in compliance with paragraph 1.2, the Buyer may at its discretion require the Supplier to promptly provide its BCDR Plan and comply with the provisions of Part A of this Schedule until the Supplier provides its BCDR Plan. Exercise by the Buyer of its rights under this paragraph 1.5 shall not prevent and/or restrict the Buyer from exercising its other rights and remedies under this Contract, and shall not relieve the Supplier of its obligations under this Part B.]

### 2. General Principles of the BCDR Plan (Section 1)

2.1 Section 1 of the BCDR Plan shall:

2.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;



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- 2.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
- 2.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
- 2.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any Related Supplier(s) in each case as notified to the Supplier by the Buyer from time to time;
- 2.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
- 2.1.6 contain a risk analysis, including:
  - (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
  - (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
  - (c) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
  - (d) a business impact analysis of different anticipated failures or disruptions;
- 2.1.7 provide for documentation of processes, including business processes, and procedures;
- 2.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
- 2.1.9 identify the procedures for reverting to "normal service";
- 2.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 2.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan;
- 2.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans;
- 2.1.13 set out how the business continuity and disaster recovery elements of the BCDR Plan link to the Insolvency Continuity Plan, and how the Insolvency Continuity Plan links to the business continuity and disaster recovery elements of the BCDR Plan;
- 2.1.14 contain an obligation upon the Supplier to liaise with the Buyer and (at the Buyer's request) any Related Supplier with respect to issues concerning insolvency continuity where applicable; and

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- 2.1.15 detail how the BCDR Plan links and interoperates with any overarching and/or connected insolvency continuity plan of the Buyer and any of its other Related Suppliers in each case as notified to the Supplier by the Buyer from time to time.
- 2.2 The BCDR Plan shall be designed so as to ensure that:
  - 2.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
  - 2.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
  - 2.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
  - 2.2.4 it details a process for the management of disaster recovery testing.
- 2.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 2.4 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators (PI's) or Service levels, 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.

### **3. Business Continuity (Section 2)**

- 3.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
  - 3.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
  - 3.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 3.2 The Business Continuity Plan shall:
  - 3.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
  - 3.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
  - 3.2.3 specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and

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- 3.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

### **4. Disaster Recovery (Section 3)**

- 4.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 4.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
  - 4.2.1 loss of access to the Buyer Premises;
  - 4.2.2 loss of utilities to the Buyer Premises;
  - 4.2.3 loss of the Supplier's helpdesk or CAFM system;
  - 4.2.4 loss of a Subcontractor;
  - 4.2.5 emergency notification and escalation process;
  - 4.2.6 contact lists;
  - 4.2.7 staff training and awareness;
  - 4.2.8 BCDR Plan testing;
  - 4.2.9 post implementation review process;
  - 4.2.10 any applicable Performance Indicators (PI's) with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
  - 4.2.11 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;
  - 4.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
  - 4.2.13 testing and management arrangements.

### **5. Insolvency Continuity Plan (Section 4)**

- 5.1 The Insolvency Continuity Plan shall be designed by the Supplier to permit continuity of the business operations of the Buyer supported by the Deliverables through continued provision of the Deliverables 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.
- 5.2 The Insolvency Continuity Plan shall include the following:

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- 5.2.1 communication strategies which are designed to minimise the potential disruption to the provision of the Deliverables, including key contact details in respect of the supply chain and key contact details for operational and contract Supplier Staff, Key Subcontractor personnel and Supplier Group member personnel;
- 5.2.2 identification, explanation, assessment and an impact analysis of risks in respect of dependencies between the Supplier, Key Subcontractors and Supplier Group members where failure of those dependencies could reasonably have an adverse impact on the Deliverables;
- 5.2.3 plans to manage and mitigate identified risks;
- 5.2.4 details of the roles and responsibilities of the Supplier, Key Subcontractors and/or Supplier Group members to minimise and mitigate the effects of an Insolvency Event of such persons on the Deliverables;
- 5.2.5 details of the recovery team to be put in place by the Supplier (which may include representatives of the Supplier, Key Subcontractors and Supplier Group members); and
- 5.2.6 sufficient detail to enable an appointed insolvency practitioner to invoke the plan in the event of an Insolvency Event of the Supplier.

## **6. Review and changing the BCDR Plan**

- 6.1 The Supplier shall review the BCDR Plan:
  - 6.1.1 on a regular basis and as a minimum once every six (6) Months;
  - 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 8 of Part B; and
  - 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of Part B of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.
- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 of Part B shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.

- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals 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 Deliverables.

## **7. Testing the BCDR Plan**

- 7.1 The Supplier shall test the BCDR Plan:
- 7.1.1 regularly and in any event not less than once in every Contract Year;
  - 7.1.2 in the event of any major reconfiguration of the Deliverables
  - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.
- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
- 7.5.1 the outcome of the test;
  - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
  - 7.5.3 the Supplier's proposals for remedying any such failures.

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- 7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

### **8. Invoking the BCDR Plan**

- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.
- 8.2 The Insolvency Continuity Plan element of the BCDR Plan, including any linked elements in other parts of the BCDR Plan, shall be invoked by the Supplier:
- 8.2.1 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 Deliverables; and/or
  - 8.2.2 where there is an Insolvency Event of the Supplier and the insolvency arrangements enable the Supplier to invoke the plan.

### **9. Circumstances beyond your control**

- 9.1 The Supplier shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

### **10. Amendments to this Schedule in respect of Bronze Contracts**

- 10.1 Where a Buyer's Call-Off Contract is a Bronze Contract, if specified in the Order Form, the following provisions of this Call-Off Schedule 8, shall be disapplied in respect of that Contract:
- 10.1.1 Paragraph 1.3.4 of Part B so that the BCDR plan shall only be required to be split into the three sections detailed in paragraphs 1.3.1 to 1.3.3 of Part B inclusive;
  - 10.1.2 Paragraphs 2.1.13 to 2.1.15 of Part B, inclusive;
  - 10.1.3 Paragraph 5 (Insolvency Continuity Plan) of Part B;
  - 10.1.4 Paragraph 8.2 of Part B; and
  - 10.1.5 The entirety of Part C of this Schedule.
- 10.2 Where a Buyer's Call-Off Contract is a Bronze Contract, if specified in the Order Form, the following definitions in Paragraph 1 of this Call-Off Schedule 8, shall be deemed to be deleted:
- 10.2.1 Annual Review;
  - 10.2.2 Appropriate Authority or Appropriate Authorities;
  - 10.2.3 Associates;
  - 10.2.4 Class 1 Transaction;

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- 10.2.5 Control;
- 10.2.6 Corporate Change Event;
- 10.2.7 Critical National Infrastructure;
- 10.2.8 Critical Service Contract;
- 10.2.9 CRP Information;
- 10.2.10 Dependent Parent Undertaking;
- 10.2.11 Group Structure Information and Resolution Commentary;
- 10.2.12 Parent Undertaking;
- 10.2.13 Public Sector Dependent Supplier;
- 10.2.14 Subsidiary Undertaking;
- 10.2.15 Supplier Group;
- 10.2.16 UK Public Sector Business; and
- 10.2.17 UK Public Sector/CNI Contract Information.

## Part C: Corporate Resolution Planning

### 1. Service Status and Supplier Status

- 1.1 This Contract is not a Critical Service Contract.
- 1.2 The Supplier shall notify the Buyer in writing within 5 Working Days of the Effective Date and throughout the Call-Off Contract Period 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

- 2.1 Paragraphs 2 to 4 of this Part C shall apply if the Contract has been specified as a Critical Service Contract under Paragraph 1.1 of this Part C 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 C:
  - 2.2.1 where the Contract is a Critical Service Contract, the Supplier shall provide the Appropriate Authority or Appropriate Authorities with the CRP Information within 60 days of the Effective Date; and
  - 2.2.2 except where it has already been provided, where the Supplier is a Public Sector Dependent Supplier, it shall provide the Appropriate Authority or Appropriate Authorities with the CRP Information within 60 days of the date of the Appropriate Authority's or Appropriate Authorities' request.
- 2.3 The Supplier shall ensure that the CRP Information provided pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part B:
  - 2.3.1 is full, comprehensive, accurate and up to date;
  - 2.3.2 is split into two parts:
    - (a) Group Structure Information and Resolution Commentary;
    - (b) UK Public Service / CNI Contract Information and is structured and presented in accordance with the requirements and explanatory notes set out at Annex I of the latest published version of the Resolution Planning Guidance published by the Cabinet Office Government Commercial Function and available at <https://www.gov.uk/government/publications/the-outsourcingplaybook> 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 Appropriate Authority or Appropriate Authorities to understand and consider the information for approval;
  - 2.3.4 provides a clear description and explanation of the Supplier Group members that have agreements for goods, services or works provision



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- in respect of UK Public Sector Business and/or Critical National Infrastructure and the nature of those agreements; and
- 2.3.5 complies with the requirements set out at Appendix 1 (Group Structure Information and Resolution Commentary) and Appendix 2 (UK Public Sector / CNI Contract Information) respectively.
- 2.4 Following receipt by the Appropriate Authority or Appropriate Authorities of the CRP Information pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part C, the Buyer shall procure that the Appropriate Authority or Appropriate Authorities shall 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 the Appropriate Authority or Appropriate Authorities approves the CRP Information or that the Appropriate Authority or Appropriate Authorities rejects the CRP Information.
- 2.5 If the Appropriate Authority or Appropriate Authorities rejects the CRP Information:
- 2.5.1 the Buyer shall (and shall procure that the Cabinet Office Markets and Suppliers Team shall) inform the Supplier in writing of its reasons for its rejection; and
- 2.5.2 the Supplier shall revise the CRP Information, taking reasonable account of the Appropriate Authority's or Appropriate Authorities' comments, and shall re-submit the CRP Information to the Appropriate Authority or Appropriate Authorities for approval within 30 days of the date of the Appropriate Authority's or Appropriate Authorities' rejection. The provisions of paragraph 2.3 to 2.5 of this Part C shall apply again to any resubmitted CRP Information provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure under Clause 34 of the Core Terms 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 (which has the meaning in paragraph 2.7 below) 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 of this Part C if it provides a copy of the Valid Assurance to the Appropriate Authority or Appropriate 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 C 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

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- 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 the Contract had then been in force) have occurred since the date of issue of the Assurance.
- 2.8 If the Contract is a Critical Service Contract, the Supplier shall provide an updated version of the CRP Information (or, in the case of Paragraph 2.8.3 of this Part C its initial CRP Information) to the Appropriate Authority or Appropriate 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 C) unless the Supplier is relieved of the consequences of the Financial Distress Event under Paragraph 7.1 of Joint Schedule 7 (Financial Distress) (if applicable);
- 2.8.2 within 30 days of a Corporate Change Event unless not required pursuant to Paragraph 2.10 of this Part C;
- 2.8.3 within 30 days of the date that:
- (a) 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 of this Part C; or
- (b) none of the credit rating agencies specified at Paragraph 2.10 of this Part C hold a public credit rating for the Supplier or any of its Parent Undertakings; and
- 2.8.4 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 Appropriate Authority (whichever is the earlier), unless:
- (a) updated CRP Information has been provided under any of Paragraphs 2.8.1 2.8.2 or 2.8.3 of this Part C since the most recent Accounting Reference Date (being no more than 12 months previously) within the timescales that would ordinarily be required for the provision of that information under this Paragraph 2.8.4; or
- (b) unless not required pursuant to Paragraph 2.10 of this Part C.
- 2.9 Where the Supplier is a Public Sector Dependent Supplier and the Contract is not a Critical Service Contract, then on the occurrence of any of the events specified in Paragraphs 2.8.1 to 2.8.4 of this Part C, the Supplier shall provide at the request of the Appropriate Authority or Appropriate 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 Buyer), the CRP Information to the Appropriate Authority or Appropriate Authorities.
- 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;

2.10.2 AA- or better from Standard and Poors;

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 Paragraph 7.1 of Annex 3 to Joint Schedule 7 (Financial Distress), if applicable) or (ii) the Supplier and its Parent Undertakings cease to fulfil the criteria set out in this Paragraph 2.10 of this Part C, in which cases the Supplier shall provide the updated version of the CRP Information in accordance with paragraph 2.8 of this Part C.

- 2.11 Subject to Paragraph 4, where the Supplier demonstrates to the reasonable satisfaction of the Appropriate Authority or Appropriate Authorities that a particular item of CRP Information is highly confidential, the Supplier may, having orally disclosed and discussed that information with the Appropriate Authority or Appropriate 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 Appropriate Authority or Appropriate Authorities to the extent required under Paragraph 2.8 of this Part C.

### **3. Termination Rights**

- 3.1 The Buyer shall be entitled to terminate the Contract if the Supplier is required to provide CRP Information under Paragraph 2 of this Part C 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 Appropriate Authority's or Appropriate Authorities' request; or

3.1.2 the Supplier fails to obtain an Assurance from the Appropriate Authority or Appropriate Authorities within 4 months of the date that it was first required to provide the CRP Information under the Contract,

which shall be deemed to be an event to which Clause 10.4.1 of the Core Terms applies and Clauses 10.6.1 and 10.6.2 of the Core Terms shall apply accordingly.

### **4. Confidentiality and usage of CRP Information**

- 4.1 The Buyer agrees to keep the CRP Information confidential and use it only to understand the implications of an Insolvency Event of the Supplier and/or Supplier Group members on its UK Public Sector Business and/or services in respect of CNI and to enable contingency planning to maintain service continuity for end users and protect CNI in such eventuality.
- 4.2 Where the Appropriate Authority is the Cabinet Office Markets and Suppliers Team, at the Supplier's request, the Buyer shall use reasonable endeavours to procure that the Cabinet Office enters into a confidentiality and usage agreement with the Supplier containing terms no less stringent than those

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placed on the Buyer under paragraph 4.1 of this Part C and Clause 15 of the Core Terms.

- 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 to the Appropriate Authority or Appropriate Authorities pursuant to Paragraph 2 of this Part C subject, where necessary, to the Appropriate Authority or Appropriate 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 C, 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 Appropriate Authority or Appropriate 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.

## **Appendix 1: Group structure information and resolution commentary**

1. The Supplier shall:
  - 1.1 provide sufficient information to allow the Appropriate Authority to understand the implications on the Supplier Group's UK Public Sector Business and CNI contracts listed pursuant to Appendix 2 if the Supplier or another member of the Supplier Group is subject to an Insolvency Event;
  - 1.2 ensure that the information is presented so as to provide a simple, effective and easily understood overview of the Supplier Group; and
  - 1.3 provide full details of the importance of each member of the Supplier Group to the Supplier Group's UK Public Sector Business and CNI contracts listed pursuant to Appendix 2 and the dependencies between each.

## **Appendix 2: UK Public Sector / CNI Contract Information**

1. The Supplier shall:
  - 1.1 provide details of all agreements held by members of the Supplier Group where those agreements are for goods, services or works provision and:
    - 1.1.1 are with any UK public sector bodies including: central Government departments and their arms-length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police fire and rescue, education bodies and the devolved administrations;
    - 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 Appendix 2 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 Appropriate 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.

## Call-Off Schedule 9 (Security)

### Part A: Short Form Security Requirements

#### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Breach of Security"</b>	<p><b>the occurrence of:</b></p> <p>a) <b>any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or</b></p> <p>b) <b>the loss 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 Buyer and/or the Supplier in connection with this Contract,</b></p> <p><b>in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 2.2;</b></p>
<b>"Security Management Plan"</b>	<p><b>the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time.</b></p>

#### 2. Complying with security requirements and updates to them

- 2.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.
- 2.2 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer that has

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undertaken a Further Competition it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.

- 2.3 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 2.4 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.
- 2.5 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

### **3. Security Standards**

- 3.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
  - 3.2.1 is in accordance with the Law and this Contract;
  - 3.2.2 as a minimum demonstrates Good Industry Practice;
  - 3.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
  - 3.2.4 where specified by the Buyer in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.
- 3.3 The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

### **4. Security Management Plan**

#### **4.1 Introduction**

- 4.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.



## **4.2 Content of the Security Management Plan**

### **4.2.1 The Security Management Plan shall:**

- a) comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
- b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- c) detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- d) be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and
- g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

## **4.3 Development of the Security Management Plan**

- ### **4.3.1**
- Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.

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- 4.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
- 4.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
- 4.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.2 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.

### **4.4 Amendment of the Security Management Plan**

- 4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
- a) emerging changes in Good Industry Practice;
  - b) any change or proposed change to the Deliverables and/or associated processes;
  - c) where necessary in accordance with paragraph 2.2, any change to the Security Policy;
  - d) any new perceived or changed security threats; and
  - e) any reasonable change in requirements requested by the Buyer.
- 4.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation:
- a) suggested improvements to the effectiveness of the Security Management Plan;
  - b) updates to the risk assessments; and
  - c) suggested improvements in measuring the effectiveness of controls.

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- 4.4.3 Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.
- 4.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

## **5. Security breach**

- 5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Supplier shall:
  - 5.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:
    - a) minimise the extent of actual or potential harm caused by any Breach of Security;
    - b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
    - c) prevent an equivalent breach in the future exploiting the same cause failure; and
    - d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.
- 5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

## Part B: Long Form Security Requirements

### 1. Definitions

1.1 In this Schedule the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Breach of Security"</b>	<p><b>means the occurrence of:</b></p> <ul style="list-style-type: none"><li><b>c) any unauthorised access to or use of the Goods and/or Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or</b></li><li><b>d) the loss 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 Buyer and/or the Supplier in connection with this Contract,</b></li></ul> <p><b>in either case as more particularly set out in the security requirements in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 3.4.3 d;</b></p>
<b>"ISMS"</b>	<p><b>the information security management system and process developed by the Supplier in accordance with Paragraph 3 (ISMS) as updated from time to time in accordance with this Schedule; and</b></p>
<b>"Security Tests"</b>	<p><b>tests to validate the ISMS and security of all relevant processes, systems, incident response plans, patches to vulnerabilities and mitigations to Breaches of Security.</b></p>

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### **2. Security Requirements**

2.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.

2.2 The Parties acknowledge that the purpose of the ISMS and Security Management Plan are to ensure a good organisational approach to security under which the specific requirements of this Contract will be met.

2.3 The Parties shall each appoint a security representative to be responsible for Security. The initial security representatives of the Parties are:

2.3.1 [insert security representative of the Buyer]

2.3.2 [insert security representative of the Supplier]

2.4 The Buyer shall clearly articulate its high level security requirements so that the Supplier can ensure that the ISMS, security related activities and any mitigations are driven by these fundamental needs.

2.5 Both Parties shall provide a reasonable level of access to any members of their staff for the purposes of designing, implementing and managing security.

2.6 The Supplier shall use as a minimum Good Industry Practice in the day to day operation of any system holding, transferring or processing Government Data and any system that could directly or indirectly have an impact on that information, and shall ensure that Government Data remains under the effective control of the Supplier at all times.

2.7 The Supplier shall ensure the up-to-date maintenance of a security policy relating to the operation of its own organisation and systems and on request shall supply this document as soon as practicable to the Buyer.

2.8 The Buyer and the Supplier acknowledge that information security risks are shared between the Parties and that a compromise of either the Supplier or the Buyer's security provisions represents an unacceptable risk to the Buyer requiring immediate communication and co-operation between the Parties.

### **3. Information Security Management System (ISMS)**

3.1 The Supplier shall develop and submit to the Buyer, within twenty (20) Working Days after the Start Date, an information security management system for the purposes of this Contract and shall comply with the requirements of Paragraphs 3.4 to 3.6.

3.2 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on the security provided by the ISMS and that the Supplier shall be responsible for the effective performance of the ISMS.

3.3 The Buyer acknowledges that;

3.3.1 If the Buyer has not stipulated during a Further Competition that it requires a bespoke ISMS, the ISMS provided by the Supplier may be

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an extant ISMS covering the Services and their implementation across the Supplier's estate; and

- 3.3.2 Where the Buyer has stipulated that it requires a bespoke ISMS then the Supplier shall be required to present the ISMS for the Buyer's Approval.

### 3.4 The ISMS shall:

- 3.4.1 if the Buyer has stipulated that it requires a bespoke ISMS, be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, the Supplier System, the Buyer System (to the extent that it is under the control of the Supplier) and any ICT, information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract;
- 3.4.2 meet the relevant standards in ISO/IEC 27001 and ISO/IEC27002 in accordance with Paragraph 7;
- 3.4.3 at all times provide a level of security which:
- a) is in accordance with the Law and this Contract;
  - b) complies with the Baseline Security Requirements;
  - c) as a minimum demonstrates Good Industry Practice;
  - d) where specified by a Buyer that has undertaken a Further Competition - complies with the Security Policy and the ICT Policy;
  - e) complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4)  
(<https://www.gov.uk/government/publications/security-policy-framework/hmg-security-policy-framework>)
  - f) takes account of guidance issued by the Centre for Protection of National Infrastructure  
(<https://www.cpni.gov.uk>)
  - g) complies with HMG Information Assurance Maturity Model and Assurance Framework  
(<https://www.ncsc.gov.uk/articles/hmg-ia-maturity-model-iamm>)
  - h) meets any specific security threats of immediate relevance to the ISMS, the Deliverables and/or Government Data;
  - i) addresses issues of incompatibility with the Supplier's own organisational security policies; and
  - j) complies with ISO/IEC27001 and ISO/IEC27002 in accordance with Paragraph 7;

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- 3.4.4 document the security incident management processes and incident response plans;
  - 3.4.5 document the vulnerability management policy including processes for identification of system vulnerabilities and assessment of the potential impact on the Deliverables of any new threat, vulnerability or exploitation technique of which the Supplier becomes aware, prioritisation of security patches, testing of security patches, application of security patches, a process for Buyer approvals of exceptions, and the reporting and audit mechanism detailing the efficacy of the patching policy; and
  - 3.4.6 be certified by (or by a person with the direct delegated authority of) a Supplier's main board representative, being the "Chief Security Officer", "Chief Information Officer", "Chief Technical Officer" or "Chief Financial Officer" (or equivalent as agreed in writing by the Buyer in advance of issue of the relevant Security Management Plan).
- 3.5 Subject to Paragraph 2 the references to Standards, guidance and policies contained or set out in Paragraph 3.4 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.6 In the event that the Supplier becomes aware of any inconsistency in the provisions of the standards, guidance and policies set out in Paragraph 3.4, the Supplier shall immediately notify the Buyer Representative of such inconsistency and the Buyer Representative shall, as soon as practicable, notify the Supplier as to which provision the Supplier shall comply with.
- 3.7 If the bespoke ISMS submitted to the Buyer pursuant to Paragraph 3.3.1 is Approved by the Buyer, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the ISMS is not Approved by the Buyer, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit it to the Buyer for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of the first submission of the ISMS to the Buyer. If the Buyer does not Approve the ISMS following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Buyer pursuant to this Paragraph 3 may be unreasonably withheld or delayed. However any failure to approve the ISMS on the grounds that it does not comply with any of the requirements set out in Paragraphs 3.4 to 3.6 shall be deemed to be reasonable.
- 3.8 Approval by the Buyer of the ISMS pursuant to Paragraph 3.7 or of any change to the ISMS shall not relieve the Supplier of its obligations under this Schedule.

## **4. Security Management Plan**

4.1 Within twenty (20) Working Days after the Start Date, the Supplier shall prepare and submit to the Buyer for Approval in accordance with Paragraph 4 fully developed, complete and up-to-date Security Management Plan which shall comply with the requirements of Paragraph 4.2.

4.2 The Security Management Plan shall:

- 4.2.1 be based on the initial Security Management Plan set out in Annex 2 (Security Management Plan);
- 4.2.2 comply with the Baseline Security Requirements and, where specified by the Buyer in accordance with paragraph 3.4.3 d, the Security Policy;
- 4.2.3 identify the necessary delegated organisational roles defined for those responsible for ensuring this Schedule is complied with by the Supplier;
- 4.2.4 detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Goods and/or Services, processes associated with the delivery of the Goods and/or Services, the Buyer Premises, the Sites, the Supplier System, the Buyer System (to the extent that it is under the control of the Supplier) and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;
- 4.2.5 unless otherwise specified by the Buyer in writing, be developed to protect all aspects of the Deliverables and all processes associated with the delivery of the Deliverables, including the Buyer Premises, the Sites, the Supplier System, the Buyer System (to the extent that it is under the control of the Supplier) and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- 4.2.6 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the delivery of the Deliverables and at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Schedule (including the requirements set out in Paragraph 3.4);
- 4.2.7 demonstrate that the Supplier's approach to delivery of the Deliverables has minimised the Buyer and Supplier effort required to comply with this Schedule through consideration of available, appropriate and practicable pan-government accredited services (for example, 'platform as a service' offering from the G-Cloud catalogue);



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- 4.2.8 set out the plans for transitioning all security arrangements and responsibilities from those in place at the Start Date to those incorporated in the ISMS within the timeframe agreed between the Parties;
- 4.2.9 set out the scope of the Buyer System that is under the control of the Supplier;
- 4.2.10 be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and
- 4.2.11 be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the Deliverables and shall reference only documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

4.3 If the Security Management Plan submitted to the Buyer pursuant to Paragraph 4.1 is Approved by the Buyer, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not approved by the Buyer, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit it to the Buyer for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of the first submission to the Buyer of the Security Management Plan. If the Buyer does not Approve the Security Management Plan following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Buyer pursuant to this Paragraph may be unreasonably withheld or delayed. However any failure to approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.

4.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3 or of any change or amendment to the Security Management Plan shall not relieve the Supplier of its obligations under this Schedule.

## **5. Amendment of the ISMS and Security Management Plan**

5.1 The ISMS and Security Management Plan shall be fully reviewed and updated by the Supplier and at least annually to reflect:

- 5.1.1 emerging changes in Good Industry Practice;
- 5.1.2 any change or proposed change to the Supplier System, the Deliverables and/or associated processes;
- 5.1.3 any new perceived or changed security threats;
- 5.1.4 where required in accordance with paragraph 3.4.3 d, any changes to the Security Policy;
- 5.1.5 any new perceived or changed security threats; and
- 5.1.6 any reasonable change in requirement requested by the Buyer.

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5.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation:

5.2.1 suggested improvements to the effectiveness of the ISMS;

5.2.2 updates to the risk assessments;

5.2.3 proposed modifications to the procedures and controls that affect information security to respond to events that may impact on the ISMS; and

5.2.4 suggested improvements in measuring the effectiveness of controls.

5.3 Subject to Paragraph 5.4, any change which the Supplier proposes to make to the ISMS or Security Management Plan (as a result of a review carried out pursuant to Paragraph 5.1, a Buyer request, a change to Annex 1 (Security) or otherwise) shall be subject to the Variation Procedure and shall not be implemented until Approved in writing by the Buyer.

5.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the ISMS or Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

## **6. Security Testing**

6.1 The Supplier shall conduct Security Tests from time to time (and at least annually across the scope of the ISMS) and additionally after any change or amendment to the ISMS (including security incident management processes and incident response plans) or the Security Management Plan. Security Tests shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Deliverables and the date, timing, content and conduct of such Security Tests shall be agreed in advance with the Buyer. Subject to compliance by the Supplier with the foregoing requirements, if any Security Tests adversely affect the Supplier's ability to deliver the Deliverables so as to meet the KPIs, the Supplier shall be granted relief against any resultant under-performance for the period of the Security Tests.

6.2 The Buyer shall be entitled to send a representative to witness the conduct of the Security Tests. The Supplier shall provide the Buyer with the results of such Security Tests (in a form approved by the Buyer in advance) as soon as practicable after completion of each Security Test.

6.3 Without prejudice to any other right of audit or access granted to the Buyer pursuant to this Contract, the Buyer and/or its authorised representatives shall be entitled, at any time upon giving reasonable notice to the Supplier, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the Supplier's compliance with the ISMS and the Security Management Plan. The Buyer may notify the Supplier of the results of such tests after completion of each such test. If any such Buyer's test adversely affects the Supplier's ability to deliver the Deliverables so as to meet

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the KPIs, the Supplier shall be granted relief against any resultant under-performance for the period of the Buyer's test.

6.4 Where any Security Test carried out pursuant to Paragraphs 6.2 or 6.3 reveals any actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Supplier shall promptly notify the Buyer of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the Supplier proposes to make in order to correct such failure or weakness. Subject to the Buyer's prior written Approval, the Supplier shall implement such changes to the ISMS and the Security Management Plan and repeat the relevant Security Tests in accordance with the timetable agreed with the Buyer or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the ISMS or Security Management Plan is to address a non-compliance with the Security Policy or security requirements (as set out in Annex 1 (Baseline Security Requirements) to this Schedule) or the requirements of this Schedule, the change to the ISMS or Security Management Plan shall be at no cost to the Buyer.

6.5 If any repeat Security Test carried out pursuant to Paragraph 6.4 reveals an actual or potential Breach of Security exploiting the same root cause failure, such circumstance shall constitute a material Default of this Contract.

## **7. Complying with the ISMS**

7.1 The Buyer shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the ISMS maintains compliance with the principles and practices of ISO 27001 and/or the Security Policy where such compliance is required in accordance with paragraph 3.4.3 d.

7.2 If, on the basis of evidence provided by such security audits, it is the Buyer's reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 and/or, where relevant, the Security Policy are not being achieved by the Supplier, then the Buyer shall notify the Supplier of the same and give the Supplier a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to implement and remedy. If the Supplier does not become compliant within the required time then the Buyer shall have the right to obtain an independent audit against these standards in whole or in part.

7.3 If, as a result of any such independent audit as described in Paragraph the Supplier is found to be non-compliant with the principles and practices of ISO/IEC 27001 and/or, where relevant, the Security Policy then the Supplier shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Buyer in obtaining such audit.

## **8. Security Breach**

8.1 Either Party shall notify the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any breach of security or any potential or attempted Breach of Security.

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8.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 8.1, the Supplier shall:

8.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:

- a) minimise the extent of actual or potential harm caused by any Breach of Security;
- b) remedy such Breach of Security or any potential or attempted Breach of Security in order to protect the integrity of the Buyer Property and/or Buyer Assets and/or ISMS to the extent that this is within the Supplier's control;
- c) apply a tested mitigation against any such Breach of Security or attempted Breach of Security and provided that reasonable testing has been undertaken by the Supplier, if the mitigation adversely affects the Supplier's ability to provide the Deliverables so as to meet the relevant Service Level Performance Indicators, the Supplier shall be granted relief against any resultant under-performance for such period as the Buyer, acting reasonably, may specify by written notice to the Supplier;
- d) prevent a further Breach of Security or any potential or attempted Breach of Security in the future exploiting the same root cause failure; and
- e) supply any requested data to the Buyer (or the Computer Emergency Response Team for UK Government ("GovCertUK")) on the Buyer's request within two (2) Working Days and without charge (where such requests are reasonably related to a possible incident or compromise); and
- f) as soon as reasonably practicable provide to the Buyer full details (using the reporting mechanism defined by the ISMS) of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Buyer.

8.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the ISMS with the Security Policy (where relevant) or the requirements of this Schedule, then any required change to the ISMS shall be at no cost to the Buyer.

## **9. Vulnerabilities and fixing them**

9.1 The Buyer and the Supplier acknowledge that from time to time vulnerabilities in the ICT Environment will be discovered which unless mitigated will present an unacceptable risk to the Buyer's information.

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9.2 The severity of threat vulnerabilities for COTS Software shall be categorised by the Supplier as 'Critical', 'Important' and 'Other' by aligning these categories to the vulnerability scoring according to the agreed method in the ISMS 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 <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 The Supplier shall procure the application of security patches to vulnerabilities within a maximum period from the public release of such patches with those vulnerabilities categorised as 'Critical' within 14 days of release, 'Important' within 30 days of release and all 'Other' within 60 Working Days of release, except where:

9.3.1 the Supplier can demonstrate that a vulnerability is not exploitable within the context of any Service (e.g. because it resides in a software component which is not running in the service) provided vulnerabilities which the Supplier asserts cannot be exploited within the context of a Service must be remedied by the Supplier within the above timescales if the vulnerability becomes exploitable within the context of the Service;

9.3.2 the application of a 'Critical' or 'Important' security patch adversely affects the Supplier's ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of 5 days, provided the Supplier had followed and continues to follow the security patch test plan agreed with the Buyer; or

9.3.3 the Buyer agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the ISMS.

9.4 The Specification and Mobilisation Plan (if applicable) shall include provisions for major version upgrades of all COTS Software to be upgraded within 6 Months of the release of the latest version, such that it is no more than one major version level below the latest release (normally codified as running software no older than the 'n-1 version') throughout the Term unless:

9.4.1 where upgrading such COTS Software reduces the level of mitigations for known threats, vulnerabilities or exploitation techniques, provided always that such upgrade is made within 12 Months of release of the latest version; or

9.4.2 is agreed with the Buyer in writing.

9.5 The Supplier shall:

9.5.1 implement a mechanism for receiving, analysing and acting upon threat information supplied by GovCertUK, or any other competent Central Government Body;

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- 9.5.2 ensure that the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
  - 9.5.3 ensure it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the ICT Environment by actively monitoring the threat landscape during the Contract Period;
  - 9.5.4 pro-actively scan the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) for vulnerable components and address discovered vulnerabilities through the processes described in the ISMS as developed under Paragraph 3.3.5;
  - 9.5.5 from the date specified in the Security Management Plan provide a report to the Buyer within five (5) Working Days of the end of each Month detailing both patched and outstanding vulnerabilities in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and any elapsed time between the public release date of patches and either time of application or for outstanding vulnerabilities the time of issue of such report;
  - 9.5.6 propose interim mitigation measures to vulnerabilities in the ICT Environment known to be exploitable where a security patch is not immediately available;
  - 9.5.7 remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the ICT Environment); and
  - 9.5.8 inform the Buyer when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the ICT Environment and provide initial indications of possible mitigations.
- 9.6 If the Supplier is unlikely to be able to mitigate the vulnerability within the timescales under this Paragraph 9, the Supplier shall immediately notify the Buyer.
- 9.7 A failure to comply with Paragraph 9.3 shall constitute a Default, and the Supplier shall comply with the Rectification Plan Process.

## Part B – Annex 1:

### Baseline security requirements

#### 1. Handling Classified information

- 1.1 The Supplier shall not handle Buyer information classified SECRET or TOP SECRET except if there is a specific requirement and in this case prior to receipt of such information the Supplier shall seek additional specific guidance from the Buyer.

#### 2. End user devices

- 2.1 When Government Data resides on a mobile, removable or physically uncontrolled device it must be stored encrypted using a product or system component which has been formally assured through a recognised certification process of the National Cyber Security Centre (“NCSC”) to at least Foundation Grade.
- 2.2 Devices used to access or manage Government Data and services must be under the management authority of Buyer or Supplier and have a minimum set of security policy configuration enforced. These devices must be placed into a ‘known good’ state prior to being provisioned into the management authority of the Buyer. Unless otherwise agreed with the Buyer in writing, all Supplier devices are expected to meet the set of security requirements set out in the End User Devices Security Guidance (<https://www.ncsc.gov.uk/guidance/end-user-device-security>). Where the guidance highlights shortcomings in a particular platform the Supplier may wish to use, then these should be discussed with the Buyer and a joint decision shall be taken on whether the residual risks are acceptable. Where the Supplier wishes to deviate from the NCSC guidance, then this should be agreed in writing on a case by case basis with the Buyer.

#### 3. Data Processing, Storage, Management and Destruction

- 3.1 The Supplier and Buyer recognise the need for the Buyer’s information to be safeguarded under the UK Data Protection regime or a similar regime. To that end, the Supplier must be able to state to the Buyer the physical locations in which data may be stored, processed and managed from, and what legal and regulatory frameworks Government Data will be subject to at all times.
- 3.2 The Supplier shall agree any change in location of data storage, processing and administration with the Buyer in accordance with Clause 14 (Data protection).
- 3.3 The Supplier shall:
- 3.3.1 provide the Buyer with all Government Data on demand in an agreed open format;
  - 3.3.2 have documented processes to guarantee availability of Government Data in the event of the Supplier ceasing to trade;

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3.3.3 securely destroy all media that has held Government Data at the end of life of that media in line with Good Industry Practice; and

3.3.4 securely erase any or all Government Data held by the Supplier when requested to do so by the Buyer.

### **4. Ensuring secure communications**

4.1 The Buyer requires that any Government Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device must be encrypted using a product or system component which has been formally assured through a certification process recognised by NCSC, to at least Foundation Grade.

4.2 The Buyer requires that the configuration and use of all networking equipment to provide the Services, including those that are located in secure physical locations, are at least compliant with Good Industry Practice.

### **5. Security by design**

5.1 The Supplier shall apply the 'principle of least privilege' (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of IT systems which will process or store Government Data.

5.2 When designing and configuring the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) the Supplier shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills and/or a NCSC certification (<https://www.ncsc.gov.uk/section/products-services/ncsc-certification>) for all bespoke or complex components of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier).

### **6. Security of Supplier Staff**

6.1 Supplier Staff shall be subject to pre-employment checks that include, as a minimum: identity, unspent criminal convictions and right to work.

6.2 The Supplier shall agree on a case by case basis Supplier Staff roles which require specific government clearances (such as 'SC') including system administrators with privileged access to IT systems which store or process Government Data.

6.3 The Supplier shall prevent Supplier Staff who are unable to obtain the required security clearances from accessing systems which store, process, or are used to manage Government Data except where agreed with the Buyer in writing.

6.4 All Supplier Staff that have the ability to access Government Data or systems holding Government Data shall undergo regular training on secure information management principles. Unless otherwise agreed with the Buyer in writing, this training must be undertaken annually.

6.5 Where the Supplier or Subcontractors grants increased ICT privileges or access rights to Supplier Staff, those Supplier Staff shall be granted only those permissions necessary for them to carry out their duties. When staff no longer



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need elevated privileges or leave the organisation, their access rights shall be revoked within one (1) Working Day.

### **7. Restricting and monitoring access**

7.1 The Supplier shall operate an access control regime to ensure all users and administrators of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) are uniquely identified and authenticated when accessing or administering the Services. Applying the 'principle of least privilege', users and administrators shall be allowed access only to those parts of the ICT Environment that they require. The Supplier shall retain an audit record of accesses.

### **8. Audit**

8.1 The Supplier shall collect audit records which relate to security events in the systems 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:

8.1.1 Logs to facilitate the identification of the specific asset which makes every outbound request external to the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier). To the extent the design of the Deliverables allows such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers.

8.1.2 Security events generated in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and shall include: privileged account log-on and log-off events, the start and termination of remote access sessions, security alerts from desktops and server operating systems and security alerts from third party security software.

8.2 The Supplier and the Buyer shall work together to establish any additional audit and monitoring requirements for the ICT Environment.

8.3 The Supplier shall retain audit records collected in compliance with this Paragraph 8 for a period of at least 6 Months.

## **Part B – Annex 2 - Security Management Plan**

To be provided by the supplier in accordance with this schedule

## Call-Off Schedule 10 (Exit Management)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Core Network"	the provision of any shared central core network capability forming part of the overall Services delivered to the Buyer, which is not specific or exclusive to a specific Call-Off Contract, and excludes any configuration information specifically associated with a specific Call-Off Contract;
"Core Network Assets"	the assets used in the provision of the Core Network;
"Exclusive Assets"	Supplier Assets used exclusively by the Supplier [or a Key Subcontractor] in the provision of the Deliverables;
"Exit Information"	has the meaning given to it in Paragraph 3.1 of this Schedule;
"Exit Manager"	the person appointed by each Party to manage their respective obligations under this Schedule;
"Exit Plan"	the plan produced and updated by the Supplier during the Initial Period in accordance with Paragraph 4 of this Schedule;
"Net Book Value"	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Framework Tender or Call-Off Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
"Non-Exclusive Assets"	those Supplier Assets used by the Supplier [or a Key Subcontractor] in connection with the Deliverables but which are also used by the Supplier [or Key Subcontractor] for other purposes excluding the Core Network Assets;
"Registers"	the register and configuration database referred to in Paragraph 2.2 of this Schedule;

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<b>"Replacement Goods"</b>	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those services are provided by the Buyer internally and/or by any third party;
<b>"Replacement Services"</b>	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those Deliverables are provided by the Buyer internally and/or by any third party;
<b>"Termination Assistance"</b>	<ul style="list-style-type: none"><li>a) the provision of any configuration information reasonably required to effect the implementation of the Replacement Services excluding the Core Network;</li><li>b) any activity required to facilitate the transition from the live operation of an existing Service to the live operation of a Replacement Service excluding the Core Network; and</li><li>c) the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;</li></ul>
<b>"Termination Assistance Notice"</b>	has the meaning given to it in Paragraph 5.1 of this Schedule;
<b>"Termination Assistance Period"</b>	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;
<b>"Transferable Assets"</b>	Exclusive Assets which are capable of legal transfer to the Buyer;
<b>"Transferable Contracts"</b>	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant

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	Documentation, excluding such contracts relating to the Core Network;
<b>"Transferring Assets"</b>	has the meaning given to it in Paragraph 8.2.1 of this Schedule;
<b>"Transferring Contracts"</b>	has the meaning given to it in Paragraph 8.2.3 of this Schedule.

### 2. Supplier must always be prepared for contract exit

2.1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.

2.2 During the Contract Period, the Supplier shall promptly:

- 2.2.1 create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables insofar as they relate to Exclusive Assets and Non Exclusive Assets; and
- 2.2.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables (excluding the Core Network)

(**"Registers"**).

2.3 The Supplier shall:

- 2.3.1 ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and
- 2.3.2 procure that all licences for Third Party Software and all Sub-Contracts in relation to Exclusive and Non-Exclusive Assets shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

2.4 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

### 3. Assisting re-competition for Deliverables

3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to

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tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").

3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.

3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information (excluding the Core Network) which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).

3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables (excluding the Core Network); and not be disadvantaged in any procurement process compared to the Supplier.

## 4. Exit Plan

4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer an Exit Plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer.

4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

4.3 The Exit Plan shall set out, as a minimum:

- 4.3.1 a detailed description of both the transfer and cessation processes, including a timetable;
- 4.3.2 how the Deliverables (excluding the Core Network) will transfer to the Replacement Supplier and/or the Buyer;
- 4.3.3 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
- 4.3.4 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
- 4.3.5 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
- 4.3.6 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;

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- 4.3.7 proposals for the identification and return of all Buyer Assets in the possession of and/or control of the Supplier or any third party;
- 4.3.8 proposals for the disposal of any redundant Deliverables and materials;
- 4.3.9 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
- 4.3.10 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.

### 4.4 The Supplier shall:

- 4.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
  - (a) every six (6) months throughout the Contract Period; and
  - (b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
  - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
  - (d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and
- 4.4.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.
- 4.5 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
- 4.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

## 5. Termination Assistance

- 5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
  - 5.1.1 the nature of the Termination Assistance required;
  - 5.1.2 the start date and initial period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.; and

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- 5.1.3 whether the Buyer requires any additional services to assist with exit beyond what is required by this Schedule, which may be chargeable by the Supplier.
- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:
- 5.2.1 no such extension shall extend the Termination Assistance Period beyond the date twelve (12) Months after the End Date; and
- 5.2.2 the Buyer shall notify the Supplier of any such extension no later than twenty (20) Working Days prior to the date on which the Termination Assistance Period is otherwise due to expire.
- 5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.4 Where the Buyer indicates in a Termination Assistance Notice that it requires any additional services to assist with exit in accordance with paragraph 5.1.3, the Supplier shall provide to the Buyer within ten (10) Working Days of receipt of such Termination Assistance Notice a quotation in the form of an itemised list of costs (in line with any day rates specified in the Contract) for each line of the additional services that the Buyer requires. Within five (5) Working Days of receipt of such quotation the Buyer shall confirm to the Supplier which of those itemised services it requires and the Supplier shall provide those services as part of the Termination Assistance at the Charges provided in the quotation.
- 5.5 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

## **6. Termination Assistance Period**

- 6.1 Throughout the Termination Assistance Period the Supplier shall:
- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
- 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
- 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
- 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI's) or Service



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Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;

6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer;

6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.

6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.

6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

## **7. Obligations when the contract is terminated**

7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.

7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:

7.2.1 vacate any Buyer Premises;

7.2.2 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;

7.2.3 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:

- (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
- (b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

7.3 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the

Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

## **8. Assets, Sub-contracts and Software**

8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:

- 8.1.1 terminate, enter into or vary any Sub-contract insofar as it relates to Exclusive Assets and Non-Exclusive Assets; or
- 8.1.2 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables excluding the Core Network; or
- 8.1.3 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

8.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Buyer shall notify the Supplier setting out:

- 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
- 8.2.2 which, if any, of:
  - (a) the Exclusive Assets that are not Transferable Assets; and
  - (b) the Non-Exclusive Assets,the Buyer and/or the Replacement Supplier requires the continued use of; and

- 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"),

in order for the Buyer and/or its Replacement Supplier to provide the Deliverables excluding the Core Network from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables (excluding the Core Network) or the Replacement Goods and/or Replacement Services (excluding the Core Network).

8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.

8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.

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8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:

- 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
- 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.

8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.

8.7 The Buyer shall:

- 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
- 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.

8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 19 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

## **9. No charges**

9.1 Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

## **10. Dividing the bills**

10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

- 10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;

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10.1.2 the Buyer or Replacement Supplier (as applicable) 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.

## **Call-Off Schedule 11 (Installation Works)**

### **1. When this Schedule should be used**

- 1.1. This Schedule is designed to provide additional provisions necessary to facilitate the provision of Deliverables requiring installation by the Supplier.

### **2. How things must be installed**

- 2.1. Where the Supplier reasonably believes, it has completed the Installation Works it shall notify the Buyer in writing. Following receipt of such notice, the Buyer shall inspect the Installation Works and shall, by giving written notice to the Supplier:
  - 2.1.1. accept the Installation Works, or
  - 2.1.2. reject the Installation Works and provide reasons to the Supplier if, in the Buyer's reasonable opinion, the Installation Works do not meet the requirements set out in the Call-Off Order Form (or elsewhere in this Contract).
- 2.2. If the Buyer rejects the Installation Works in accordance with Paragraph 2.1.2, the Supplier shall immediately rectify or remedy any defects and if, in the Buyer's reasonable opinion, the Installation Works do not, within five (5) Working Days of such rectification or remedy, meet the requirements set out in the Call-Off Order Form (or elsewhere in this Contract), the Buyer may terminate this Contract for material Default.
- 2.3. The Installation Works shall be deemed to be completed when the Supplier receives a notice issued by the Buyer in accordance with Paragraph 2.1.1 Notwithstanding the acceptance of any Installation Works in accordance with Paragraph 2.1.1), the Supplier shall remain solely responsible for ensuring that the Goods and the Installation Works conform to the specification in the Call-Off Order Form (or elsewhere in this Contract). No rights of estoppel or waiver shall arise as a result of the acceptance by the Buyer of the Installation Works.
- 2.4. Throughout the Contract Period, the Supplier shall have at all times all licences, approvals and consents necessary to enable the Supplier and the Supplier Staff to carry out the Installation Works.

# Call-Off Schedule 13 (Implementation Plan and Testing)

## Part A - Implementation

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Delay"</b>	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;
<b>"Deliverable Item"</b>	an item or feature in the supply of the Deliverables delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan;
<b>"Milestone Payment"</b>	a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone;
<b>"Implementation Period"</b>	has the meaning given to it in Paragraph 7.1;

### 2. Agreeing and following the Implementation Plan

- 2.1 A draft of the Implementation Plan is set out in the Annex to this Schedule. The Supplier shall provide a further draft Implementation Plan 10 days after the Call-Off Contract Start Date.
- 2.2 The draft Implementation Plan:
- 2.2.1 must contain information at the level of detail necessary to manage the implementation stage effectively and as the Buyer may otherwise require; and
  - 2.2.2 it shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
- 2.3 Following receipt of the draft Implementation Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the Implementation Plan. If the Parties are unable to agree the contents of the Implementation Plan within twenty (20) Working Days

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of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 2.4 The Supplier shall provide each of the Deliverable Items identified in the Implementation Plan by the date assigned to that Deliverable Item in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.
- 2.5 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and report to the Buyer on such performance.

### **3. Reviewing and changing the Implementation Plan**

- 3.1 Subject to Paragraph 3.3, the Supplier shall keep the Implementation Plan under review in accordance with the Buyer's instructions and ensure that it is updated on a regular basis.
- 3.2 The Buyer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.
- 3.3 Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.
- 3.4 Failure by the Supplier to Achieve a Milestone by the relevant Milestone Date, where such failure is caused by or is attributable to the acts and/or omissions of the Supplier shall constitute a material Default and shall entitle the Buyer to terminate the Contract.

### **4. Security requirements before the Start Date**

- 4.1 The Supplier shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Supplier Staff have the necessary security clearance in place before the Call-Off Start Date. The Supplier shall ensure that this is reflected in their Implementation Plans.
- 4.2 The Supplier shall ensure that all Supplier Staff and Subcontractors do not access the Buyer's IT systems, or any IT systems linked to the Buyer, unless they have satisfied the Buyer's security requirements.
- 4.3 The Supplier shall be responsible for providing all necessary information to the Buyer to facilitate security clearances for Supplier Staff and Subcontractors in accordance with the Buyer's requirements.
- 4.4 The Supplier shall ensure that all Supplier Staff and Subcontractors requiring access to the Buyer Premises have the appropriate security clearance. It is the Supplier's responsibility to establish whether or not

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the level of clearance will be sufficient for access. Unless prior approval has been received from the Buyer, the Supplier shall be responsible for meeting the costs associated with the provision of security cleared escort services.

- 4.5 If a property requires Supplier Staff or Subcontractors to be accompanied by the Buyer's Authorised Representative, the Buyer must be given reasonable notice of such a requirement, except in the case of emergency access.

### 5. What to do if there is a Delay

- 5.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:

- 5.1.1 notify the Buyer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
- 5.1.2 include in its notification an explanation of the actual or anticipated impact of the Delay;
- 5.1.3 comply with the Buyer's instructions in order to address the impact of the Delay or anticipated Delay; and
- 5.1.4 use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

### 6. Compensation for a Delay

- 6.1 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Buyer such Delay Payments (calculated as set out by the Buyer in the Implementation Plan) and the following provisions shall apply:

- 6.1.1 the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to Achieve the corresponding Milestone;
- 6.1.2 Delay Payments shall be the Buyer's exclusive financial remedy for the Supplier's failure to Achieve a Milestone by its Milestone Date except where:
  - (a) the Buyer is entitled to or does terminate this Contract pursuant to Clause 10.4 (When CCS or the Buyer can end this contract); or
  - (b) the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;
- 6.1.3 the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;



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- 6.1.4 no payment or other act or omission of the Buyer shall in any way affect the rights of the Buyer to recover the Delay Payments or be deemed to be a waiver of the right of the Buyer to recover any such damages; and
- 6.1.5 Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 11 (How much you can be held responsible for).

## **7. Implementation Plan**

- 7.1 The Implementation Period will be a one (1) Month period.
- 7.2 During the Implementation Period, the incumbent supplier shall retain full responsibility for all existing services until the Call-Off Start Date or as otherwise formally agreed with the Buyer. The Supplier's full service obligations shall formally be assumed on the Call-Off Start Date as set out in Order Form.
- 7.3 In accordance with the Implementation Plan, the Supplier shall:
  - 7.3.1 work cooperatively and in partnership with the Buyer, incumbent supplier, and other Framework Supplier(s), where applicable, to understand the scope of Services to ensure a mutually beneficial handover of the Services;
  - 7.3.2 work with the incumbent supplier and Buyer to assess the scope of the Services and prepare a plan which demonstrates how they will mobilise the Services;
  - 7.3.3 liaise with the incumbent Supplier to enable the full completion of the Implementation Period activities; and
  - 7.3.4 produce an Implementation Plan, to be agreed by the Buyer, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.
- 7.4 The Implementation Plan will include detail stating:
  - 7.4.1 how the Supplier will work with the incumbent Supplier and the Buyer Authorised Representative to capture and load up information such as asset data ; and
  - 7.4.2 a communications plan, to be produced and implemented by the Supplier, but to be agreed with the Buyer, including the frequency, responsibility for and nature of communication with the Buyer and end users of the Services.
- 7.5 In addition, the Supplier shall:
  - 7.5.1 appoint a Supplier Authorised Representative who shall be responsible for the management of the Implementation Period, to ensure that the Implementation Period is planned and resourced adequately, and who will act as a point of contact for the Buyer;
  - 7.5.2 mobilise all the Services specified in the Specification within the Call-Off Contract;

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- 7.5.3 produce an Implementation Plan report for each Buyer Premises to encompass programmes that will fulfil all the Buyer's obligations to landlords and other tenants:
  - (a) the format of reports and programmes shall be in accordance with the Buyer's requirements and particular attention shall be paid to establishing the operating requirements of the occupiers when preparing these programmes which are subject to the Buyer's approval; and
  - (b) the Parties shall use reasonable endeavours to agree the contents of the report but if the Parties are unable to agree the contents within twenty (20) Working Days of its submission by the Supplier to the Buyer, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 7.5.4 manage and report progress against the Implementation Plan;
- 7.5.5 construct and maintain a Implementation risk and issue register in conjunction with the Buyer detailing how risks and issues will be effectively communicated to the Buyer in order to mitigate them;
- 7.5.6 attend progress meetings (frequency of such meetings shall be as set out in the Order Form) in accordance with the Buyer's requirements during the Implementation Period. Implementation meetings shall be chaired by the Buyer and all meeting minutes shall be kept and published by the Supplier; and
- 7.5.7 ensure that all risks associated with the Implementation Period are minimised to ensure a seamless change of control between incumbent provider and the Supplier.

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**Annex 1: Implementation Plan**

Redacted Under FOIA Section 43, Commercial Interest

## Part B - Testing

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Component"</b>	any constituent parts of the Deliverables;
<b>"Material Test Issue"</b>	a Test Issue of Severity Level 1 or Severity Level 2;
<b>"Satisfaction Certificate"</b>	a certificate materially in the form of the document contained in Annex 2 issued by the Buyer when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria;
<b>"Severity Level"</b>	the level of severity of a Test Issue, the criteria for which are described in Annex 1;
<b>"Test Issue Management Log"</b>	a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule;
<b>"Test Issue Threshold"</b>	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;
<b>"Test Reports"</b>	the reports to be produced by the Supplier setting out the results of Tests;
<b>"Test Specification"</b>	the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6.2 of this Schedule;
<b>"Test Strategy"</b>	a strategy for the conduct of Testing as described further in Paragraph 3.2 of this Schedule;
<b>"Test Success Criteria"</b>	in relation to a Test, the test success criteria for that Test as referred to in Paragraph 5 of this Schedule;
<b>"Test Witness"</b>	any person appointed by the Buyer pursuant to Paragraph 9 of this Schedule; and
<b>"Testing Procedures"</b>	the applicable testing procedures and Test Success Criteria set out in this Schedule.

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### **2. How testing should work**

- 2.1 Part B of this Schedule shall only apply if the Contract was entered into as a result of the Buyer undertaking a Further Competition in accordance with Framework Schedule 7.
- 2.2 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.
- 2.3 The Supplier shall not submit any Deliverable for Testing:
  - 2.3.1 unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;
  - 2.3.2 until the Buyer has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
  - 2.3.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
- 2.4 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.
- 2.5 Prior to the issue of a Satisfaction Certificate, the Buyer shall be entitled to review the relevant Test Reports and the Test Issue Management Log.

### **3. Planning for testing**

- 3.1 The Supplier shall develop the final Test Strategy as soon as practicable after the Start Date but in any case no later than twenty (20) Working Days after the Start Date.
- 3.2 The final Test Strategy shall include:
  - 3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
  - 3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
  - 3.2.3 the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
  - 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 a sample plan for the resolution of Test Issues;
  - 3.2.6 the names and contact details of the Buyer and the Supplier's Test representatives;
  - 3.2.7 a high level identification of the resources required for Testing including Buyer and/or third party involvement in the conduct of the Tests;

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- 3.2.8 the technical environments required to support the Tests; and
- 3.2.9 the procedure for managing the configuration of the Test environments.

### **4. Preparing for Testing**

- 4.1 The Supplier shall develop Test Plans and submit these for Approval as soon as practicable but in any case no later than twenty (20) Working Days prior to the start date for the relevant Testing as specified in the Implementation Plan.
- 4.2 Each Test Plan shall include as a minimum:
  - 4.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and
  - 4.2.2 a detailed procedure for the Tests to be carried out.
- 4.3 The Buyer shall not unreasonably withhold or delay its approval of the Test Plan provided that the Supplier shall implement any reasonable requirements of the Buyer in the Test Plan.

### **5. Passing Testing**

- 5.1 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.

### **6. How Deliverables will be tested**

- 6.1 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 prior to the start of the relevant Testing (as specified in the Implementation Plan).
- 6.2 Each Test Specification shall include as a minimum:
  - 6.2.1 the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Buyer and the extent to which it is equivalent to live operational data;
  - 6.2.2 a plan to make the resources available for Testing;
  - 6.2.3 Test scripts;
  - 6.2.4 Test pre-requisites and the mechanism for measuring them; and
  - 6.2.5 expected Test results, including:
    - (a) a mechanism to be used to capture and record Test results; and
    - (b) a method to process the Test results to establish their content.

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### **7. Performing the tests**

- 7.1 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
- 7.2 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 9.3.
- 7.3 The Supplier shall notify the Buyer at least 10 Working Days in advance of the date, time and location of the relevant Tests and the Buyer shall ensure that the Test Witnesses attend the Tests.
- 7.4 The Buyer may raise and close Test Issues during the Test witnessing process.
- 7.5 The Supplier shall provide to the Buyer in relation to each Test:
  - 7.5.1 a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and
  - 7.5.2 the final Test Report within 5 Working Days of completion of Testing.
- 7.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
  - 7.6.1 an overview of the Testing conducted;
  - 7.6.2 identification of the relevant Test Success Criteria that have/have not been satisfied together with the Supplier's explanation of why any criteria have not been met;
  - 7.6.3 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;
  - 7.6.4 the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 8.1; and
  - 7.6.5 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
- 7.7 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 7.8 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Buyer shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.
- 7.9 If the Supplier successfully completes the requisite Tests, the Buyer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of

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any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Deliverables are implemented in accordance with this Contract.

### **8. Discovering Problems**

- 8.1 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 8.2 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 Buyer upon request.
- 8.3 The Buyer shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the 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.

### **9. Test witnessing**

- 9.1 The Buyer may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Buyer, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 9.2 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.
- 9.3 The Test Witnesses:
  - 9.3.1 shall actively review the Test documentation;
  - 9.3.2 will attend and engage in the performance of the Tests on behalf of the Buyer so as to enable the Buyer to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
  - 9.3.3 shall not be involved in the execution of any Test;
  - 9.3.4 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;
  - 9.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Buyer to assess whether the Tests have been Achieved;



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- 9.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
- 9.3.7 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

### **10. Auditing the quality of the test**

- 10.1 The Buyer or an agent or contractor appointed by the Buyer may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**") subject to the provisions set out in the agreed Quality Plan.
- 10.2 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 10.3 The Buyer will give the Supplier at least 5 Working Days' written notice of the Buyer's intention to undertake a Testing Quality Audit.
- 10.4 The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Buyer to enable it to carry out the Testing Quality Audit.
- 10.5 If the Testing Quality Audit gives the Buyer concern in respect of the Testing Procedures or any Test, the Buyer shall prepare a written report for the Supplier detailing its concerns and the Supplier shall, within a reasonable timeframe, respond in writing to the Buyer's report.
- 10.6 In the event of an inadequate response to the written report from the Supplier, the Buyer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Buyer.

### **11. Outcome of the testing**

- 11.1 The Buyer will issue a Satisfaction Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.
- 11.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Buyer shall notify the Supplier and:
  - 11.2.1 the Buyer may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;
  - 11.2.2 the Buyer 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
  - 11.2.3 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

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Buyer's other rights and remedies, such failure shall constitute a material Default.

- 11.3 The Buyer 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.
- 11.4 The Buyer shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:
  - 11.4.1 the issuing by the Buyer of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
  - 11.4.2 performance by the Supplier to the reasonable satisfaction of the Buyer of any other tasks identified in the Implementation Plan as associated with that Milestone.
- 11.5 The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of any Implementation Plan and Clause 4 (Pricing and payments).
- 11.6 If a Milestone is not Achieved, the Buyer shall promptly issue a report to the Supplier setting out the applicable Test Issues and any other reasons for the relevant Milestone not being Achieved.
- 11.7 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Buyer shall issue a Satisfaction Certificate.
- 11.8 If there is one or more Material Test Issue(s), the Buyer shall refuse to issue a Satisfaction Certificate and, without prejudice to the Buyer's other rights and remedies, such failure shall constitute a material Default.
- 11.9 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Buyer may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
  - 11.9.1 any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Buyer agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Buyer within 10 Working Days of receipt of the Buyer's report pursuant to Paragraph 10.5); and
  - 11.9.2 where the Buyer issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

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### **12. Risk**

12.1 The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:

12.1.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Buyer's requirements for that Deliverable or Milestone; or

12.1.2 affect the Buyer's right subsequently to reject all or any element of the Deliverables and/or any Milestone to which a Satisfaction Certificate relates.

## **Annex 1: Test Issues – Severity Levels**

### **1. Severity 1 Error**

- 1.1 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.

### **2. Severity 2 Error**

- 2.1 This is an error for which, as reasonably determined by the Buyer, there is no practicable workaround available, and which:
  - 2.1.1 causes a Component to become unusable;
  - 2.1.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
  - 2.1.3 has an adverse impact on any other Component(s) or any other area of the Deliverables;

### **3. Severity 3 Error**

- 3.1 This is an error which:
    - 3.1.1 causes a Component to become unusable;
    - 3.1.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
    - 3.1.3 has an impact on any other Component(s) or any other area of the Deliverables;
- but for which, as reasonably determined by the Buyer, there is a practicable workaround available;

### **4. Severity 4 Error**

- 4.1 This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Deliverables.

### **5. Severity 5 Error**

- 5.1 This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Deliverables.

## Annex 2: Satisfaction Certificate

To: [insert name of Supplier]

From: [insert name of Buyer]

[insert Date dd/mm/yyyy]

Dear Sirs,

### Satisfaction Certificate

Deliverable/Milestone(s): [Insert relevant description of the agreed Deliverables/Milestones].

We refer to the agreement ("**Call-Off Contract**") [insert Call-Off Contract reference number] relating to the provision of the [insert description of the Deliverables] between the [*insert Buyer name*] ("**Buyer**") and [*insert Supplier name*] ("**Supplier**") dated [*insert Call-Off Start Date dd/mm/yyyy*].

The definitions for any capitalised terms in this certificate are as set out in the Call-Off Contract.

[We confirm that all the Deliverables relating to [insert relevant description of Deliverables/agreed Milestones and/or reference number(s) from the Implementation Plan] have been tested successfully in accordance with the Test Plan [or that a conditional Satisfaction Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria].

[OR]

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments)].

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Buyer]

## Call-Off Schedule 14 (Service Levels)

### 1. Introduction

**1.1 The Buyer will specify in the Order Form at Further Competition whether Part A or Part B to this Schedule applies or may opt to adopt the Supplier's offer or Core Terms by omitting this Schedule.**

### 2. Definitions

2.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Achieved Service Level"</b>	means the actual level of performance of a Service achieved by the Supplier in relation to a Service Level Performance Criteria for a Service Period;
<b>"Agreed Service Time"</b>	means the period during which the Supplier ensures the Services are Available to the Buyer;
<b>"Available"</b>	a Service shall be "Available" when the Buyer's end users are able to access and use all its functions at a level that enables them to carry out their normal duties. Availability shall be construed accordingly;
<b>"Call-Off Contract Year"</b>	means a consecutive period of twelve (12) Months commencing on the Call-Off Start Date or each anniversary thereof;
<b>"Critical Service Level Failure"</b>	a) Specified by the Buyer where the Buyer selects Part A to this Call-Off Schedule 14; or b) any instance of critical service level failure specified in Annex 2 to Part B of this Schedule where the Buyer selects Part B to this Schedule;

## Call-Off Schedule 14 (Service Levels)

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<b>"Downtime"</b>	means any period of time within the Agreed Service Time during which a Service is not Available, excluding Planned Downtime
<b>"Imposed Carrier Downtime"</b>	means time during which the Supplier is prevented from supplying the Services due to unavailability of an underlying telecommunications service from a third-party provider on which the Services are dependent. In any instance where the Supplier claims Imposed Carrier Downtime, the Supplier must be able to provide evidence to the satisfaction of the Buyer that the interruption to the Services was in fact due in its entirety to unavailability of the underlying service;
<b>"Incident"</b>	means an unplanned incident or interruption to Services, reduction in the quality of the Services or event which could affect the Services in the future;
<b>"Incident Resolution Time"</b>	means the time taken by the Supplier to Resolve an Incident, as set out in this Schedule;
<b>"Planned Downtime"</b>	means the time agreed in advance in writing by the Supplier and Buyer within the Agreed Service Time when a Service is not Available;
<b>"Provisioning"</b>	means the time taken from the placement of an Order for a Service or part thereof until the Service is Available to the Buyer and Provision shall be construed accordingly;
<b>"Resolution"</b>	means an action taken by or on behalf of the Supplier to fully repair the root cause of an Incident or to implement a workaround, such that the Services are returned to being Available. Resolve and Resolved shall be construed accordingly;
<b>"Service Credits"</b>	<p>a) any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels; or</p> <p>b) any service credits specified in the Annex to</p>

## Call-Off Schedule 14 (Service Levels)

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Part B of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;

### **"Service Credit Cap"**

- a) in the period from the Call-Off Start Date to the end of the first Call-Off Contract Year 20%; and
- b) during the remainder of the Call-Off Contract Period, thirty five percent (35%) of the Charges payable to the Supplier under this Call-Off Contract in the period of twelve (12) Months immediately preceding the Service Period in respect of which Service Credits are accrued;

**unless** otherwise stated in the Order Form during a Further Competition;

### **"Service Desk"**

means the single point of contact set up and operated by the Supplier to log, monitor and escalate Incidents and Incident Resolutions;

### **"Service Failure Threshold"**

means the level of performance of a Service which becomes unacceptable to the Buyer, including as set out in each Service Level Performance Criteria and where the Supplier fails to provide the Services in accordance with this Contract;

### **"Service Levels"**

means any service levels applicable to the provision of the Services under this Call-Off Contract specified in Call-Off Schedule 14 (Service Levels);

### **"Service Level Failure"**

means a failure to meet the Service Level Threshold in respect of a Service Level Performance Criterion;

### **"Service Level Threshold"**

shall be as set out against the relevant Service Level in Annex 1 to Part A of this Schedule, or Annex 1 of Part B of this Schedule depending upon which option is selected by the Buyer;.



<b>“Service Period”</b>	means a recurrent period of one month during the Call-Off Contract Period, unless otherwise specified in the Order Form;
<b>“Unavailable”</b>	in relation to a Service, means that the Service is not Available;

### **3. What happens if you don’t meet the Service Levels**

- 3.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Threshold for each Service Level.
- 3.2 The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A or Part B of this Schedule, as appropriate, including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier’s failure to meet any Service Level Threshold.
- 3.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part C (Performance Monitoring) of this Schedule.
- 3.4 A Service Credit shall be the Buyer’s exclusive financial remedy for a Service Level Failure except where:
  - 3.4.1 the Supplier has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or
  - 3.4.2 the Service Level Failure:
    - (a) exceeds the relevant Service Failure Threshold;
    - (b) has arisen due to a Prohibited Act or wilful Default by the Supplier;
    - (c) results in the corruption or loss of any Government Data; and/or
    - (d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or
  - 3.4.3 the Buyer is entitled to or does terminate this Contract pursuant to Clause 10.4 of the Core Terms (CCS and Buyer Termination Rights).
- 3.5 Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months’ notice, change the weighting of Service Level Threshold in respect of one or more Service Levels and

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the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:

- 3.5.1 the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;
- 3.5.2 the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and
- 3.5.3 there is no change to the Service Credit Cap.

#### **4. Critical Service Level Failure**

On the occurrence of a Critical Service Level Failure:

- 4.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 4.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"), provided that the operation of this paragraph 4 shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for material Default.

## **Part A: Short Form Service Levels and Service Credits**

### **1. Service Levels**

If the level of performance of the Supplier:

- 1.1. is likely to or fails to meet any Service Level Threshold; or
- 1.2. is likely to cause or causes a Critical Service Failure to occur,

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

- 1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;
- 1.2.2 instruct the Supplier to comply with the Rectification Plan Process;
- 1.2.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Buyer; and/or
- 1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

### **2. Service Credits**

- 2.1. The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.
- 2.2. Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex 1 to Part A of this Schedule.

## Annex 1 : Short Form Services Levels and Service Credits Table

Service Levels				Service Credit for each Service Period	Publishable KPI
Service Level Performance Criterion	Key Indicator	Service Level Threshold	Service Failure Threshold		
Time to visit site for a site survey – Core Site:  SUPPLIER visits site in advance of receiving a formal request to quote	5 working days	at least 95% at all times	90%	0.5% Service Credit gained for each percentage under the specified Service Level Threshold	No
Time to visit site for a site survey - non-Core Site:  SUPPLIER visits site in advance of receiving a formal request to quote	10 Working days	at least 95% at all times	90%	0.5% Service Credit gained for each percentage under the specified Service Level Threshold	No
Time to quote and if necessary, provide an accompanying survey report:  A formal quote is received by the AUTHORITY from the SUPPLIER after supplier	5 working days from receipt of a request, or the site visit if the site visit is necessary	at least 95% at all times	90%	0.5% Service Credit gained for each percentage under the specified Service Level Threshold	No

**Call-Off Schedule 14 (Service Levels)**

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Service Levels				Service Credit for each Service Period	Publishable KPI
Service Level Performance Criterion	Key Indicator	Service Level Threshold	Service Failure Threshold		
visits site to perform a survey (if required).					
<p>Time to attend site and begin works after quote accepted:</p> <p>Time taken from completed purchase order to works being started on site.</p> <p>Aborted visits due to events within the SUPPLIER'S control will not be deemed as beginning works for meeting this KPI.</p>	10 working days	at least 95% at all times	90%	0.5% Service Credit gained for each percentage under the specified Service Level Threshold	No
<p>Time to respond:</p> <p>Time taken to respond to a valid request for information</p>	2 working days	at least 95% at all times	90%	0.5% Service Credit gained for each percentage under the specified Service Level Threshold	No

**Call-Off Schedule 14 (Service Levels)**

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Service Levels				Service Credit for each Service Period	Publishable KPI
Service Level Performance Criterion	Key Indicator	Service Level Threshold	Service Failure Threshold		
Complaint process:  A substantive response to a formal complaint by the AUTHORITY's key staff	5 working days	at least 95% at all times	90%	0.5% Service Credit gained for each percentage under the specified Service Level Threshold	No
Before and after photos:  If applicable, after completion there should be before and after photos of the works performed supplied to the AUTHORITY	5 working days	at least 95% at all times	90%	0.5% Service Credit gained for each percentage under the specified Service Level Threshold	No
Remedial works:  Time taken from receipt of complaint to remedial works being started on site.	5 working days	at least 95% at all times	90%	0.5% Service Credit gained for each percentage under the specified Service Level Threshold	No
Quality of work:	90%	at least 90% at all times	75%	0.5% Service Credit gained for each percentage under the specified Service Level Threshold	No

**Call-Off Schedule 14 (Service Levels)**

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Service Levels				Service Credit for each Service Period	Publishable KPI
Service Level Performance Criterion	Key Indicator	Service Level Threshold	Service Failure Threshold		
The number of jobs that do not require remedial work via the complaints process					
Social Value MAC 2.2:  10hrs of employee participation in volunteering to support the local community's new men's mental health and wellbeing group. This will be supported by our DVSA Account Manager	100%	At least 90% per year of contract	90%	0.5% Service Credit gained for each percentage under the specified Service Level Threshold	No

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### Critical Service Level Failure:

1.1 A Critical Service Level Failure will be deemed to have occurred if the performance of the Services falls below the same Service Failure Threshold on three (3) occasions in any six (6) consecutive Service Periods.

1.2 In the event of a Critical Service Level Failure, the Buyer shall be entitled to terminate this Call-Off Contract for material Default.

The Service Credits shall be calculated on the basis of the following formula:

#### [Example:

Formula: $x\%$ (Service Level Threshold) - $x\%$ (actual Service Level performance)	=	$x\%$ of the Charges payable to the Buyer as Service Credits to be deducted from the next Invoice payable by the Buyer
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Worked example: 98% (e.g. Service Level Threshold requirement for accurate and timely billing Service Level) - 75% (e.g. actual performance achieved against this Service Level in a Service Period)	=	23% of the Charges payable to the Buyer as Service Credits to be deducted from the next Invoice payable by the Buyer]
--	---	---



## **PART B: Long Form Service Levels and Service Credits**

### **1. General provisions**

1.1. The Supplier shall provide support and advice, when required by the Buyer, on matters relating to:

- 1.1.1. Availability of the Services;
- 1.1.2. quality of the Services;
- 1.1.3. provisioning;
- 1.1.4. essential downtime
- 1.1.5. Buyer support;
- 1.1.6. complaints handling; and
- 1.1.7. accurate and timely invoices.

1.2. The Supplier accepts and acknowledges that failure to meet the Service Level Threshold set out in this Part B of this Call-Off Schedule will result in Service Credits being due to the Buyer.

### **2. Principal points**

2.1. The objectives of the Service Levels and Service Credits are to:

- 2.1.1. incentivise the Supplier to meet the Service Levels and to remedy any failure to meet the Service Levels expeditiously;
- 2.1.2. ensure that the Services are of a consistently high quality and meet the requirements of the Buyer;
- 2.1.3. provide a mechanism whereby the Buyer can attain meaningful recognition of inconvenience and/or loss resulting from the Supplier's failure to deliver the level of service for which it has contracted to deliver; and
- 2.1.4. provide an incentive to the Supplier to comply with and to expeditiously remedy any failure to comply with the Service Levels.

2.2. The Parties acknowledge that:

- 2.2.1. The Buyer will, in all cases, prefer to receive the Services within the Service Levels in preference to receiving the Service Credits; and

## **Call-Off Schedule 14 (Service Levels)**

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- 2.2.2. the Supplier shall, in all cases, seek to deliver the Services within the Service Levels in preference to accepting a liability for Service Credits.

### **3. Service Levels**

3.1. The Supplier shall monitor its performance under this Call-Off Contract by reference to the relevant Service Level Performance Criteria for achieving the Service Levels and shall send the Buyer a Performance Monitoring Report detailing the level of service which was achieved in accordance with the provisions of Part C (Performance Monitoring) of this Call-Off Schedule.

3.2. The Supplier shall, at all times, provide the Services in such a manner that the Service Level Thresholds are achieved.

3.3. If the level of performance of the Supplier of any element of the provision by it of the Services during the Call-Off Contract period:

3.3.1. is likely to or fails to meet any Service Level Threshold; or

3.3.2. is likely to cause or causes a Critical Service Level Failure to occur, the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without prejudice to any other of its rights howsoever arising may:

- a) Require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring; and
- b) If the action taken under paragraph require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring; and above has not already prevented or remedied the Service Level Failure or Critical Service Level Failure, the Buyer shall be entitled to instruct the Supplier to comply with the Rectification Plan Process; or
- c) If a Service Level Failure has occurred, deduct from the Call-Off Contract Charges the applicable Service Credits payable by the Supplier to the Buyer in accordance with the calculation formula set out in Annex 1 of this Part B of this Call-Off Schedule; or
- d) If a Critical Service Level Failure has occurred, exercise its right to compensation for such non-availability of Services via this Call-Off Contract.

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3.4. Approval and implementation by the Buyer of any Rectification Plan shall not relieve the Supplier of any continuing responsibility to achieve the Service Levels, or remedy any failure to do so, and no estoppels or waiver shall arise from any such Approval and/or implementation by the Buyer.

3.5. The Buyer may enhance or otherwise modify the Service Levels required during a Further Competition Procedure.

3.6. The Services are subject to the following four Service Level Performance Criteria as set out in paragraph 6 of this Part B of Call-Off Schedule 14:

3.6.1. Availability;

3.6.2. Incident Resolution;

3.6.3. Quality; and

3.6.4. Provisioning.

#### **4. Agreed Service Time**

4.1. The Services will be made Available by the Supplier to the Buyer during the Agreed Service Time.

4.2. The Agreed Service Time applied to the Services will be determined by the Service Maintenance Level selected by the Buyer on the Order Form.

4.3. The Service Maintenance Levels and associated Agreed Service Times is set out in the following table:

Service Maintenance Level	Agreed Service Time
---------------------------	---------------------

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Level 1	Monday – Friday (excluding Bank Holidays) 08:00-18:00
Level 2	Monday – Saturday (excluding Bank Holidays) 08:00-18:00
Level 3	Monday – Sunday (including Bank Holidays) 07:00-21:00
Level 4	Monday – Sunday (including Bank Holidays); 00:00-23:59 (24 hours per day, 7 days per week)

**5. Incidents**

5.1. If the Services become Unavailable, the Buyer must report the Unavailability as an Incident to the Service Desk.

5.2. Incidents must be classified to one of the following four severity levels:

Severity Level	Description of impact of Incident
Severity 1	The Services are Unavailable across the entire Buyer's estate
Severity 2	The Services are Unavailable at one of the Buyer's sites
Severity 3	The Services are Unavailable to an individual user
Severity 4	All other Incidents, including any Incidents raised initially at a higher Severity Level that were subsequently deemed to be attributable to the Buyer or in any other way not attributable to the Supplier.

5.2.1. The Supplier shall manage the Incident to resolution in accordance

## Call-Off Schedule 14 (Service Levels)

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with this Call-Off Schedule, whilst keeping the Buyer appropriately informed of progress.

## 6. Service Level Performance Criteria

### 6.1. Availability

6.1.1. The Supplier shall ensure that the Services are Available during the Agreed Service Time.

6.1.2. Achieved Availability is calculated as a percentage of the total time in a Service Period that the Services should have otherwise been Available to the Buyer using the following formula:

$$\text{Achieved Availability \%} = \frac{(\text{MP} - \text{SD}) \times 100}{\text{MP}}$$

Where:

MP means total time within the Agreed Service Time (excluding Planned Downtime, Imposed Carrier Downtime and any Unavailability attributable to Severity 3 or Severity 4 Incidents) within the relevant Service Period; and

SD means total service downtime within the Agreed Service Time within the relevant Service Period during which a Service and/or part thereof is Unavailable (excluding Planned Downtime, Imposed Carrier Downtime and any Unavailability attributable to Severity 3 or Severity 4 Incidents) within the relevant Service Period.

### 6.2. Incident Resolution

6.2.1. The Supplier shall ensure that Incidents are resolved within the Maximum Incident Resolution Time.

6.2.2. Maximum Incident Resolution Times are determined by the Severity Levels and Service Maintenance Levels as set out in the following table:

Service Maintenance Level	Severity 1; and Severity 2	Severity 3	Severity 4 (Indicative Only)
Level 1	End of next Working Day	5 Working Days	1 Month
Level 2	End of next Working Day	5 Working Days	1 Month

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Level 3	Incident reported by 13:00, resolved same day; reported after 13:00, resolved by 13:00 next Working Day	End of next Working Day	15 Working Days
Level 4	6 hours	End of next Working Day	10 Working Days

6.2.3. Each Incident will either be Resolved within the Maximum Incident Resolution Time, or it will not; and will be reported as such by the Supplier. The time taken to resolve the Incident is not material to this Service Level Performance Criteria.

6.2.4. Achieved Incident Resolution is calculated as a percentage of the total number of Incidents in a Service Period that should have been resolved within the Maximum Incident Resolution Time using the following formula:

$$\text{Achieved Incident Resolution \%} = \frac{(\text{TI} - \text{FI}) \times 100}{\text{TI}}$$

Where:

TI means the total number of Incidents raised by the Buyer during the Service Period (excluding Severity 4 Incidents); and

FI means the total number of Incidents raised by the Buyer during the Service Period that were not resolved within the Maximum Incident Resolution Time (excluding Severity 4 Incidents).

6.2.5. Where an Incident is reported outside the Agreed Service Time, the Incident will be treated as if it has been reported at the beginning of the next Working Day.

6.2.6. The Incident will only be deemed to be Resolved once the Services are Available. However, the Supplier shall not formally close any Incident until the Buyer has confirmed that the Services are Available.

**6.3. Quality**

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6.3.1. The Supplier shall ensure that the Services are delivered of a sufficient quality to meet the provisions of this Call-Off Schedule.

6.3.2. Measurement of answer and response times of the Service Desk will be based on the time taken for the Supplier to respond to the Buyer's call or email. Calls and emails receiving an automated response or calls placed into a queuing system shall be deemed not to have been answered.

### **6.4. Provisioning**

6.4.1. The Services will be provisioned at the outset in accordance with any Implementation Plan and any failure to meet Milestones will be dealt with in accordance with the terms of this Call-Off Contract.

6.4.2. Any delivery of Services or part thereof subsequent to the successful conclusion of the Implementation Plan will be subject to the Service Levels identified in the Variation to this Contract that incorporates those changes; or failing any other agreed Service Level, in accordance with the Supplier's standard provisioning Service Levels.

## **7. Service Credits**

7.1. This section sets out the basic agreed formula used to calculate a Service Credit payable to the Buyer as a result of a Service Level Failure in a given Service Period.

7.2. Service Credit payments are subject to the Service Credit Cap.

7.3. Annex 1 to this Part B of this Call-Off Schedule details the Service Credits available for each Service Level Performance Criterion in the event that the applicable Service Level Threshold is not met by the Supplier.

7.4. The Buyer shall use the Performance Monitoring Reports supplied by the Supplier under Part C (Performance Monitoring) of this Call-Off Schedule to verify the calculation and accuracy of any Service Credits applicable to each Service Period.

7.5. Service Credits are a reduction of the amounts payable in respect of the Services and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in Annex 1 of Part B of this Call-Off Schedule.

7.6. The amount of Service Credit is determined by the tables in Annex 1 of this Part B of Call-Off Schedule 14, using the calculated Achieved Service Level Performance Criteria (e.g. Achieved Availability), the Service Level Threshold

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and the Service Failure Threshold and is calculated by using the straight line formula below:

**Service Credit % =  $(m \cdot (a - x) + c)$ , where**

*a* is the Service Level Threshold (%) below which Service Credits become payable;

*b* is the Service Failure Threshold (%);

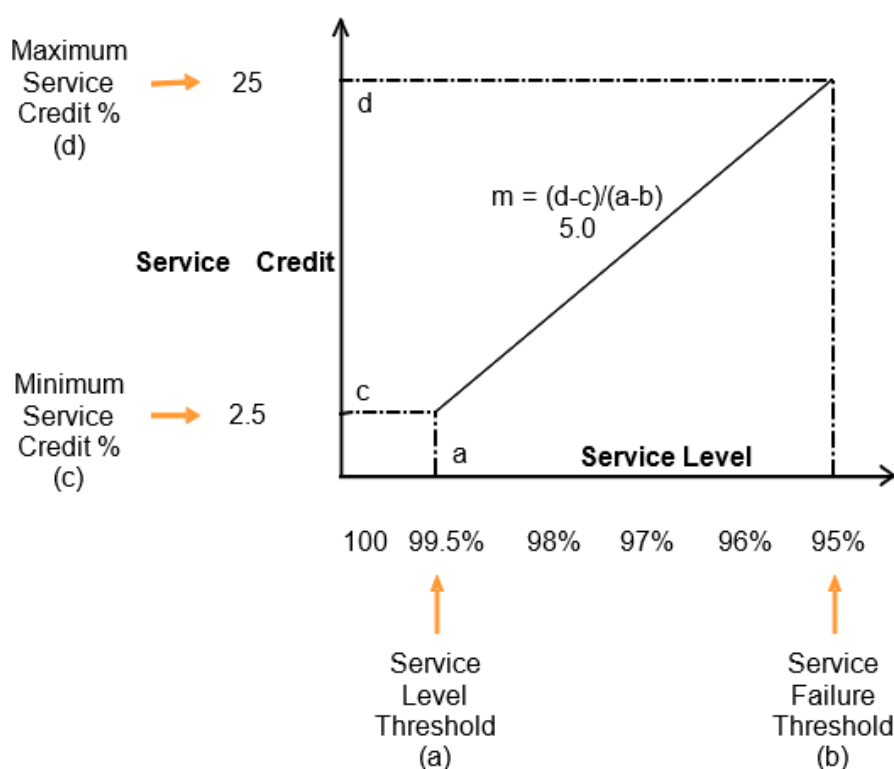
*x* is the Achieved Service Level Performance Criteria (%) for a Service Period;

*c* is the minimum Service Credit (%) payable if the Achieved Service Level falls below the Service Level Threshold;

*d* is the maximum Service Credit (%) payable if the Achieved Service Level Reaches the Service Failure Threshold;

*m* is a coefficient defined for the services, which is calculated from the Formula  $m = (d - c) / (a - b)$ , that is the slope of the straight line;

7.7. Consequently, the Service Credit regime is shown diagrammatically as follows:



7.8. The Service Credit (£) is subsequently derived as follows:

**Service Credit (£) = contract charges x Service Credit (%)**

7.9. An example Service Credit calculation for the Availability of a service,



**Call-Off Schedule 14 (Service Levels)**

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(offered herein for illustrative purposes only), is as follows:

Criteria	Coefficient (m)	Service Level Threshold % (a)	Service Failure Threshold % (b)	Minimum Service Credit % (c)	Maximum Service Credit % (d)
Availability	5.0	99.5%	95.00 %	2.5 %	25%

7.9.1. The Achieved Availability of a service was recorded as 97% for a Service Period. For this service, the Service Level Threshold is 99.5% and the Service Failure Threshold is 95%. The contract charges for the service for the Service Period are £3,000. Previous performance had exceeded the Service Level Threshold for Availability.

7.9.2. In this illustration example:

$$\text{Service Credit \%} = 5.0 \times (99.5 - 97.0) + 2.5 = 15\%;$$

therefore the Service Credit calculation is:

$$\text{Service Credit (£)} = £3,000 \times 15\% = £450.$$

7.10. An example Service Credit calculation for Incident Resolution is as follows:

Criteria	Coefficient (m)	Service Level Threshold % (a)	Service Failure Threshold % (b)	Minimum Service Credit % (c)	Maximum Service Credit % (d)
Incident Resolution	0.25	95.0%	85.00%	2.5%	5%

7.10.1. The Service Level Threshold is 95% of all incidents to be resolved within a specified time with the Service Failure Threshold being 85%. Assume that the Buyer has 80 Incidents within a Service Period, 10

#### **Call-Off Schedule 14 (Service Levels)**

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of which were not resolved within the specified time. Therefore, the Achieved Incident Resolution is 87.5% for the Service Period. The contract charges for all the services that the Buyer is consuming are £50,000 per Service Period. Previous performance had exceeded the Service Level Threshold for Incident Resolution Times.

7.10.2. In this illustration example:

$$\text{Service Credit \%} = 0.25 \times (95 - 87.5) + 2.5 = 4.375\%$$

Consequently, the illustrated Service Credit calculation is:

$$\text{Service Credit (£)} = £50,000 \times 4.375\% = £2,187.50.$$

## **PART B Annex 1: Long Form Services Levels and Service Credits Table**

**Call-Off Schedule 14 (Service Levels)**

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**1. Availability****1.1. Services (excluding the Service Desk)**

Service Maintenance Level	Coefficient (m)	Service Level Threshold % (a)	Service Failure Threshold % (b)	Minimum Service Credit % (c)	Maximum Service Credit % (d)
1	N/A	N/A	N/A	N/A	N/A
2	1.3	95%	80%	5%	25%
3	2.86	97%	90%	5%	25%
4	5	99%	95%	5%	25%

**1.2. Service Desk**

Service Maintenance Level	Coefficient (m)	Service Level Threshold % (a)	Service Failure Threshold % (b)	Minimum Service Credit % (c)	Maximum Service Credit % (d)
All	5	99%	95%	5%	25%

**2. Incident Resolution**

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Number of Incidents per Service Period	Coefficient (m)	Service Level Threshold %(a)	Service Failure Threshold % (b)	Minimum Service Credit % (c)	Maximum Service Credit % (d)
39 or fewer	Not applicable	No more than 2 Incidents are Resolved in excess of the max Incident Resolution Times	5 or more Incidents are Resolved in excess of the max Incident Resolution Times	2.5% (payable when 3 Incidents breach the Service Level Threshold in any Service Period)	5% (payable when 4+ Incidents breach the Service Level Threshold in any Service Period)
40 and more	0.25	95%	85%	2.5%	5%

**3. Quality****3.1. Service Desk:**

Criteria	Coefficient	Service Level Threshold	Service Failure Threshold	Minimum Service Credit	Maximum Service Credit
Calls Answered within 60 seconds	0.25	90%	80%	2.5%	5%
Email Responded to within one (1) Working Day	0.083	90%	60%	2.5%	5%
Abandoned Calls	0.25	95%	85%	2.5%	5%

**3.2. Data Service****3.2.1. Where the Buyer has procured Services that include data services, the**

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following provisions will apply:

- a) The Services will only be deemed to have been Delivered once the Buyer has tested and accepted the quality of the data service;
- b) Subsequent to Services commencement, where the Buyer believes the quality of the data service is not acceptable:
  - (i) an Incident will be raised with the Service Desk
  - (ii) the Supplier shall investigate the Incident;
  - (iii) Subsequent to the investigation, if:
    - A. a fault is found, the Incident is Resolved as any other Incident;
    - B. a fault is not found and the Buyer still believes the quality of the data service is unacceptable, the Supplier shall evidence to the Buyer that the data service complies with relevant Standards.
  - (iv) In the event that a fault is not found and the Supplier cannot evidence to the satisfaction of the Buyer that the data service complies with relevant Standards, the Service will be deemed Unavailable from the time that the Incident was first raised with the Service Desk and the Incident Resolution Time will be accordingly measured from that time.

### **3.3. Voice Service**

3.3.1. Where the Buyer has procured Services that include voice services, the following provisions will apply:

- a) The Services will only be deemed to have been Delivered once the Buyer has tested and accepted the quality of the voice service;
- b) Subsequent to Services commencement, where the Buyer believes the quality of the voice service is not acceptable:
  - (i) an Incident will be raised with the Service Desk;
  - (ii) the Supplier shall investigate the Incident;
  - (iii) Subsequent to the investigation, if:
    - A. a fault is found, the Incident is Resolved as any other Incident;
    - B. a fault is not found and the Buyer still believes the quality of the voice service is unacceptable, the Supplier shall evidence to the Buyer that the voice service complies with relevant Standards.

- (iv) In the event that a fault is not found and the Supplier cannot evidence to the satisfaction of the Buyer that the voice service complies with relevant Standards, the Service will be deemed Unavailable from the time that the Incident was first raised with the Service Desk and the Incident Resolution Time will be accordingly measured from that time.

## **PART B Annex 2: Critical Service Level Failure**

### **1. CRITICAL SERVICE LEVEL FAILURE**

- 1.1. A Critical Service Level Failure will be deemed to have occurred if the performance of the Services falls below the same Service Failure Threshold on three (3) occasions in any six (6) consecutive Service Periods.
- 1.2. In the event of a Critical Service Level Failure, the Buyer shall be entitled to terminate this Call-Off Contract for material Default.

## **Part C: Performance Monitoring**

### **1. Performance Monitoring and Performance Review**

1.1. Part C to this Call-Off Schedule provides the methodology for monitoring the provision of the Services:

1.1.1. to ensure that the Supplier is complying with the Service Levels; and

1.1.2. for identifying any failures to achieve Service Levels in the performance of the Supplier and/or provision of the Services (may also be referred to as a "Performance Monitoring System").

1.2. Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.

1.3. The Supplier shall report all failures to achieve Service Levels and any Critical Service Level Failure to the Buyer in accordance with the processes agreed in Paragraph 1.2 of Part C of this Call-Off Schedule above.

1.4. The Supplier shall provide the Buyer with performance monitoring reports ("Performance Monitoring Reports") in accordance with the process and timescales agreed pursuant to paragraph 1.2 of Part C of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:

1.4.1. for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;

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- 1.4.2. a summary of all failures to achieve Service Levels that occurred during that Service Period;
- 1.4.3. details of any Critical Service Level Failures;
- 1.4.4. for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
- 1.4.5. the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
- 1.4.6. such other details as the Buyer may reasonably require from time to time.
- 1.5. The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
  - 1.5.1. take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
  - 1.5.2. be attended by the Supplier's Representative and the Buyer's Representative; and
  - 1.5.3. be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.
- 1.6. The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.
- 1.7. The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

## **2. Satisfaction Surveys**

- 2.1. The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.



## **PART C ANNEX 1: ADDITIONAL PERFORMANCE MONITORING REQUIREMENTS**

[Guidance Note: Where the Buyer has stipulated on the Order Form during a Further Competition Procedure, insert details of any additional performance monitoring requirements here.]

## Call-Off Schedule 15 (Call-Off Contract Management)

### 1. DEFINITIONS

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Operational Board"</b>	the board established in accordance with paragraph 4.1 of this Schedule;
<b>"Project Manager"</b>	the manager appointed in accordance with paragraph 2.1 of this Schedule;

### 2. PROJECT MANAGEMENT

- 2.1 The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The 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 Without prejudice to paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

### 3. Role of the Supplier Contract Manager

- 3.1 The Supplier's Contract Manager shall be:
- 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
  - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be the delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;
  - 3.1.3 able to cancel any delegation and recommence the position himself; and
  - 3.1.4 replaced only after the Buyer has received notification of the proposed change.
- 3.2 The Buyer may provide revised instructions to the Supplier's Contract Manager in regards to the Contract and it will be the Supplier's Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.

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- 3.3 Receipt of communication from the Supplier's Contract Manager's by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

## **4. ROLE OF THE OPERATIONAL BOARD**

- 4.1 The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in the Order Form.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

## **5. Contract Risk Management**

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Call-Off Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
  - 5.2.1 the identification and management of risks;
  - 5.2.2 the identification and management of issues; and
  - 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to the Call Off Contract which the Buyer and the Supplier have identified.

## Call-Off Schedule 18 (Background Checks)

### 1. When you should use this Schedule

This Schedule should be used where Supplier Staff must be vetted before working on a Contract.

### 2. Definitions

**“Relevant Conviction”** means any conviction listed in Annex 1 to this Schedule.

### 3. Relevant Convictions

3.1.1 The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.

3.1.2 Notwithstanding Paragraph 3.1.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must):

- (a) carry out a check with the records held by the Department for Education (DfE);
- (b) conduct thorough questioning regarding any Relevant Convictions; and
- (c) ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

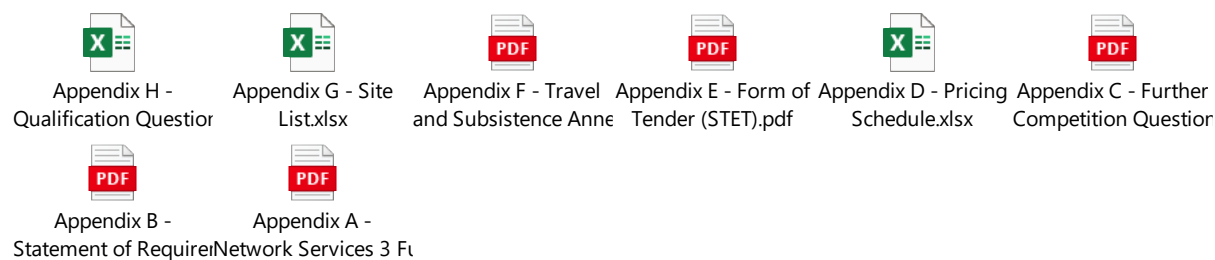
and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.

## **Annex 1 – Relevant Convictions**

- 1.1 All staff (both from the SUPPLIER and subcontractors) to have undergone Baseline Personnel Security Standard (BPSS) checks.

## Call-Off Schedule 20 (Call-Off Specification)

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



## Joint Schedule 1 (Definitions)

- 1.1 In each Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Joint 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 each 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 Central Government Body;
  - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
  - 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
  - 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
  - 1.3.7 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;
  - 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 each Contract are for ease of reference only and shall not affect the interpretation or construction of a Contract;
  - 1.3.12 where the Buyer is a Central Government Body it shall be treated as contracting with the Crown as a whole;

1.3.13 any reference in a Contract which immediately before Exit Day was a reference to (as it has effect from time to time):

- (a) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
- (b) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred; and

1.3.14 unless otherwise provided, references to "**Buyer**" shall be construed as including Exempt Buyers; and

1.3.15 unless otherwise provided, references to "**Call-Off Contract**" and "**Contract**" shall be construed as including Exempt Call-off Contracts.

1.4 In each Contract, unless the context otherwise requires, the following words shall have the following meanings:

<b>Accounting Reference Date</b>	means in each year the date to which the Supplier prepares its annual audited financial statements;
<b>Achieve"</b>	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " <b>Achieved</b> ", " <b>Achieving</b> " and " <b>Achievement</b> " shall be construed accordingly;
<b>Additional Insurances"</b>	insurance requirements relating to a Call-Off Contract specified in the Order Form additional to those outlined in Joint Schedule 3 (Insurance Requirements);
<b>Admin Fee"</b>	means the costs incurred by CCS in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the CCS on: <a href="http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees">http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees</a> ;
<b>Affected Party"</b>	the Party seeking to claim relief in respect of a Force Majeure Event;
<b>Affiliates"</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
<b>Annex"</b>	extra information which supports a Schedule;
<b>Approval"</b>	the prior written consent of the Buyer and " <b>Approve</b> " and " <b>Approved</b> " shall be construed accordingly;
<b>Audit"</b>	the Relevant Authority's right to:



	<ul style="list-style-type: none"> <li>a) verify the accuracy of the Charges and any other amounts payable by a Buyer under a Call-Off Contract (including proposed or actual variations to them in accordance with the Contract);</li> <li>b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;</li> <li>a) where the Relevant Authority is a Buyer, and the value of the relevant Call-Off Contract is greater than £3million, verify the Open Book Data;</li> <li>c) verify the Supplier's and each Subcontractor's compliance with the Contract and applicable Law;</li> <li>d) identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Joint Schedule 5 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Relevant Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;</li> <li>e) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;</li> <li>f) obtain such information as is necessary to fulfil the Relevant Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;</li> <li>g) review any books of account and the internal contract management accounts kept by the Supplier in connection with each Contract;</li> <li>h) carry out the Relevant Authority's internal and statutory audits and to prepare, examine and/or certify the Relevant Authority's annual and interim reports and accounts;</li> <li>i) 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 Relevant Authority has used its resources; or</li> <li>j) verify the accuracy and completeness of any Management Information delivered or required by the Framework Contract;</li> </ul>
<b>Auditor"</b>	<p>means:</p> <ul style="list-style-type: none"> <li>a) the Relevant Authority's internal and external auditors;</li> <li>b) the Relevant Authority's statutory or regulatory auditors;</li> <li>c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</li> <li>d) HM Treasury or the Cabinet Office;</li> <li>e) any party formally appointed by the Relevant Authority to carry out audit or similar review functions; and</li> <li>f) successors or assigns of any of the above;</li> </ul>

<b>Authority"</b>	CCS and each Buyer;
<b>Authority Cause"</b>	any breach of the obligations of the Relevant Authority or any other default, act, omission, negligence or statement of the Relevant Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Relevant Authority is liable to the Supplier;
<b>BACS"</b>	the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
<b>Beneficiary"</b>	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>Buyer"</b>	the relevant public sector purchaser identified as such in the Order Form;
<b>Buyer Assets"</b>	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;
<b>Buyer Authorised Representative"</b>	the representative appointed by the Buyer from time to time in relation to the Call-Off Contract initially identified in the Order Form;
<b>Buyer Premises"</b>	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
<b>Buyer System"</b>	has the meaning given to it in Schedule 6 (ICT Services);
<b>Call-Off Contract"</b>	the contract between the Buyer and the Supplier (entered into pursuant to the provisions of the Framework Contract), which consists of the terms set out and referred to in the Order Form;
<b>Call-Off Contract Period"</b>	the Contract Period in respect of the Call-Off Contract;
<b>Call-Off Expiry Date"</b>	the scheduled date of the end of a Call-Off Contract as stated in the Order Form;
<b>Call-Off Incorporated Terms"</b>	the contractual terms applicable to the Call-Off Contract specified under the relevant heading in the Order Form;
<b>Call-Off Initial Period"</b>	the Initial Period of a Call-Off Contract specified in the Order Form;
<b>Call Off Optional Extension Period"</b>	such period or periods beyond which the Call-Off Initial Period may be extended up to a maximum of the number of years in total specified in the Order Form
<b>Call-Off Procedure"</b>	the process for awarding a Call-Off Contract pursuant to Clause 2 (How the contract works) and Framework Schedule 7 (Call-Off Award Procedure);
<b>Call-Off Special Terms"</b>	any additional terms and conditions specified in the Order Form incorporated into the applicable Call-Off Contract;

<b>Call-Off Start Date"</b>	the date of start of a Call-Off Contract as stated in the Order Form;
<b>Call-Off Tender"</b>	the tender submitted by the Supplier in response to the Buyer's Statement of Requirements following a Further Competition Procedure and set out at Call-Off Schedule 4 (Call-Off Tender);
<b>Catalogue</b>	the Supplier's catalogue of Deliverables available to Buyers to order without Further Competition;
<b>Catalogue Publication Portal</b>	the CCS online publication channel via which Buyers can view the Catalogue;
<b>CCS"</b>	the Minister for the Cabinet Office as represented by Crown Commercial Service, which is an executive agency and operates as a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;
<b>CCS Authorised Representative"</b>	the representative appointed by CCS from time to time in relation to the Framework Contract initially identified in the Framework Award Form;
<b>Central Government Body"</b>	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none"> <li>a) Government Department;</li> <li>b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</li> <li>c) Non-Ministerial Department; or</li> <li>d) Executive Agency;</li> </ul>
<b>Change in Law"</b>	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
<b>Change of Control"</b>	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
<b>Charges"</b>	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Call-Off Contract, as set out in the Order Form, for the full and proper performance by the Supplier of its obligations under the Call-Off Contract less any Deductions;
<b>Claim"</b>	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
<b>Commercially Sensitive Information"</b>	the Confidential Information listed in the Framework Award Form or Order Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or 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;
<b>Comparable Supply"</b>	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>Compliance Officer"</b>	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;

<b>Confidential Information"</b>	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of CCS, the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as " <b>confidential</b> ") or which ought reasonably to be considered to be confidential;
<b>Conflict of Interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to CCS or any Buyer under a Contract, in the reasonable opinion of the Buyer or CCS;
<b>Contract"</b>	either the Framework Contract or the Call-Off Contract, as the context requires;
<b>Contract Period"</b>	the term of either a Framework Contract or Call-Off Contract on and from the earlier of the: a) applicable Start Date; or b) the Effective Date up to and including the applicable End Date;
<b>Contract Value"</b>	the higher of the actual or expected total Charges paid or payable under a Contract where all obligations are met by the Supplier;
<b>Contract Year"</b>	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
<b>Control"</b>	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and " <b>Controlled</b> " shall be construed accordingly;
<b>Controller"</b>	has the meaning given to it in the UK GDPR;
<b>Core Network</b>	the provision of any shared central core network capability forming part of the overall Services delivered to the Buyer, which is not specific or exclusive to a specific Call-Off Contract, and excludes any configuration information specifically associated with a specific Call-Off Contract;
<b>Core Terms"</b>	CCS' terms and conditions for common goods and services which govern how Suppliers must interact with CCS and Buyers under Framework Contracts and Call-Off Contracts;
<b>Costs"</b>	the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:  a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: i) base salary paid to the Supplier Staff; ii) employer's National Insurance contributions; iii) pension contributions; iv) car allowances; v) any other contractual employment benefits;

	<p>vi) staff training;</p> <p>vii) work place accommodation;</p> <p>viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and</p> <p>ix) reasonable recruitment costs, as agreed with the Buyer;</p> <p>b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;</p> <p>c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and</p> <p>d) Reimbursable Expenses to the extent these have been specified as allowable in the Order Form and are incurred in delivering any Deliverables;</p> <p>but excluding:</p> <p>i) Overhead;</p> <p>ii) financing or similar costs;</p> <p>iii) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Call-Off Contract Period whether in relation to Supplier Assets or otherwise;</p> <p>iv) taxation;</p> <p>v) fines and penalties;</p> <p>vi) amounts payable under Call-Off Schedule 16 (Benchmarking) where such Schedule is used; and</p> <p>vii) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</p>
<b>CRTPA"</b>	the Contract Rights of Third Parties Act 1999;
<b>Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>Data Protection Legislation"</b>	<p>(i) the UK GDPR as amended from time to time;</p> <p>(ii) the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy;</p> <p>(iii) all applicable Law about the Processing of Personal Data and privacy;</p>
<b>Data Protection Liability Cap"</b>	the amount specified in the Framework Award Form;

<b>Data Protection Officer"</b>	has the meaning given to it in the UK GDPR;
<b>Data Subject"</b>	has the meaning given to it in the UK GDPR;
<b>Data Subject Access Request"</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>Deductions"</b>	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under a Call-Off Contract;
<b>Default"</b>	any breach of the obligations of the Supplier (including abandonment of a Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of a Contract and in respect of which the Supplier is liable to the Relevant Authority;
<b>Default Management Charge"</b>	has the meaning given to it in Paragraph 8.1.1 of Framework Schedule 5 (Management Charges and Information);
<b>Delay Payments"</b>	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
<b>Deliverables"</b>	Goods and/or Services that may be ordered under the Contract including the Documentation;
<b>Delivery"</b>	delivery of the relevant Deliverable or Milestone in accordance with the terms of a Call-Off Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Call-Off Schedule 13 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. " <b>Deliver</b> " and " <b>Delivered</b> " shall be construed accordingly;
<b>Direct Award Criteria"</b>	the award criteria to be applied for the direct award of Call-Off Contracts for Services set out in Framework Schedule 7 (Call-Off Award Procedure);
<b>Disclosing Party"</b>	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential);
<b>Dispute"</b>	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
<b>Dispute Resolution Procedure"</b>	the dispute resolution procedure set out in Clause 34 (Resolving disputes);
<b>Documentation"</b>	descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other

	<p>documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under a Contract as:</p> <p>would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</p> <p>is required by the Supplier in order to provide the Deliverables; and/or</p> <p>has been or shall be generated for the purpose of providing the Deliverables;</p>
<b>DOTAS"</b>	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;
<b>DPA 2018"</b>	the Data Protection Act 2018;
<b>Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Authority prior to the Start Date;
<b>Effective Date"</b>	the date on which the final Party has signed the Contract;
<b>EIR"</b>	the Environmental Information Regulations 2004;
<b>Electronic Invoice"</b>	an invoice which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing and which complies with (a) the European standard and (b) any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870;
<b>Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;
<b>End Date"</b>	<p>the earlier of:</p> <p>the Expiry Date (as extended by any Extension Period exercised by the Relevant Authority under Clause 10.1.2); or</p> <p>if a Contract is terminated before the date specified in (a) above, the date of termination of the Contract;</p>
<b>Environmental Policy"</b>	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
<b>Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;

<b>"Estimated Year 1 Charges"</b>	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Order Form;
<b>"Estimated Yearly Charges"</b>	<p>means for the purposes of calculating each Party's annual liability under clause 11.2 :</p> <ul style="list-style-type: none"> <li>i) in the first Contract Year, the Estimated Year 1 Charges; or</li> <li>ii) in the any subsequent Contract Years, the Charges paid or payable in the previous Call-off Contract Year; or</li> <li>iii) after the end of the Call-off Contract, the Charges paid or payable in the last Contract Year during the Call-off Contract Period;</li> </ul>
<b>"Exempt Buyer"</b>	<p>a public sector purchaser that is:</p> <ul style="list-style-type: none"> <li>a) eligible to use the Framework Contract; and</li> <li>b) is entering into an Exempt Call-off Contract that is not subject to (as applicable) any of: <ul style="list-style-type: none"> <li>i) the Regulations;</li> <li>ii) the Concession Contracts Regulations 2016 (SI 2016/273);</li> <li>iii) the Utilities Contracts Regulations 2016 (SI 2016/274);</li> <li>iv) the Defence and Security Public Contracts Regulations 2011 (SI 2011/1848);</li> <li>v) the Remedies Directive (2007/66/EC);</li> <li>vi) Directive 2014/23/EU of the European Parliament and Council;</li> <li>vii) Directive 2014/24/EU of the European Parliament and Council;</li> <li>viii) Directive 2014/25/EU of the European Parliament and Council; or</li> <li>ix) Directive 2009/81/EC of the European Parliament and Council;</li> </ul> </li> </ul>
<b>"Exempt Call-off Contract"</b>	the contract between the Exempt Buyer and the Supplier for Deliverables which consists of the terms set out and referred to in the Order Form incorporating and, where necessary, amending, refining or adding to the terms of the Framework Contract;
<b>"Exempt Procurement Amendments"</b>	any amendments, refinements or additions to any of the terms of the Framework Contract made through the Exempt Call-off Contract to reflect the specific needs of an Exempt Buyer to the extent permitted by and in accordance with any legal requirements applicable to that Exempt Buyer;



<b>Existing IPR "</b>	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
<b>Exit Day"</b>	shall have the meaning in the European Union (Withdrawal) Act 2018;
<b>Expiry Date"</b>	the Framework Expiry Date or the Call-Off Expiry Date (as the context dictates);
<b>Extension Period"</b>	the Framework Optional Extension Period or the Call-Off Optional Extension Period as the context dictates;
<b>Financial Reports</b>	<p>a report by the Supplier to the Buyer that:</p> <ul style="list-style-type: none"> <li>a) provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;</li> <li>b) provides a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);</li> <li>c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Start Date for the purposes of the Contract; and</li> </ul> <p>is certified by the Supplier's Chief Financial Officer or Director of Finance;</p>
<b>FOIA "</b>	the Freedom of Information Act 2000 as amended from time to time and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>Force Majeure Event"</b>	<p>any event outside the reasonable control of either Party affecting its performance of its obligations under the 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:</p> <ul style="list-style-type: none"> <li>a) riots, civil commotion, war or armed conflict;</li> <li>b) acts of terrorism;</li> <li>c) acts of government, local government or regulatory bodies;</li> <li>d) fire, flood, storm or earthquake or other natural disaster,</li> </ul> <p>but excluding any industrial dispute relating to the Supplier, the Supplier Staff or any other failure in the Supplier or the Subcontractor's supply chain;</p>
<b>Force Majeure Notice"</b>	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;

<b>Framework Award Form</b>	the document outlining the Framework Incorporated Terms and crucial information required for the Framework Contract, to be executed by the Supplier and CCS;
<b>Framework Contract</b>	the framework agreement established between CCS and the Supplier in accordance with Regulation 33 by the Framework Award Form for the provision of the Deliverables to Buyers by the Supplier pursuant to the notice published on the Find a Tender Service;
<b>Framework Contract Period</b>	the period from the Framework Start Date until the End Date of the Framework Contract;
<b>Framework Expiry Date</b>	the scheduled date of the end of the Framework Contract as stated in the Framework Award Form;
<b>Framework Incorporated Terms</b>	the contractual terms applicable to the Framework Contract specified in the Framework Award Form;
<b>Framework Initial Period</b>	the initial term of the Framework Contract as specified in the Framework Award Form;
<b>Framework Optional Extension Period</b>	such period or periods beyond which the Framework Contract Period may be extended as specified in the Framework Award Form;
<b>Framework Price(s)</b>	the price(s) applicable to the provision of the Deliverables set out in Framework Schedule 3 (Framework Prices);
<b>Framework Special Terms</b>	any additional terms and conditions specified in the Framework Award Form incorporated into the Framework Contract;
<b>Framework Start Date</b>	the date of start of the Framework Contract as stated in the Framework Award Form;
<b>Framework Tender Response</b>	the tender submitted by the Supplier to CCS and annexed to or referred to in Framework Schedule 2 (Framework Tender);
<b>Further Competition Procedure</b>	the further competition procedure described in Framework Schedule 7 (Call-Off Award Procedure);
<b>UK GDPR</b>	the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>General Anti-Abuse Rule</b>	<ul style="list-style-type: none"> <li>a) the legislation in Part 5 of the Finance Act 2013; and</li> <li>b) any future legislation introduced into parliament to counteract Tax advantages arising from abusive arrangements to avoid National Insurance contributions;</li> </ul>
<b>General Change in Law</b>	a Change in Law where the change is of a general legislative nature (including Tax or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<b>Gold Contract</b>	a Call-Off Contract categorised as a Gold contract using the Cabinet Office Contract Tiering Tool;
<b>Goods</b>	goods made available by the Supplier as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form ;
<b>Good Industry Practice</b>	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence,

	prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>Government"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>Government Data"</b>	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Authority's Confidential Information, and which: <ul style="list-style-type: none"> <li>i) are supplied to the Supplier by or on behalf of the Authority; or</li> <li>ii) the Supplier is required to generate, process, store or transmit pursuant to a Contract;</li> </ul>
<b>Guarantor"</b>	the person (if any) who has entered into a guarantee in the form set out in Joint Schedule 8 (Guarantee) in relation to this Contract;
<b>HM Government</b>	Her Majesty's Government;
<b>Halifax Abuse Principle"</b>	the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>Health and Social Care Network or ICSN</b>	the government's network for health and social care, which helps all organisations involved in health and social care delivery to work together and interoperate; and as described at <a href="https://digital.nhs.uk/services/health-and-social-care-network">https://digital.nhs.uk/services/health-and-social-care-network</a> ;
<b>HMRC"</b>	Her Majesty's Revenue and Customs;
<b>ICT Environment</b>	the ICT systems related to a Call-Off Contract described in Call-Off Schedule 6 (ICT Services);
<b>ICT Policy"</b>	the Buyer's policy in respect of information and communications technology, referred to in the Order Form, which is in force as at the Call-Off Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
<b>ICT Services</b>	the ICT related Services to be delivered under a Call-Off Contract described in Call-Off Schedule 6 (ICT Services);
<b>Impact Assessment"</b>	an assessment of the impact of a Variation request by the Relevant Authority completed in good faith, including: <ul style="list-style-type: none"> <li>a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract;</li> <li>b) details of the cost of implementing the proposed Variation;</li> <li>c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Framework Prices/Charges (as applicable), any alteration in the</li> </ul>

	<p>resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</p> <p>d) a timetable for the implementation, together with any proposals for the testing of the Variation; and</p> <p>e) such other information as the Relevant Authority may reasonably request in (or in response to) the Variation request;</p>
<b>Implementation Plan"</b>	the plan for provision of the Deliverables set out in Call-Off Schedule 13 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
<b>Indemnifier"</b>	a Party from whom an indemnity is sought under this Contract;
<b>Independent Control"</b>	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and <b>"Independent Controller"</b> shall be construed accordingly;
<b>Indexation"</b>	the adjustment of an amount or sum in accordance with Framework Schedule 3 (Framework Prices) and the relevant Order Form;
<b>Information"</b>	has the meaning given under section 84 of the Freedom of Information Act 2000;
<b>Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>Initial Period"</b>	the initial term of a Contract specified in the Framework Award Form or the Order Form, as the context requires;
<b>Insolvency Event"</b>	<p>with respect to any person, means:</p> <p>(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:</p> <p>(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</p> <p>(ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;</p> <p>(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;</p>

	<p>(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;</p> <p>(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 14 days;</p> <p>(e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;</p> <p>(f) where that person is a company, a LLP or a partnership:</p> <p>(i) a petition is presented (which is not dismissed within 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;</p> <p>(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;</p> <p>(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</p> <p>(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</p> <p>(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;</p>
<b>Installation Works"</b>	all works which the Supplier is to carry out at the beginning of the Call-Off Contract Period to install the Goods in accordance with the Call-Off Contract;
<b>Intellectual Property Rights" or "IPR"</b>	<p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>

<b>Invoicing Address"</b>	the address to which the Supplier shall invoice the Buyer as specified in the Order Form;
<b>IPR Claim"</b>	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Relevant Authority in the fulfilment of its obligations under a Contract;
<b>IR35"</b>	the off-payroll rules requiring individuals who work through their company pay the same income tax and National Insurance contributions as an employee which can be found online at: <a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a> ;
<b>ISO</b>	International Organization for Standardization;
<b>Joint Controller Agreement"</b>	the agreement (if any) entered into between the Relevant Authority and the Supplier substantially in the form set out in Annex 2 of Joint Schedule 11 ( <i>Processing Data</i> );
<b>Joint Controllers"</b>	where two or more Controllers jointly determine the purposes and means of Processing;
<b>Key Staff"</b>	the individuals (if any) identified as such in the Order Form;
<b>Key Sub-Contract"</b>	each Sub-Contract with a Key Subcontractor;
<b>Key Subcontractor"</b>	any Subcontractor: a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or b) which, in the opinion of CCS or the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or c) 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 the Call-Off Contract, and the Supplier shall list all such Key Subcontractors in section 19 of the Framework Award Form and in the Key Subcontractor Section in Order Form;
<b>Know-How"</b>	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the applicable Start Date;
<b>Law"</b>	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply;

<b>Losses"</b>	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and " <b>Loss</b> " shall be interpreted accordingly;
<b>Lots"</b>	the number of lots specified in Framework Schedule 1 (Specification), if applicable;
<b>Management Charge"</b>	the sum specified in the Framework Award Form payable by the Supplier to CCS in accordance with Framework Schedule 5 (Management Charges and Information);
<b>Management Information" or "MI"</b>	the management information specified in Framework Schedule 5 (Management Charges and Information);
<b>MI Default"</b>	means when two (2) MI Reports are not provided in any rolling six (6) month period
<b>MI Failure"</b>	means when an MI report: a) contains any material errors or material omissions or a missing mandatory field; or b) is submitted using an incorrect MI reporting Template; or c) is not submitted by the reporting date (including where a declaration of no business should have been filed);
<b>MI Report"</b>	means a report containing Management Information submitted to the Authority in accordance with Framework Schedule 5 (Management Charges and Information);
<b>MI Reporting Template"</b>	means the form of report set out in the Annex to Framework Schedule 5 (Management Charges and Information) setting out the information the Supplier is required to supply to the Authority;
<b>Milestone"</b>	an event or task described in the Implementation Plan;
<b>Milestone Date"</b>	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
<b>Month"</b>	a calendar month and " <b>Monthly</b> " shall be interpreted accordingly;
<b>National Insurance"</b>	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
<b>Nationally Critical Public Sector Domains</b>	domains where loss of access or an outage (for any reason) would cause immediate and extended outages of public-facing digital services, disrupting citizens' access to the services they depend on including benefits, and loss and disruption of all Government internal communications, including public servants accessing their own internal IT.  There are a number of nationally critical domains within the UK, including but not limited to .gov.uk, .nhs.uk, gov.scot, gov.wales, .police.uk and .mod.uk.

<b>New IPR "</b>	<p>a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of a Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p> <p>b) IPR in or arising as a result of the performance of the Supplier's obligations under a Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR;</p>
<b>Occasion of Tax Non-Compliance"</b>	<p>where:</p> <p>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:</p> <ul style="list-style-type: none"> <li>i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any Tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</li> <li>ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</li> </ul> <p>b) any Tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which 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 Start Date or to a civil penalty for fraud or evasion;</p>
<b>Open Book Data "</b>	<p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Call-Off Contract, including details and all assumptions relating to:</p> <ul style="list-style-type: none"> <li>a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;</li> <li>b) operating expenditure relating to the provision of the Deliverables including an analysis showing: <ul style="list-style-type: none"> <li>i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;</li> <li>ii) staff costs broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each grade;</li> <li>iii) a list of Costs underpinning those rates for each grade, being the agreed rate less the Supplier Profit Margin; and</li> <li>iv) Reimbursable Expenses, if allowed under the Order Form;</li> </ul> </li> </ul>



	<p>c) Overheads;</p> <p>d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;</p> <p>e) the Supplier Profit achieved over the Framework Contract Period and on an annual basis;</p> <p>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;</p> <p>g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and</p> <p>h) the actual Costs profile for each Service Period;</p>
<b>Order"</b>	means an order for the provision of the Deliverables placed by a Buyer with the Supplier under a Contract;
<b>Order Form"</b>	a completed Order Form Template (or equivalent information issued by the Buyer) used to create a Call-Off Contract;
<b>Order Form Template"</b>	the template in Framework Schedule 6 (Order Form Template and Call-Off Schedules);
<b>Other Contracting Authority"</b>	any actual or potential Buyer under the Framework Contract;
<b>Overhead"</b>	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";
<b>Parliament"</b>	takes its natural meaning as interpreted by Law;
<b>Party"</b>	in the context of the Framework Contract, CCS or the Supplier, and in the in the context of a Call-Off Contract the Buyer or the Supplier. <b>"Parties"</b> shall mean both of them where the context permits;
<b>Performance Indicators" or "PIs"</b>	the performance measurements and targets in respect of the Supplier's performance of the Framework Contract set out in Framework Schedule 4 (Framework Management);
<b>Personal Data"</b>	has the meaning given to it in the UK GDPR;
<b>Personal Data Breach"</b>	has the meaning given to it in the UK GDPR;
<b>Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of a Party and/or of any Subcontractor and/or Subprocessor engaged in the performance of its obligations under a Contract;
<b>Prescribed Person"</b>	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', 24 November 2016, available

	online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;
<b>Primary Services</b>	the components described in paragraph 1.2.2 of Part A of Framework Schedule 1 (Specification);
<b>Processing”</b>	has the meaning given to it in the UK GDPR;
<b>Processor”</b>	has the meaning given to it in the UK GDPR;
<b>Progress Meeting”</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>Progress Meeting frequency”</b>	the frequency at which the Supplier shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Order Form;
<b>Progress Report”</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
<b>Progress Report frequency”</b>	the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Order Form;
<b>Prohibited Acts”</b>	<p>a) to directly or indirectly offer, promise or give any person working for or engaged by a Buyer or any other public body a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>i) induce that person to perform improperly a relevant function or activity; or</li> <li>ii) reward that person for improper performance of a relevant function or activity;</li> </ul> <p>b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with each Contract; or</p> <p>c) committing any offence:</p> <ul style="list-style-type: none"> <li>i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> <li>ii) under legislation or common law concerning fraudulent acts; or</li> <li>iii) defrauding, attempting to defraud or conspiring to defraud a Buyer or other public body; or</li> </ul> <p>d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</p>
<b>Protective Measures”</b>	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Framework Schedule 9

	(Cyber Essentials Scheme), if applicable, in the case of the Framework Contract or Call-Off Schedule 9 (Security), if applicable, in the case of a Call-Off Contract.
<b>Public Services Network or PSN</b>	the network of networks delivered through multiple service providers, as further detailed in the PSN operating model; and described at <a href="https://www.gov.uk/government/groups/public-services-network">https://www.gov.uk/government/groups/public-services-network</a> ;
<b>Rating Agency</b>	as defined in the Framework Award Form or the Order Form, as the context requires;
<b>Recall"</b>	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 right IPR rights) that might endanger health or hinder performance;
<b>Recipient Party"</b>	the Party which receives or obtains directly or indirectly Confidential Information;
<b>Rectification Plan"</b>	the Supplier's plan (or revised plan) to rectify it's breach using the template in Joint Schedule 10 (Rectification Plan) which shall include:  a) full details of the Default that has occurred, including a root cause analysis;  b) the actual or anticipated effect of the Default; and  c) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable);
<b>Rectification Plan Process"</b>	the process set out in Clause 10.3.1 to 10.3.4 (Rectification Plan Process);
<b>Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
<b>Reimbursable Expenses"</b>	the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:  a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and  b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;

<b>Relevant Authority"</b>	the Authority which is party to the Contract to which a right or obligation is owed, as the context requires;
<b>Relevant Authority's Confidential Information"</b>	a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Relevant Authority (including all Relevant Authority Existing IPR and New IPR);  b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Relevant Authority's attention or into the Relevant Authority's possession in connection with a Contract; and  information derived from any of the above;
<b>Relevant Requirements"</b>	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
<b>Relevant Tax Authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
<b>Reminder Notice"</b>	a notice sent in accordance with Clause 10.5 given by the Supplier to the Buyer providing notification that payment has not been received on time;
<b>Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables following the Call-Off Expiry Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>Replacement Subcontractor"</b>	a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);
<b>Replacement Supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>Request For Information"</b>	a request for information or an apparent request relating to a Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>Required Insurances"</b>	the insurances required by Joint Schedule 3 (Insurance Requirements) or any additional insurances specified in the Order Form;
<b>RTI</b>	Real Time Information
<b>Satisfaction Certificate"</b>	the certificate (materially in the form of the document contained in of Part B of Call-Off Schedule 13 (Implementation Plan and Testing) or as agreed by the Parties where Call-Off Schedule 13 is not used in this Contract) granted by the Buyer when the Supplier has met all of the requirements of an Order, Achieved a Milestone or a Test;

<b>Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Call-Off Schedule 9 (Security) (if applicable);
<b>Security Policy"</b>	the Buyer's security policy, referred to in the Order Form, in force as at the Call-Off Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
<b>Self Audit Certificate"</b>	means the certificate in the form as set out in Framework Schedule 8 (Self Audit Certificate);
<b>Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>Service Levels"</b>	any service levels applicable to the provision of the Deliverables under the Call Off Contract (which, where Call Off Schedule 14 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>Service Offer</b>	a Deliverable made available to Buyers by the Supplier via the Catalogue;
<b>Service Offer Effective Date</b>	the date when the Service Offer will be available to Buyers on the Catalogue;
<b>Service Offer Expiry Date</b>	the date the Service Offer will be/was removed from the Catalogue;
<b>Service Offer Price Card</b>	a list of prices, rates and other amounts for a specific Service Offer;
<b>Service Offer Template</b>	the template set out at Annex 1 to Part B of Framework Schedule 3 (Framework Prices);
<b>Service Period"</b>	has the meaning given to it in the Order Form;
<b>Services"</b>	services made available by the Supplier as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form;
<b>Service Transfer"</b>	any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
<b>Service Transfer Date"</b>	the date of a Service Transfer;
<b>Sites"</b>	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: a) the Deliverables are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;
<b>SME"</b>	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 enterprises;

<b>Smart Cities (Smart share and connected spaces)</b>	use of information, and communication technologies to increase operational efficiency, share information with the public and improve both the quality of government services and citizen welfare.  Solutions in this area generally combine a number of technologies, including sensors for the collection of data, connectivity to cloud hosted data management platforms, and data visualisation applications.
<b>Special Terms"</b>	any additional Clauses set out in the Framework Award Form or Order Form which shall form part of the respective Contract;
<b>Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
<b>Specification"</b>	the specification set out in Framework Schedule 1 (Specification), as may, in relation to a Call-Off Contract, be supplemented by the Order Form;
<b>Standards"</b>	any:  a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;  b) standards detailed in the specification in Schedule 1 (Specification);  c) standards detailed by the Buyer in the Order Form or agreed between the Parties from time to time;  d) relevant Government codes of practice and guidance applicable from time to time;
<b>Start Date"</b>	in the case of the Framework Contract, the date specified on the Framework Award Form, and in the case of a Call-Off Contract, the date specified in the Order Form;
<b>Statement of Requirements"</b>	a statement issued by the Buyer detailing its requirements in respect of Deliverables issued in accordance with the Call-Off Procedure;
<b>Storage Media"</b>	the part of any device that is capable of storing and retrieving data;

<b>Sub-Contract"</b>	any contract or agreement (or proposed contract or agreement), other than a Call-Off Contract or the Framework Contract, pursuant to which a third party:  a) provides the Deliverables (or any part of them);  b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or  c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
<b>Subcontractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of that Processor related to a Contract;
<b>Supplier"</b>	the person, firm or company identified in the Framework Award Form;
<b>Supplier Action Plan</b>	a document, maintained by the Authority, capturing information about the relationship between the Parties including, but not limited to strategic objectives, actions, initiatives, communication channels, risks and supplier performance;
<b>Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Call-Off Contract but excluding the Buyer Assets;
<b>Supplier Authorised Representative"</b>	the representative appointed by the Supplier named in the Framework Award Form, or later defined in a Call-Off Contract;
<b>Supplier's Confidential Information"</b>	a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier;  b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with a Contract;  c) Information derived from any of (a) and (b) above;
<b>"Supplier's Contract Manager</b>	the person identified in the Order Form appointed by the Supplier to oversee the operation of the Call-Off Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>Supplier Equipment"</b>	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Call-Off Contract;

<b>Supplier Marketing Contact"</b>	shall be the person identified in the Framework Award Form;
<b>Supplier Non-performance"</b>	where the Supplier has failed to: a) Achieve a Milestone by its Milestone Date; b) provide the Goods and/or Services in accordance with the Service Levels ; and/or c) comply with an obligation under a Contract;
<b>Supplier Profit"</b>	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of a Call-Off Contract for the relevant period;
<b>Supplier Profit Margin"</b>	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
<b>Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;
<b>Supporting Documentation"</b>	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Call-Off Contract detailed in the information are properly payable;
<b>Tax"</b>	a) all forms of taxation whether direct or indirect; b) national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction; c) all statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imports, contributions, levies or liabilities (other than in return for goods or services supplied or performed or to be performed) and withholdings; and d) any penalty, fine, surcharge, interest, charges or costs relating to any of the above, in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction;
<b>TEM Provider</b>	a Supplier appointed by CCS to provide telecoms expense management;
<b>Termination Notice"</b>	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 a Contract on a specified date and setting out the grounds for termination;
<b>Test Issue"</b>	any variance or non-conformity of the Deliverables from their requirements as set out in a Call-Off Contract;
<b>Test Plan"</b>	a plan: a) for the Testing of the Deliverables; and



	b) setting out other agreed criteria related to the achievement of Milestones;
<b>Tests "</b>	any tests required to be carried out pursuant to a Call-Off Contract as set out in the Test Plan or elsewhere in a Call-Off Contract and <b>"Tested"</b> and <b>"Testing"</b> shall be construed accordingly;
<b>Third Party IPR "</b>	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
<b>Time and Materials</b>	a pricing mechanism whereby the Buyer agrees to pay the Supplier based upon the work performed by the Supplier's employees and Sub-Contractors, and for materials used in the project, no matter how much work is required to complete the project;
<b>Transferring Supplier Employees "</b>	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;
<b>Transparency Information "</b>	the Transparency Reports and the content of a Contract, including any changes to this Contract agreed from time to time, except for –  (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Relevant Authority; and  (ii) Commercially Sensitive Information;
<b>Transparency Reports "</b>	the information relating to the Deliverables and performance of the Contracts which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Call-Off Schedule 1 (Transparency Reports);
<b>TUPE</b>	Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other regulations or UK legislation implementing the Acquired Rights Directive
<b>United Kingdom</b>	the country that consists of England, Scotland, Wales, and Northern Ireland
<b>Variation "</b>	any change to a Contract;
<b>Variation Form "</b>	the form set out in Joint Schedule 2 (Variation Form);
<b>Variation Procedure "</b>	the procedure set out in Clause 24 (Changing the contract);
<b>VAT "</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>VCSE "</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
<b>Worker "</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-">https://www.gov.uk/government/publications/procurement-policy-</a>

**Joint Schedule 1 (Definitions)**

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	note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables;
<b>Working Day"</b>	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Order Form;
<b>Work Day"</b>	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day; and
<b>Work Hours"</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks.

## Joint Schedule 2 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 24 (Changing the Contract)

Contract Details	
This variation is between:	<b>[delete]</b> as applicable: CCS / Buyer] (" <b>CCS</b> " " <b>the Buyer</b> ") And <b>[insert]</b> name of Supplier] (" <b>the Supplier</b> ")
Contract name:	<b>[insert]</b> name of contract to be changed] (" <b>the Contract</b> ")
Contract reference number:	<b>[insert]</b> contract reference number]
Details of Proposed Variation	
Variation initiated by:	<b>[delete]</b> as applicable: CCS/Buyer/Supplier]
Variation number:	<b>[insert]</b> variation number]
Date variation is raised:	<b>[insert]</b> date]
Proposed variation	
Reason for the variation:	<b>[insert]</b> reason]
An Impact Assessment shall be provided within:	<b>[insert]</b> number] days
Impact of Variation	
Likely impact of the proposed variation:	<b>[Supplier to insert]</b> assessment of impact]
Outcome of Variation	
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"><li><b>[CCS/Buyer to insert]</b> original Clauses or Paragraphs to be varied and the changed clause]</li></ul>
Financial variation:	Original Contract Value: £ <b>[insert]</b> amount]
	Additional cost due to variation: £ <b>[insert]</b> amount]
	New Contract value: £ <b>[insert]</b> amount]

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by **[delete]** as applicable: CCS / Buyer]
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the **[delete]** as applicable: CCS / Buyer]

Signature

Date

Name (in Capitals)

Address

.....  
Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in Capitals)

Address



## Joint Schedule 3 (Insurance Requirements)

### 1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule, any additional insurances required under a Call-Off Contract (specified in the applicable Order Form) ("**Additional Insurances**") 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:
  - 1.1.1 the Framework Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
  - 1.1.2 the Call-Off Contract Effective Date in respect of the Additional Insurances.
- 1.2 The Insurances shall be:
  - 1.2.1 maintained in accordance with Good Industry Practice;
  - 1.2.2 (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;
  - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
  - 1.2.4 maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Relevant Authority shall be indemnified in respect of claims made against the Relevant Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

### 2. How to manage the insurance

- 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 Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
  - 2.1.2 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. What happens if you aren't insured**

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

### **4. Evidence of insurance you must provide**

- 4.1 The Supplier shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Relevant Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

### **5. Making sure you are insured to 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 at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Supplier shall notify the Relevant Authority and provide details of its proposed solution for maintaining the minimum limit of indemnity.

### **6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Relevant Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Relevant Authority (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

### **7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or each Contract for which it may be entitled to claim under any of the Insurances. In the event that the Relevant Authority receives a claim relating to or arising out of a Contract or the Deliverables, the Supplier shall co-operate with the Relevant Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.

### **Joint Schedule 3 (Insurance Requirements)**

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- 7.2 Except where the Relevant Authority is the claimant party, the Supplier shall give the Relevant Authority notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables 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 Relevant Authority) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Relevant Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.



**ANNEX: REQUIRED INSURANCES**

1. The Supplier shall hold the following [standard] insurance cover from the Framework Start Date in accordance with this Schedule:
  - 1.1 professional indemnity insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] one million pounds (£1,000,000);
  - 1.2 public liability insurance [with cover (for a single event or a series of related events and in the aggregate)] of not less than one million pounds (£1,000,000); and
  - 1.3 employers' liability insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] five million pounds (£5,000,000).
  - 1.4 product liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than one million pounds (£1,000,000)



## Joint Schedule 4 (Commercially Sensitive Information)

### 1. What is the Commercially Sensitive Information?

- 1.1 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.
- 1.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below and in the Order Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Relevant Authority's obligation to disclose Information in accordance with FOIA or Clause 16 of the Core Terms (When you can share information), the Relevant Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

This will be completed from the information provided in your tender response to "Appendix H - Qualification Questionnaire", tab "Commercially Sensitive Info"

No.	Date	Item(s)	Duration of Confidentiality
1	05 December 2024	North considers the pricing element of this response to be commercially sensitive information.	Duration of the contract



## Joint Schedule 5 (Corporate Social Responsibility)

### Part A

#### 1. Definitions

<b>“Corporate Social Responsibility Reports”</b>	written reports which the Supplier must complete and provide to the Buyer in accordance with Part B of this Schedule;
<b>“Carbon Reduction Plan”</b>	a plan which contains the details of emissions across a single year against a range of emissions sources and greenhouse gases, as per PPN 06/21;
<b>“Modern Slavery Helpline”</b>	means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <a href="https://www.modernslaveryhelpline.org/report">https://www.modernslaveryhelpline.org/report</a> or by telephone on 08000 121 700;
<b>“Prohibited Items”</b>	means those items set out in Table A which the Supplier must not use in its performance of the Contract; and
<b>“Waste Hierarchy”</b>	<p>means prioritisation of waste management in the following order of preference:</p> <ul style="list-style-type: none"><li>prevention – by using less material in design and manufacture. Keeping products for longer;</li><li>preparing for re-use – by checking, cleaning, repairing, refurbishing, whole items or spare parts;</li><li>recycling – by turning waste into a new substance or produce, including composting if it meets quality protocols;</li><li>other recovery – through anaerobic digestion, incineration with energy recovery, gasification and pyrolysis which produce energy (fuels, heat and power) and materials from waste; some backfilling; and</li><li>disposal - Landfill and incineration without energy recovery.</li></ul>

## 1. What we expect from our Suppliers

- 1.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.  
([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779660/20190220-Supplier\\_Code\\_of\\_Conduct.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf))
- 1.2 CCS expects its suppliers and subcontractors to meet the standards set out in that Code. In addition, CCS expects its suppliers and subcontractors to comply with the standards set out in this Schedule.
- 1.3 The Supplier acknowledges that the Buyer may have additional requirements in relation to corporate social responsibility. The Buyer expects that the Supplier and its Subcontractors will comply with such corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time.

## 2. Equality and Accessibility

- 2.1 In addition to legal obligations, the Supplier shall support CCS and the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:
  - 2.1.1 eliminate discrimination, harassment or victimisation of any kind; and
  - 2.1.2 advance equality of opportunity and 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.

## 3. Modern Slavery, Child Labour and Inhumane Treatment

- 3.1 The Supplier:
  - 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
  - 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;
  - 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
  - 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world.

- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offenses anywhere around the world.
- 3.1.6 shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;
- 3.1.8 shall prepare and deliver to CCS, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to CCS, the Buyer and Modern Slavery Helpline.

#### **4. Income Security**

##### **4.1 The Supplier shall:**

- 4.1.1 ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
- 4.1.2 ensure that all Supplier Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;
- 4.1.3 not make deductions from wages:
  - (a) as a disciplinary measure
  - (b) except where permitted by law; or
  - (c) without expressed permission of the worker concerned;
- 4.1.4 record all disciplinary measures taken against Supplier Staff; and
- 4.1.5 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

## **5. Working Hours**

5.1 The Supplier shall:

- 5.1.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;
- 5.1.2 that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;
- 5.1.3 ensure that use of overtime used responsibly, taking into account:
  - (a) the extent;
  - (b) frequency; and
  - (c) hours worked;

by individuals and by the Supplier Staff as a whole;

5.2 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.

5.3 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:

- 5.3.1 this is allowed by national law;
- 5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce
- 5.3.3 appropriate safeguards are taken to protect the workers' health and safety; and
- 5.3.4 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

5.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

## **6. Environmental Requirements**

6.1. The Supplier shall comply in all material respects with all applicable environmental laws, permits and regulations in force in relation to the Contract.



- 6.2. The Supplier warrants that it has complied with the principles of ISO 14001 standards throughout the Term.
- 6.3. The Supplier shall meet the Government Buying Standards applicable to the Deliverables which can be found online at:  
<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>.

## **Part B – Sustainability and Reporting**

### **1. Sustainability Requirements**

- 1.1 The Supplier shall complete the Corporate Social Responsibility Report at Paragraph 3 of this Part B in relation to its provision of the Deliverables under this Contract and provide the Corporate Social Responsibility Report to the Buyer on the date and frequency outlined in Table A of this Part B.
- 1.2 The Supplier shall use reasonable endeavours to avoid the use of paper and card in carrying out its obligations under this Contract. Where unavoidable under reasonable endeavours, the Supplier shall ensure that any paper or card deployed in the performance of the Services consists of one hundred percent (100%) recycled content and used on both sides where feasible to do so.
- 1.3 The Supplier shall complete and provide CCS with a Carbon Reduction Plan.
- 1.4 The Supplier shall progress towards carbon net zero during the lifetime of the framework.

### **2. Social Value Requirements**

- 2.1 The Supplier shall complete the Corporate Social Responsibility Report at Paragraph 3 of this Part B in relation its performance on meeting any Social Value obligations agreed to for the provision of the Deliverables under this Contract and provide the Corporate Social Responsibility Report to the Buyer on the date and frequency outlined in Table A of this Part B.
- 2.2 The Supplier shall use its best endeavours, as an organisation, to deliver environmental sustainability and protection in the provision of the Deliverables by establishing and delivering against credible targets for delivering energy efficiency throughout the lifetime of the framework.
- 2.3 The Supplier shall use its best endeavours, as an organisation, to address inequality in employment, skills and pay by supporting disadvantaged, underrepresented and minority groups into employment throughout the lifetime of the framework.
- 2.4 The Supplier shall use its best endeavours, as an organisation, to promote new opportunities and engage with new and small organisations (e.g. SMEs and VCSEs), to help them grow, supporting their development throughout the lifetime of the framework.

### **3. Reporting Requirements**

- 3.1 The Supplier shall complete the Corporate Social Responsibility Report in relation to its provision of the Deliverables under this Contract and provide the Corporate Social Responsibility Report to the Buyer on the date and frequency outlined in Table A of this Part B.
- 3.2 The Supplier shall provide the baseline data contained within table B(1) – Baseline data to facilitate subsequent measurement throughout the lifetime of the framework. The information required to populate table B(1) and annually thereafter will be provided to CCS within 10 calendar days of the submission of a request by CCS.
- 3.3 The Supplier shall complete the Framework Performance Indicator Submission Form at the frequency outlined in Table B of this Part B and return to CCS. The Supplier shall include in the Framework Performance Indicator Submission Form the content specified within Table B.
- 3.4 The Supplier shall attend Supplier Relationship Meetings with CCS at such times and frequencies as CCS determines from time to time to discuss the information contained in the Framework Performance Indicator Submission Forms. The information will be used to measure progress of social value activity.
- 3.5 In the event CCS develops an alternative social value measurement tool during the lifetime of the framework, the Performance Indicator measures described at Table B will be superseded by that tool.

**Table A**

Report Name	Content of Report	Frequency of Report
[Sustainability]	<ul style="list-style-type: none"> <li>a. the key sustainability impacts identified;</li> <li>b. sustainability improvements made;</li> <li>c. actions underway or planned to reduce sustainability impacts;</li> <li>d. contributions made to the Buyer's sustainability policies and objectives;</li> <li>e. sustainability policies, standards, targets and practices that have been adopted to reduce the environmental impact of the Supplier's operations and evidence of these being actively pursued, indicating arrangements for engagement and achievements. This can also include where positive sustainability impacts have been delivered; and</li> <li>f. risks to the Service and Subcontractors of climate change and severe weather events such as flooding and extreme temperatures including mitigation, adaptation and continuity plans employed by the Supplier in response to those risks.</li> </ul>	[On the anniversary]of the Effective Date]
[Greenhouse Gas Emissions]	Indicate greenhouse gas emissions making use of the use of the most recent conversion guidance set out in 'Greenhouse gas reporting – Conversion factors' available online at <a href="https://www.gov.uk/guidance/measuring-and-reporting-environmental-impacts-guidance-for-businesses">https://www.gov.uk/guidance/measuring-and-reporting-environmental-impacts-guidance-for-businesses</a>	[On the anniversary of the Effective Date]

Water Use	Volume in metres cubed.	On the anniversary of the Effective Date
Energy Use	<p>Separate energy consumption figures for:</p> <ul style="list-style-type: none"> <li>a. assets deployed on the Supplier's site;</li> <li>b. assets deployed on the Authority's site;</li> <li>c. assets deployed off-site; and</li> <li>d. energy consumed by IT assets and by any cooling devices deployed.</li> </ul> <p>Power Usage Effectiveness (PUE) rating for each data centre/server room in accordance with ISO/IEC 31034-2/EN 50600-4-2.</p>	On the anniversary of the Effective Date
Social Value	<p>MAC 2.2: Create employment and training opportunities particularly for those who face barriers to employment and/or who are located in deprived areas, and for people in industries with known skills shortages or in high growth sectors.</p> <p>MAC 4.1 Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions.</p>	On the anniversary of the Effective Date

**Table B – Submission to CCS**

Report Name	Content of Report	Frequency of Report
Framework Performance Indicator Submission Form –	<p>MSAT completion and progress recorded against the following 6 areas:</p> <ul style="list-style-type: none"> <li>● Governance</li> <li>● Policies and Procedures</li> </ul>	Annually

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Modern Slavery section	<ul style="list-style-type: none"> <li>• Risk Assessment and Management</li> <li>• Due Diligence</li> <li>• Training</li> <li>• KPI</li> </ul>	
Framework Performance Indicator Submission Form – Carbon Net Zero	<p>The Supplier to demonstrate progression towards carbon net zero by reporting on the below areas</p> <ul style="list-style-type: none"> <li>• Number of carbon reduction activities that your organisation has taken to progress your carbon reduction plan</li> <li>• Number of RM6116 carbon reduction activities that benefit the Buyer</li> <li>• List the top 3 carbon reduction activities completed for non RM6116 contracts</li> </ul>	Annually
Framework Performance Indicator Submission Form – Apprenticeships	<p>Supplier shall submit data demonstrating how they are progressing apprenticeships within their organisation</p> <ul style="list-style-type: none"> <li>• Number of apprenticeships started</li> <li>• Cumulative number of apprenticeships ongoing</li> <li>• Number of apprenticeships concluded</li> <li>• Number of apprenticeships retained</li> </ul>	Annually
Framework Performance Indicator Submission Form – Diversity & Inclusion	<p>To demonstrate that suppliers are redressing workforce imbalance within their organisation</p> <ul style="list-style-type: none"> <li>• Representation of women</li> <li>• Representation of ethnic minorities</li> <li>• Representation of staff who identify as having a disability</li> <li>• Representation of prison leavers</li> <li>• Representation of LBTQIA+</li> </ul>	Annually

Framework Performance Indicator Submission Form – SMEs/VCSEs	<p>To demonstrate that Suppliers are engaging with and developing SMEs/VCSEs</p> <ul style="list-style-type: none"> <li>• Number of SMEs/VCSEs within your supply chain for RM6116</li> <li>• Number of SME/VCSEs within your supply chain delivering services on RM6116 contracts</li> <li>• How many sub-contract opportunities have there been within the reporting period</li> <li>• Of the sub-contract opportunities, how many were awarded to a SMEs</li> </ul>	Annually
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Table B(1) – Baseline data

Report Name	Content of Report	Frequency of Report
Apprenticeships baseline data	<p>The Supplier shall submit data demonstrating:</p> <ul style="list-style-type: none"> <li>• % of apprentices in their current workforce</li> <li>• % conversion rate of apprentices retained when an apprenticeship concludes</li> </ul>	To be provided to CCS within 10 calendar days of the submission of a request and annually thereafter
Diversity of Workforce baseline data	<p>The Supplier shall submit baseline figures of their current UK workforce:</p> <ul style="list-style-type: none"> <li>• Representation of women</li> <li>• Representation of ethnic minorities</li> <li>• Representation of staff who identify as having a disability</li> </ul>	To be provided to CCS within 10 calendar days of the submission of a request and annually thereafter

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	<ul style="list-style-type: none"><li>• Representation of prison leavers</li><li>• Representation of LBTQIA+</li></ul>	
SMEs/VCSEs baseline data	The Supplier shall produce and submit a SME / VCSE engagement strategy detailing how they intend to retain and develop SMEs/VCSEs within their supply chain.	To be provided to CCS within 10 calendar days of the submission of a request and annually thereafter

## Joint Schedule 6 (Key Subcontractors)

### 1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under the Framework Contract to the Key Subcontractors set out in the Framework Award Form.
- 1.2 The Supplier is entitled to sub-contract its obligations under a Call-Off Contract to Key Subcontractors listed in the Framework Award Form who are specifically nominated in the Order Form.
- 1.3 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of CCS and the Buyer and the Supplier shall, at the time of requesting such consent, provide CCS and the Buyer with the information detailed in Paragraph 1.4. The decision of CCS and the Buyer to consent or not will not be unreasonably withheld or delayed. Where CCS consents to the appointment of a new Key Subcontractor then they will be added to section 21 of the Framework Award Form. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to the Key Subcontractor section of the Order Form. CCS and the Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
  - 1.3.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 1.3.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 1.3.3 the proposed Key Subcontractor employs unfit persons.
- 1.4 The Supplier shall provide CCS and the Buyer with the following information in respect of the proposed Key Subcontractor:
  - 1.4.1 the proposed Key Subcontractor's name, registered office and company registration number;
  - 1.4.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
  - 1.4.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the CCS and the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
  - 1.4.4 for CCS, the Key Sub-Contract price expressed as a percentage of the total projected Framework Price over the Framework Contract Period;
  - 1.4.5 for the Buyer, the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Call Off Contract Period; and
  - 1.4.6 (where applicable) Credit Rating Threshold (as defined in Joint Schedule 7 (Financial Distress)) of the Key Subcontractor.



## **Joint Schedule 6 (Key Subcontractors)**

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- 1.5 If requested by CCS and/or the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.4, the Supplier shall also provide:
  - 1.5.1 a copy of the proposed Key Sub-Contract; and
  - 1.5.2 any further information reasonably requested by CCS and/or the Buyer.
- 1.6 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
  - 1.6.1 provisions which will enable the Supplier to discharge its obligations under the Contracts;
  - 1.6.2 a right under CRTPA for CCS and the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon CCS and the Buyer respectively;
  - 1.6.3 a provision enabling CCS and the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
  - 1.6.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to CCS and/or the Buyer;
  - 1.6.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the Framework Contract in respect of:
    - (a) the data protection requirements set out in Clause 14 of the Core Terms (Data protection);
    - (b) the FOIA and other access request requirements set out in Clause 16 of the Core Terms (When you can share information);
    - (c) the obligation not to embarrass CCS or the Buyer or otherwise bring CCS or the Buyer into disrepute;
    - (d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
    - (e) the conduct of audits set out in Clause 6 of the Core Terms (Record keeping and reporting);
  - 1.6.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on CCS and the Buyer under Clauses 10.4 of the Core Terms (When CCS or the Buyer can end this contract) and 10.5 of the Core Terms (What happens if the contract ends) of this Contract; and
  - 1.6.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of CCS and the Buyer.

## Joint Schedule 7 (Financial Difficulties)

### 1. Definitions

1.1 In this Schedule, the following definitions shall apply:

<b>“Applicable Financial Indicators”</b>	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;
<b>“Board”</b>	means the Supplier’s board of directors;
<b>“Board Confirmation”</b>	means written confirmation from the Board in accordance with Paragraph 8 of this Schedule;
<b>“Bronze Contract”</b>	Call-Off Contract categorised as a Bronze contract using the Cabinet Office Contract Tiering Tool;
<b>“Cabinet Office Markets and Suppliers Team”</b>	means the UK Government’s team responsible for managing the relationship between government and its Strategic Suppliers, or any replacement or successor body carrying out the same function;
<b>“Credit Rating Threshold”</b>	the minimum credit rating level for each entity in the FDE Group as set out in Annex 1 to this Schedule;
<b>“FDE Group”</b>	means the [Supplier, Key Sub-contractors, [the Guarantor] and the [Monitored Suppliers]];
<b>“Financial Distress Event”</b>	Any of the events listed in Paragraph 3.1 of this Schedule;
<b>“Financial Distress Remediation Plan”</b>	plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with the Contract in the event that a Financial Distress Event occurs;
<b>“Financial Indicators”</b>	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 Target Thresholds”** 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;

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

**“Strategic Supplier”** means those suppliers to the government listed at <https://www.gov.uk/government/publications/strategic-suppliers>.

## 2. Warranties and duty to notify

2.1 The Supplier warrants and represents to the Relevant Authority for the benefit of the Relevant 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 to this Schedule and;

2.1.2 the financial position or, as appropriate, the financial performance of each Supplier, Guarantor and Key-Subcontractors satisfies the Financial Target Thresholds.

2.2 The Supplier shall promptly (or shall procure that its auditors promptly notify) the Relevant 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 five (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 ninety (90) days after the Accounting Reference Date; and

2.3.3 promptly notify (or shall procure that its auditors promptly notify) the Relevant 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 provisions of Paragraph 3.1 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 any of the Rating Agencies have rated that entity at or below the applicable Credit Rating Threshold.

### **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 CCS or the Buyer 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 of the following:
  - (a) commencement of any litigation against an FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
  - (b) non-payment by an FDE Group entity of any financial indebtedness;
  - (c) any financial indebtedness of an FDE Group entity becoming due as a result of an event of default;
  - (d) the cancellation or suspension of any financial indebtedness in respect of an FDE Group entity; or
  - (e) 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 Relevant Authority reasonably believes (or would be likely reasonably to believe) could directly impact

on the continued performance and delivery of the Deliverables in accordance with the Contract; and

- 3.1.7 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 Relevant 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 Relevant Authority shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.

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

- 4.2.1 rectify such late or non-payment; or
- 4.2.2 demonstrate to the Relevant 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-Subcontractor shall):

4.3.1 at the request of the Relevant Authority meet the Relevant Authority as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) or such other period as the Relevant 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 Services in accordance with the Contract; and

4.3.2 where the Relevant 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 of each Contract and delivery of the Deliverables in accordance with each Call-Off Contract:

- (a) submit to the Relevant Authority for its Approval, a draft Financial Distress Remediation Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event) or such other period as the Relevant 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 Buyer may reasonably require in order to understand the risk to the Deliverables, which may include forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the Financial Distress Event.

4.4 The Relevant Authority shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Relevant 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 Relevant Authority within five (5) Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Remediation Plan is approved by the Relevant Authority or referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms under Paragraph 4.5.

4.5 If the Relevant Authority considers that the draft Financial Distress Remediation Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the Supplier's obligations in accordance with the Contract, then it may either agree a further time period for the development and agreement of the Financial Distress Remediation Plan or escalate any issues with the draft Financial Distress Remediation Plan using the Dispute Resolution Procedure in Clause 34 of the Core Terms.

4.6 Following Approval of the Financial Distress Remediation Plan by CCS, 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 Relevant Authority, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Deliverables in accordance with Contract; and

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 Relevant Authority for its approval, and the provisions of Paragraphs 4.4 and 4.5 shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and

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 longer exists, it shall notify the Relevant Authority and the Parties may agree that the Supplier shall be relieved of its obligations under Paragraph 4.6.

4.8 The Supplier shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at paragraph 4.3.2(b) is available when required and on request from the Relevant 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 Buyer and/or entering into confidentiality agreements which permit disclosure;
- 4.8.2 agreeing in advance with the Relevant 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 Relevant Authority;
- 4.8.3 putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Relevant Authority (which may include making price sensitive information available to the Relevant Authority's 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 <sup>1</sup>	Financial Target Threshold:	Monitoring and Reporting Frequency if different from the default position set out in Paragraph 2.3.2
1 Operating Margin	<i>[Operating Margin = Operating Profit / Revenue]</i>	>5%	<i>As set out in paragraph 2.3.2</i>
2 Net Debt Ratio	<i>[Net Debt to EBITDA ratio = Net Debt / EBITDA]</i>	< 3.5 times	<i>As set out in paragraph 2.3.2</i>
3 Net Debt + Net Pension Deficit to EBITDA ratio	<i>[Net Debt + Net Pension Deficit to EBITDA Ratio = (Net Debt + Net Pension Deficit) / EBITDA]</i>	< 5.0 times	<i>As set out in paragraph 2.3.2</i>

<b>4</b> <b>Net Interest Paid Cover</b>	<b><i>[Net Interest Paid Cover = Earnings Before Interest and Tax / Net Interest Paid]</i></b>	<b><i>&gt; 3.0 times</i></b>	<b><i>As set out in paragraph 2.3.2</i></b>
<b>5</b> <b>Acid Ratio</b>	<b><i>[Acid Ratio = (Current Assets – Inventories) / Current Liabilities]</i></b>	<b><i>&gt; 0.8</i></b>	<b><i>As set out in paragraph 2.3.2</i></b>
<b>6</b> <b>Net Asset value</b>	<b><i>[Net Asset Value = Net Assets]</i></b>	<b><i>&gt; £0</i></b>	<b><i>As set out in paragraph 2.3.2</i></b>
<b>7</b> <b>Group Exposure Ratio</b>	<b><i>[Group Exposure / Gross Assets]</i></b>	<b><i>&lt; 50%</i></b>	<b><i>As set out in paragraph 2.3.2</i></b>

Key: 1 – see Annex 3 to 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 section 5.1 which are to apply to the Monitored Suppliers)
<b>Guarantor</b>	<b>1 - Operating Margin</b>  <b>2 -Net Debt Ratio</b>  <b>3 - Net Debt + Net Pension Deficit to EBITDA ratio</b>  <b>4 - Net Interest Paid Cover</b>  <b>5 - Acid Ratio</b>  <b>6 - Net Asset value</b>  <b>7 - Group Exposure Ratio</b>
<b>Key sub-contractor</b>	<b>1 - Operating Margin</b>  <b>2 -Net Debt Ratio</b>  <b>3 - Net Debt + Net Pension Deficit to EBITDA ratio</b>  <b>4 - Net Interest Paid Cover</b>  <b>5 - Acid Ratio</b>  <b>6 - Net Asset value</b>  <b>7 - Group Exposure Ratio</b>

## 6. Termination Rights

6.1 The Relevant Authority shall be entitled to terminate the Contract if:

- 6.1.1 the Supplier fails to notify the Relevant Authority of a Financial Distress Event in accordance with Paragraph 2.3.3;

- 6.1.2 the Parties fail to agree a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraphs 4.3 to 4.5; and/or
- 6.1.3 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.

which shall be deemed to be an event to which Clause 10.4.1 of the Core Terms applies and Clauses 10.6.1 and 10.6.2 of the Core Terms shall apply accordingly.

- 6.2 If the Contract is terminated in accordance with Paragraph 5.1, Clauses 10.6.1 and 10.6.2 of the Core Terms shall apply as if the Contract had been terminated under Clause 10.4.1.

## **7. Primacy of Credit Ratings**

- 7.1 Without prejudice to the Supplier's obligations and the Relevant 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 3.1.7, 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 to this Schedule,, then:

- 7.1.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
- 7.1.2 the Relevant 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 the Contract has been specified as a Critical Service Contract under Paragraph 1.1 of Part B of Annex 1 to Call-Off Schedule 8 (Business Continuity and Disaster Recovery) (if applicable) then, subject to Paragraph 8.4 of this Schedule, the Supplier shall within ninety (90) 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 Relevant Authority in the form set out at Annex 4 to 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 Staff and other persons as is reasonably necessary to understand and confirm the position.

- 8.3 In respect of the first Board Confirmation to be provided under this Contract, the Supplier shall provide the Board Confirmation within 15 months of the Effective Date if earlier than the timescale for submission set out in Paragraph 8.1 of this Schedule.
- 8.4 Where the Supplier is unable to provide a Board Confirmation in accordance with Paragraphs 8.1 to 8.3 of this Schedule due to the occurrence of a Financial Distress Event or knowledge of subsisting matters which could reasonably be expected to cause a Financial Distress Event, it will be sufficient for the Supplier to submit in place of the Board Confirmation, a statement from the Board of Directors to the Buyer (and where the Supplier is a Strategic Supplier, the Supplier shall send a copy of the statement to the Cabinet Office Markets and Suppliers Team) setting out full details of any Financial Distress Events that have occurred and/or the matters which could reasonably be expected to cause a Financial Distress Event.

## **9. Optional Clauses**

- 9.1 Where a Buyer's Call-Off Contract is a Bronze Contract, if specified in the Order Form, the terms at Annex 5 shall apply to the Call-Off Contract in place of the foregoing terms of this Joint Schedule 7.

**Annex 1: Rating Agencies and their standard Rating System**

Dun & Bradstreet

**Annex 2: Credit Ratings and Credit Rating Thresholds**

Entity	Credit rating (long term)
Supplier	30
Guarantor	30
Key sub-contractor	30

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

#### Specific Methodology

Financial Indicator	Specific Methodology
1 [Operating Margin]	<p>[The elements used to calculate the Operating Margin should be shown on the face of the Income Statement in a standard set of financial statements.</p> <p>Figures for Operating Profit and Revenue should exclude the entity's share of the results of any joint ventures or Associates.</p> <p>Where an entity has an operating loss (i.e. where the operating profit is negative), Operating Profit should be taken to be zero.]</p>



<p>2</p> <p><b>[Free Cash Flow to Net Debt Ratio]</b></p>	<p><b>["Free Cash Flow" = Net Cash Flow from Operating Activities – Capital Expenditure</b></p> <p><b>"Capital Expenditure" = Purchase of property, plant &amp; equipment + purchase of intangible assets</b></p> <p><b>"Net Debt" = Bank overdrafts + Loans and borrowings + Finance Leases + Deferred consideration payable – Cash and cash equivalents</b></p> <p>The majority of the elements used to calculate the Free Cash Flow to Net Debt Ratio should be shown on the face of the Statement of Cash Flows and the Balance Sheet in a standard set of financial statements.</p> <p><i>Net Cash Flow from Operating Activities:</i> This should be stated after deduction of interest and tax paid.</p> <p><i>Capital expenditure:</i> The elements of capital expenditure may be described slightly differently but will be found under 'Cash flows from investing activities' in the Statement of Cash Flows; they should be limited to the purchase of fixed assets (including intangible assets) for the business and exclude acquisitions. The figure should be shown gross without any deduction for any proceeds of sale of fixed assets.</p> <p><i>Net Debt.</i> The elements of Net Debt may also 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 treated as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but not non-designated hedges). Borrowings should also include balances owed to other group members.</p> <p>Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.</p> <p>Cash and cash equivalents should include short-term financial investments shown in current assets.</p> <p>Where Net debt is negative (i.e. an entity has net cash), the relevant Financial Target Threshold should be treated as having been met.]</p> <p>OR</p>
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<p>OR</p> <p><b>[Net Debt to EBITDA Ratio]</b></p>	<p><b><i>["Net Debt" = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents</i></b></p> <p><b><i>"EBITDA" = Operating profit + Depreciation charge + Amortisation charge</i></b></p> <p>The majority of the elements used to calculate the Net Debt to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.</p> <p><i>Net Debt.</i> The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but not non-designated hedges). Borrowings should also include balances owed to other group members.</p> <p>Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.</p> <p>Cash and cash equivalents should include short-term financial investments shown in current assets.</p> <p>Where Net debt is negative (i.e. an entity has net cash), the relevant Financial Target Threshold should be treated as having been met.</p> <p><i>EBITDA:</i> Operating profit should be shown on the face of the Income Statement and, for the purposes of calculating this Financial Indicator, should include the entity's share of the results of any joint ventures or Associates. <i>The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts. Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless Net Debt is also negative, in which case the relevant Financial Target Threshold should be treated as having been met).]</i></p>
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<p>3</p> <p>[Net Debt + Net Pension Deficit to EBITDA ratio]</p>	<p><i>["Net Debt" = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents</i></p> <p><i>"Net Pension Deficit" = Retirement Benefit Obligations – Retirement Benefit Assets</i></p> <p><i>"EBITDA" = Operating profit + Depreciation charge + Amortisation charge</i></p> <p>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.</p> <p><i>Net Debt.</i> 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 <i>not</i> non-designated hedges). Borrowings should also include balances owed to other group members.</p> <p>Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.</p> <p>Cash and cash equivalents should include short-term financial investments shown in current assets.</p> <p><i>Net Pension Deficit.</i> 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.</p> <p>Where 'Net Debt + Net Pension Deficit' is negative, the relevant Financial Target Threshold should be treated as having been met.</p> <p><i>EBITDA:</i> 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.</p>
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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' is also negative, in which case the relevant Financial Target Threshold should be regarded as having been met).]

<p><b>4</b></p> <p><b>[Net Interest Paid Cover]</b></p>	<p><b><i>["Earnings Before Interest and Tax" = Operating profit</i></b></p> <p><b><i>"Net Interest Paid" = Interest paid – Interest received</i></b></p> <p>Operating profit should be shown on the face of the Income Statement in a standard set of financial statements and, for the purposes of calculating this Financial Indicator, should include the entity's share of the results of any joint ventures or Associates.</p> <p>Interest received and interest paid should be shown on the face of the Cash Flow statement.</p> <p>Where Net interest paid is negative (i.e. the entity has net interest received), the relevant Financial Target Threshold should be treated as having been met.]</p>
<p><b>5</b></p> <p><b>[Acid Ratio]</b></p>	<p>[All elements that are used to calculate the Acid Ratio are available on the face of the Balance Sheet in a standard set of financial statements.]</p>
<p><b>6</b></p> <p><b>[Net Asset value]</b></p>	<p>[Net Assets are shown (but sometimes not labelled) on the face of the Balance Sheet of a standard set of financial statements. Net Assets are sometimes called net worth or 'Shareholders' Funds'. They represent the net assets available to the shareholders. Where an entity has a majority interest in another entity in which there are also minority or non-controlling interests (i.e. where it has a subsidiary partially owned by outside investors), Net Assets should be taken inclusive of minority or non-controlling interests (as if the entity owned 100% of such entity).]</p>

<p><b>7</b></p> <p><b>[Group Ratio]</b></p> <p><b>Exposure</b></p>	<p><b>[“Group Exposure” = Balances owed by Group Undertakings + Contingent liabilities assumed in support of Group Undertakings</b></p> <p><b>“Gross Assets” = Fixed Assets + Current Assets</b></p> <p><i>Group Exposure:</i> Balances owed by (ie receivable from) Group Undertakings are shown within Fixed assets or Current assets either on the face of the Balance Sheet or in the relevant notes to the financial statements. In many cases there may be no such balances, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.</p> <p>Contingent liabilities assumed in support of Group Undertakings are shown in the Contingent Liabilities note in a standard set of financial statements. They include guarantees and security given in support of the borrowings of other group companies, often as part of group borrowing arrangements. Where the contingent liabilities are capped, the capped figure should be taken as their value. Where no cap or maximum is specified, the relevant Financial Target Threshold should automatically be regarded as not having been met.</p> <p>In many cases an entity may not have assumed any contingent liabilities in support of Group Undertakings, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.</p> <p><i>Gross Assets:</i> Both Fixed assets and Current assets are shown on the face of the Balance Sheet]</p>
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## **ANNEX 4: BOARD CONFIRMATION**

**Supplier Name:**

**Contract Reference Number:**

The Board of Directors acknowledge the requirements set out at paragraph 8 of Joint Schedule 7 (*Financial Distress*) and confirm that the Supplier has exercised due care and diligence and made reasonable enquiry of all relevant Supplier Staff 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 .....

## **ANNEX 5: OPTIONAL CLAUSES FOR BRONZE CONTRACTS**

### **1. Definitions**

1.1 In this Annex 5, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Credit Rating Threshold"</b>	the minimum credit rating level for the Monitored Company as set out in Appendix 2;
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<b>"Financial Distress Event"</b>	<p>the occurrence or one or more of the following events:</p> <ul style="list-style-type: none"><li>a) the credit rating of the Monitored Company dropping below the applicable Credit Rating Threshold;</li><li>b) the Monitored Company issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects;</li><li>c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Monitored Party;</li><li>d) Monitored Company committing a material breach of covenant to its lenders;</li><li>e) a Key Subcontractor (where applicable) notifying CCS that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute; or</li><li>f) any of the following:<ul style="list-style-type: none"><li>i) commencement of any litigation against the Monitored Company with respect to financial indebtedness or obligations under a contract;</li><li>ii) non-payment by the Monitored Company of any financial indebtedness;</li><li>iii) any financial indebtedness of the Monitored Company becoming due as a result of an event of default; or</li></ul></li></ul>
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- iv) the cancellation or suspension of any financial indebtedness in respect of the Monitored Company

in each case which the Relevant Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance of any Contract and delivery of the Deliverables in accordance with any Call-Off Contract;

**"Financial Distress Service Continuity Plan"**

a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with [each Call-Off] Contract in the event that a Financial Distress Event occurs;

**"Monitored Company"**

Supplier [the Guarantor] or any Key Subcontractor]

**"Rating Agencies"**

the rating agencies listed in Appendix 1.

## **2. When this Schedule applies**

2.1 The Parties shall comply with the provisions of this Annex 5 in relation to the assessment of the financial standing of the Monitored Companies and the consequences of a change to that financial standing.

2.2 The terms of this Annex 5 shall survive:

2.2.1 under the Framework Contract until the later of (a) the termination or expiry of the Framework Contract or (b) the latest date of termination or expiry of any call-off contract entered into under the Framework Contract (which might be after the date of termination or expiry of the Framework Contract); and

2.2.2 under the Call-Off Contract until the termination or expiry of the Call-Off Contract.

## **3. What happens when your credit rating changes**

3.1 The Supplier warrants and represents to the Relevant Authority that as at the Start Date the long term credit ratings issued for the Monitored Companies by each of the Rating Agencies are as set out in Appendix 2.

- 3.2 The Supplier shall promptly (and in any event within five (5) Working Days) notify the Relevant Authority in writing if there is any downgrade in the credit rating issued by any Rating Agency for a Monitored Company.
- 3.3 If there is any downgrade credit rating issued by any Rating Agency for the Monitored Company the Supplier shall ensure that the Monitored Company's auditors thereafter provide the Relevant Authority within 10 Working Days of the end of each Contract Year and within 10 Working Days of written request by the Relevant Authority (such requests not to exceed 4 in any Contract Year) with written calculations of the quick ratio for the Monitored Company as at the end of each Contract Year or such other date as may be requested by the Relevant Authority. For these purposes the "quick ratio" on any date means:

$$\frac{A + B + C}{D}$$

where:

- A is the value at the relevant date of all cash in hand and at the bank of the Monitored Company];
- B is the value of all marketable securities held by the Supplier the Monitored Company determined using closing prices on the Working Day preceding the relevant date;
- C is the value at the relevant date of all account receivables of the Monitored]; and
- D is the value at the relevant date of the current liabilities of the Monitored Company].

3.4 The Supplier shall:

- 3.4.1 regularly monitor the credit ratings of each Monitored Company with the Rating Agencies; and
- 3.4.2 promptly notify (or shall procure that its auditors promptly notify) the Relevant 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.

3.5 For the purposes of determining whether a Financial Distress Event has occurred the credit rating of the Monitored Company shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have rated the Monitored Company at or below the applicable Credit Rating Threshold.

#### **4. What happens if there is a financial distress event**

4.1 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if the Relevant Authority becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Relevant Authority shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6 of this Annex 5.

4.2 [In the event that a Financial Distress Event arises due to a Key Subcontractor notifying the Relevant Authority that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, the Relevant Authority shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier ten (10) Working Days to:

4.2.1 rectify such late or non-payment; or

4.2.2 demonstrate to the Relevant Authority's reasonable satisfaction that there is a valid reason for late or non-payment.]

4.3 The Supplier shall and shall procure that the other Monitored Companies shall:

4.3.1 at the request of the Relevant Authority meet the Relevant Authority as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of each Contract and delivery of the Deliverables in accordance each Call-Off Contract; and

4.3.2 where the Relevant 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 of each Contract and delivery of the Deliverables in accordance with each Call-Off Contract:

(a) submit to the Relevant Authority for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial

- notification (or awareness) of the Financial Distress Event); and
  - (b) provide such financial information relating to the Monitored Company as the Relevant Authority may reasonably require.
- 4.4 If the Relevant Authority does not (acting reasonably) approve the draft Financial Distress Service Continuity 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 Service Continuity Plan, which shall be resubmitted to the Relevant Authority within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is Approved by the Relevant Authority or referred to the Dispute Resolution Procedure.
- 4.5 If the Relevant Authority considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not remedy the relevant Financial Distress Event, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.
- 4.6 Following Approval of the Financial Distress Service Continuity Plan by the Relevant Authority, the Supplier shall:
- 4.6.1 on a regular basis (which shall not be less than Monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance each Contract and delivery of the Deliverables in accordance with each Call-Off Contract;
  - 4.6.2 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 4.6.1, submit an updated Financial Distress Service Continuity Plan to CCS for its Approval, and the provisions of Paragraphs 4.5 and 4.6 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and
  - 4.6.3 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).
- 4.7 Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Relevant Authority and subject to the agreement of the Parties, the Supplier may be relieved of its obligations under Paragraph 4.6.
- 4.8 CCS shall be able to share any information it receives from the Buyer in accordance with this Paragraph with any Buyer who has entered into a Call-Off Contract with the Supplier.

## **5. When CCS or the Buyer can terminate for financial distress**

5.1 CCS shall be entitled to terminate this Contract and Buyers shall be entitled to terminate their Call-Off Contracts for material Default if:

- 5.1.1 the Supplier fails to notify the Relevant Authority of a Financial Distress Event in accordance with Paragraph 3.4;
- 5.1.2 The Relevant Authority and the Supplier fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 4.3 to 4.5; and/or
- 5.1.3 the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 4.6.3.

5.2 If the Contract is terminated in accordance with Paragraph 5.1, Clauses 10.6.1 and 10.6.2 of the Core Terms shall apply as if the Contract had been terminated under Clause 10.4.1.

## **6. What happens If your credit rating is still good**

6.1 Without prejudice to the Supplier's obligations and CCS' and the Buyer's rights and remedies under Paragraph 5, if, following the occurrence of a Financial Distress Event, the Rating Agencies review and report subsequently that the credit ratings do not drop below the relevant Credit Rating Threshold, then:

- 6.1.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
- 6.1.2 The Relevant Authority shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.3.2(b).

# **APPENDIX 1: RATING AGENCIES**

[Rating Agency 1]

[Rating Agency 2]

## APPENDIX 2: CREDIT RATINGS & CREDIT RATING THRESHOLDS

### Part 1: Current Rating

Entity	Credit rating (long term)
Supplier	[D&B Threshold]
[Guarantor]	
[Key Subcontractor]	

## Joint Schedule 10 (Rectification Plan)

Request for [Revised] Rectification Plan		
Details of the Default:	[Guidance: Explain the Default, with clear schedule and clause references as appropriate]	
Deadline for receiving the [Revised] Rectification Plan:	[add] date (minimum 10 days from request)	
Signed by [CCS/Buyer] :		Date:
Supplier [Revised] Rectification Plan		
Cause of the Default	[add] cause]	
Anticipated impact assessment:	[add] impact]	
Actual effect of Default:	[add] effect]	
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>
	1.	[date]
	2.	[date]
	3.	[date]
	4.	[date]
	[...]	[date]
Timescale for complete Rectification of Default	[X] Working Days	
Steps taken to prevent recurrence of Default	<b>Steps</b>	<b>Timescale</b>
	1.	[date]
	2.	[date]
	3.	[date]
	4.	[date]
	[...]	[date]

Signed by the Supplier:		Date:	
<b>Review of Rectification Plan [CCS/Buyer]</b>			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for Rejection (if applicable)	[add reasons]		
Signed by [CCS/Buyer]		Date:	



## Joint Schedule 11 (Processing Data)

This schedule is not expected to be needed, but if that were to change then it will come into effect.

### Definitions

1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**“Processor Personnel”** all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;

### Status of the Controller

2. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:

- (a) “Controller” in respect of the other Party who is “Processor”;
- (b) “Processor” in respect of the other Party who is “Controller”;
- (c) “Joint Controller” with the other Party;
- (d) “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 of this Joint Schedule 11 (*Processing Personal Data*) which scenario they think shall apply in each situation.

### Where one Party is Controller and the other Party its Processor

3. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 of this Joint Schedule 11 (*Processing Personal Data*) by the Controller.
4. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
5. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
  - (a) a systematic description of the envisaged Processing and the purpose of the Processing;

## Joint Schedule 11 (Processing Data)

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- (b) an assessment of the necessity and proportionality of the Processing in relation to the Deliverables;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
- (a) Process that Personal Data only in accordance with Annex 1 of this Joint Schedule 11 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 14.3 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Personal Data Breach;
    - (iii) state of technological development; and
    - (iv) cost of implementing any measures;
  - (c) ensure that :
    - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 of this Joint Schedule 11 (*Processing Personal Data*));
    - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
      - (A) are aware of and comply with the Processor's duties under this Joint Schedule 11, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*) of the Core Terms;
      - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
      - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
      - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
  - (d) not transfer Personal Data outside of the UK or EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

## Joint Schedule 11 (Processing Data)

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- (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or LED Article 37) as determined by the Controller;
    - (ii) the Data Subject has enforceable rights and effective legal remedies;
    - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
    - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
  - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
7. Subject to paragraph 8 of this Joint Schedule 11, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
  - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - (f) becomes aware of a Personal Data Breach.
8. The Processor's obligation to notify under paragraph 7 of this Joint Schedule 11 shall include the provision of further information to the Controller, as details become available.
9. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 7 of this Joint Schedule 11 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- (a) the Controller with full details and copies of the complaint, communication or request;

## Joint Schedule 11 (Processing Data)

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- (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Controller following any Personal Data Breach; and/or
  - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 11. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the Processing is not occasional;
  - (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
  - (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
11. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
12. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
13. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
- (a) notify the Controller in writing of the intended Subprocessor and Processing;
  - (b) obtain the written consent of the Controller;
  - (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this Joint Schedule 11 such that they apply to the Subprocessor; and
  - (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
14. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
15. The Relevant Authority may, at any time on not less than thirty (30) Working Days' notice, revise this Joint Schedule 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).

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

**Where the Parties are Joint Controllers of Personal Data**

17. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 to this Joint Schedule 11.

**Independent Controllers of Personal Data**

18. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
19. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
20. Where a Party has provided Personal Data to the other Party in accordance with paragraph 18 of this Joint Schedule 11 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
21. The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
22. The Parties shall only provide Personal Data to each other:
  - (a) to the extent necessary to perform their respective obligations under the Contract;
  - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
  - (c) where it has recorded it in Annex 1 of this Joint Schedule 11 (*Processing Personal Data*).
23. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the

requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.

24. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
25. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
  - (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
  - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
    - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
    - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
26. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
  - (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
  - (b) implement any measures necessary to restore the security of any compromised Personal Data;
  - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
  - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
27. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 of this Joint Schedule 11 (*Processing Personal Data*).

## **Joint Schedule 11 (Processing Data)**

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28. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 of this Joint Schedule 11 (*Processing Personal Data*).
29. Notwithstanding the general application of paragraphs 2 to 16 of this Joint Schedule 11 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 18 to 28 of this Joint Schedule 11.

## Annex 1 - Processing Personal Data

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

- 1.1 The contact details of the Relevant Authority's Data Protection Officer are: **[Insert]** Contact details]
- 1.2 The contact details of the Supplier's Data Protection Officer are: **[Insert]** Contact details]
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Relevant Authority is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with paragraph 3 to paragraph 16 of this Joint Schedule 11 and for the purposes of the Data Protection Legislation, the Relevant Authority is the Controller and the Supplier is the Processor of the following Personal Data:</p> <p><i>For the setting up of a Framework. The personal data scope would be business contact details of suppliers and CCS personnel.</i></p> <p><b>[Insert at Call-Off if relevant OR delete]</b></p> <p><b>The Supplier is Controller and the Relevant Authority is Processor</b></p> <p><i>The Parties acknowledge that for the purposes of the Data Protection Legislation, the Supplier is the Controller and the Relevant Authority is the Processor in accordance with paragraph 3 to paragraph 16 of the following Personal Data:</i></p> <p><i>Scope of Personal Data which the purposes and means of the Processing by the Relevant Authority is determined by the Supplier</i></p> <p><b>[Insert at Call-Off if relevant OR delete]</b></p> <p><b>The Parties are Joint Controllers</b></p> <p><i>The Parties acknowledge that they are Joint Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <p><i>The scope of Personal Data which the purposes and means of the Processing is determined by the both Parties together</i></p>



	<p><b>[Insert at Call-Off if relevant OR delete]</b></p> <p><b>The Parties are Independent Controllers of Personal Data</b></p> <p><i>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <ul style="list-style-type: none"> <li>• <i>Business contact details of Supplier Personnel for which the Supplier is the Controller,</i></li> <li>• <i>Business contact details of any directors, officers, employees, agents, consultants and contractors of the Relevant Authority (excluding the Supplier Personnel) engaged in the performance of the Relevant Authority's duties under the Contract) for which the Relevant Authority is the Controller,</i></li> <li>• <b>[Insert]</b> <i>the scope of other Personal Data provided by one Party who is Controller to the other Party who will separately determine the nature and purposes of its Processing the Personal Data on receipt e.g. where (1) the Supplier has professional or regulatory obligations in respect of Personal Data received, (2) a standardised service is such that the Relevant Authority cannot dictate the way in which Personal Data is processed by the Supplier, or (3) where the Supplier comes to the transaction with Personal Data for which it is already Controller for use by the Relevant Authority]</i></li> </ul> <p><b>[Guidance]</b> <i>where multiple relationships have been identified above, please address the below rows in the table for in respect of each relationship identified]</i></p>
Duration of the Processing	<p><i>For CCS under the Framework Agreement: For up to <b>4</b> years corresponding with a <b>2</b> year framework term and <b>2</b> optional <b>12</b> month extensions.</i></p> <p><i>Then for 7 years post framework expiry as per regulatory retention requirements for commercial/financial data.</i></p> <p><i>For Buyers: <b>[insert]</b> detail prior to executing Call-Off Contract]</i></p>
Nature and purposes of the Processing	<p><i>In respect of the Supplier Personal Data, CCS (and any other Relevant Authority) may: collect, collate, share, evaluate, use, store, replicate, and otherwise Process the Personal Data (subject to the terms of the Contract) to enable it to administer the Contract and fulfil tasks in the public interest and as required by law.</i></p> <p><i>This may include:</i></p>

**Joint Schedule 11 (Processing Data)**

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	<ul style="list-style-type: none"><li>• <i>inviting the Supplier Staff to contract management workshops and events;</i></li><li>• <i>complying with requirements under the Contract to contact named individuals;</i></li><li>• <i>establishing the Supplier's compliance with the procurement process and the Contract; and</i></li><li>• <i>including Personal Data within reports.</i></li></ul> <p><i>In respect of the Relevant Authority's Personal Data over which the Supplier shall act as a Controller, the Supplier may: collect, collate, share, evaluate, use, store, replicate, and otherwise Process the Personal Data (subject to the terms of the Contract) to enable it to administer and fulfil its obligations under the Contract.</i></p> <p><i>This may include:</i></p> <ul style="list-style-type: none"><li>• <i>complying with requirements under the Contract to contact named individuals; and</i></li><li>• <i>including Personal Data within reports.</i></li></ul>
Type of Personal Data	<i>Individuals' names, job titles, email addresses, organisational name, work phone numbers. To the extent relevant and supplied during the procurement process, details of any relevant convictions.</i>
Categories of Data Subject	<i>Relevant Authority Staff and Supplier Staff.</i>
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or Member State law to preserve that type of data	<i>For the duration of the Contract and 7 years after.</i>

## Annex 2 - Joint Controller Agreement

### 1. Joint Controller Status and Allocation of Responsibilities

1.1 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 2 (Joint Controller Agreement) in replacement of paragraphs 3-16 of Joint Schedule 11 (Where one Party is Controller and the other Party is Processor) and paragraphs 18-28 of Joint Schedule 11 (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.

1.2 The Parties agree that the [Supplier/Relevant Authority]:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Deliverables where consent is the relevant legal basis for that Processing; and
- (e) shall make available to Data Subjects the essence of this Annex (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/Relevant Authority's] privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).

1.3 Notwithstanding the terms of clause 1.2, 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 Controller.

### 2. Undertakings of both Parties

2.1 The Supplier and the Relevant Authority each undertake that they shall:

- (a) report to the other Party every [number of months] months on:
  - (i) the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);

- (ii) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- (iii) 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;
- (iv) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- (v) 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;

- (b) notify each other immediately if it receives any request, complaint or communication made as referred to in Clauses 2.1(a)(i) to (v);
- (c) provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Clauses 2.1(a)(iii) to (v) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- (d) not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Deliverables and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Contract or is required by Law) ensure consent has been obtained from the Data Subject prior to disclosing or transferring the Personal Data to the third party. For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- (e) request from the Data Subject only the minimum information necessary to provide the Deliverables and treat such extracted information as Confidential Information;
- (f) 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;
- (g) 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:
  - (i) are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information;

- (ii) 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; and
    - (iii) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
  - (h) ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach having taken account of the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Personal Data Breach;
    - (iii) state of technological development; and
    - (iv) cost of implementing any measures;
  - (i) 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 it holds; and
  - (j) ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach.
- 2.2 Each Joint Controller shall use its reasonable 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.
- 3. Data Protection Breach**
- 3.1 Without prejudice to clause 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach, providing the other Party and its advisors with:
- (a) sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation; and
  - (b) all reasonable assistance, including:
    - (i) co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its

cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;

- (ii) co-operation with the other Party including taking such reasonable steps as are directed by the other Party to assist in the investigation, mitigation and remediation of a Personal Data Breach;
- (iii) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
- (iv) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in Clause 3.2.

3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as 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 Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:

- (a) the nature of the Personal Data Breach;
- (b) the nature of Personal Data affected;
- (c) the categories and number of Data Subjects concerned;
- (d) the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;
- (e) measures taken or proposed to be taken to address the Personal Data Breach; and
- (f) describe the likely consequences of the Personal Data Breach.

#### **4. Audit**

4.1 The Supplier shall permit:

- (a) the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, to conduct, at the Relevant 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 2 and the Data Protection Legislation; and/or
- (b) the Relevant Authority, or a third-party auditor acting under the Relevant 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 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 Deliverables.

- 4.2 The Relevant Authority may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with Clause 4.1 in lieu of conducting such an audit, assessment or inspection.

## **5. Impact Assessments**

- 5.1 The Parties shall:

- (a) 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); and
- (b) maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 UK GDPR.

## **6. ICO Guidance**

The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Relevant Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

## **7. Liabilities for Data Protection Breach**

- 7.1 If financial penalties are imposed by the Information Commissioner on either the Relevant Authority or the Supplier for a Personal Data Breach ("**Financial Penalties**") then the following shall occur:

- (a) if in the view of the Information Commissioner, the Relevant Authority is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Relevant Authority, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Relevant Authority, then the Relevant Authority shall be responsible for the payment of such Financial Penalties. In this case, the Relevant 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 Personal Data Breach. The Supplier shall provide to the Relevant 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 Personal Data Breach;

- (b) if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Relevant Authority is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Relevant Authority and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
- (c) if no view as to responsibility is expressed by the Information Commissioner, then the Relevant Authority and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach 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 Clause 34 of the Core Terms (Resolving disputes).

7.2 If either the Relevant 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 Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.

7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):

- (a) if the Relevant Authority is responsible for the relevant Personal Data Breach, then the Relevant Authority shall be responsible for the Claim Losses;
- (b) if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses; and
- (c) if responsibility for the relevant Personal Data Breach is unclear, then the Relevant Authority and the Supplier shall be responsible for the Claim Losses equally.

7.4 Nothing in either clause 7.2 or clause 7.3 shall preclude the Relevant 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 Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Relevant Authority.

## **8. Termination**



If the Supplier is in material Default under any of its obligations under this Annex 2 (*Joint Controller Agreement*), the Relevant Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Supplier in accordance with Clause 10 of the Core Terms (*Ending the contract*).

**9. Sub-Processing**

9.1 In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

- (a) 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 the Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and
- (b) ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

**10. Data Retention**

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 the a Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

## Joint Schedule 12 (Supply Chain Visibility)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Contracts Finder"</b>	the Government's publishing portal for public sector procurement opportunities;
<b>"SME"</b>	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;
<b>"Supply Chain Information Report Template"</b>	the document at Annex 1 of this Schedule 12; and
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

### 2. Visibility of Sub-Contract Opportunities in the Supply Chain

2.1 The Supplier shall:

- 2.1.1 subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Deliverables above a minimum threshold of £25,000 that arise during the Contract Period;
- 2.1.2 within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor;
- 2.1.3 monitor the number, type and
- 2.1.4 value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;
- 2.1.5 provide reports on the information at Paragraph 2.1.3 to the Relevant Authority in the format and frequency as reasonably specified by the Relevant Authority; and
- 2.1.6 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

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- 2.2 Each advert referred to at Paragraph 2.1.1 of this Schedule 12 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 2.3 The obligation on the Supplier set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Effective Date.
- 2.4 Notwithstanding Paragraph 2.1, the Authority may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

### **3. Visibility of Supply Chain Spend**

- 3.1 In addition to any other management information requirements set out in the Contract, the Supplier agrees that where the Relevant Authority is a central government body, and the contract value is worth more than £5 million per year, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the "SME Management Information Reports") to the Relevant Authority which incorporates the data described in the Supply Chain Information Report Template which is:
  - (a) the total contract revenue received directly on the Contract;
  - (b) the total value of sub-contracted revenues under the Contract (including revenues for non-SMEs/non-VCSEs); and
  - (c) the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Relevant Authority from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 3.1(a) –(c) and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Relevant Authority issuing a replacement version. The Relevant Authority agrees to give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used.
- 3.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Authority.

## **Annex 1**

### **Supply Chain Information Report template**



Supply Chain Information  
Report templat