

32.2 Without prejudice to the generality of Clause 32.1, the Service Provider shall and shall procure that its sub-contractors (if any) shall:

32.2.1 transfer to the Contract Manager (or such other person as may be notified by the Authority to the Service Provider) each Information Access Request relevant to the Contract, the Services or any member of the Authority Group that it or they (as the case may be) receive as soon as practicable and in any event within 2 Business Days of receiving such Information Access Request; and

32.2.2 in relation to Information held by the Service Provider on behalf of the Authority, provide the Authority with details about and copies of all such Information that the Authority requests and such details and copies shall be provided within 5 Business Days of a request from the Authority (or such other period as the Authority may reasonably specify), and in such forms as the Authority may reasonably specify.

32.3 The Authority shall be responsible for determining whether Information is exempt from disclosure under the FOI Legislation and for determining what Information will be disclosed in response to an Information Access Request in accordance with the FOI Legislation.

32.4 The Service Provider shall not itself respond to any person making an Information Access Request, save to acknowledge receipt, unless expressly authorised to do so by the Authority.

32.5 The Service Provider acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 31.8 and this Clause 32, the Service Provider hereby gives its consent for the Authority to publish the Contract Information to the general public.

32.6 The Authority may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Authority may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation.

32.7 The Authority may in its absolute discretion consult with the Service Provider regarding any redactions to the Contract Information to be published pursuant to Clause 32.6. The Authority shall make the final decision regarding both publication and redaction of the Contract Information.

33 DISPUTE RESOLUTION

33.1 The Authority and the Service Provider shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to the Contract ("**Dispute**") before resorting to litigation.

33.2 If the Dispute is not settled through discussion between the Contract Manager and a representative of the Service Provider within a period of seven Business Days of the date on which the Dispute arose, the Parties may refer the Dispute in writing to the Director of Customer Experience (or equivalent) ("**Senior Personnel**") of each of the Parties for resolution.

33.3 If the Dispute is not resolved within 14 Business Days of referral to the Senior Personnel, the Parties shall attempt in good faith to resolve the Dispute through

entry into a structured mediation or negotiation with the assistance of a mediator. Either Party may give notice to the other Party (“Notice”) to commence such process and the notice shall identify one or more proposed mediators.

- 33.4 If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 28 Business Days of the service of the Notice, either Party may apply to the Centre for Effective Dispute Resolution (“CEDR”) in London to appoint a mediator. The costs of that mediator shall be divided equally between the Parties or as the Parties may otherwise agree in writing.
- 33.5 Where a dispute is referred to mediation under Clause 33.3, the Parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.
- 33.6 If the Parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Parties’ authorised representatives, shall be final and binding on the Parties.
- 33.7 If either Party refuses at any time to participate in the mediation procedure and in any event if the Parties fail to reach agreement on the Dispute within 40 Business Days of the service of the Notice either Party may commence proceedings in accordance with Clause 51
- 33.8 For the avoidance of doubt, the Service Provider shall continue to provide the Services in accordance with the Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 33.
- 33.9 Neither Party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this Clause 33 shall not apply in respect of any circumstances where such remedies are sought.

34 BREACH AND TERMINATION OF CONTRACT

- 34.1 Without prejudice to the Authority’s right to terminate at common law, the Authority may terminate the Contract immediately (or so as to be effective at such future time as the Authority may specify) upon giving notice to the Service Provider if:
- 34.1.1 in addition and without prejudice to Clauses 34.1.2 to 34.1.9 (inclusive), the Service Provider has committed any material or persistent breach of the Contract and in the case of such a breach that is capable of remedy fails to remedy that breach within 10 Business Days (or such other timeframe as specified in writing by the Authority) from the date of written notice to the Service Provider giving details of the breach and requiring it to be remedied;
- 34.1.2 the Service Provider is subject to an Insolvency Event;
- 34.1.3 in the event that there is a change of ownership referred to in Clause 17.3 or the Service Provider is in breach of Clause 17.3;
- 34.1.4 the Authority is not satisfied on the issue of any conflict of interest in accordance with Clause 18;

- 34.1.5 in the circumstances described in Clause 12.6 if there is a change of ownership of a guarantor of the type referred to in that Clause;
- 34.1.6 the Service Provider or any of its officers, employees or agents commits any act of bribery described in the Bribery Act 2010;
- 34.1.7 the Service Provider commits any of the money laundering related offences listed in the Public Contracts Regulations 2015; or
- 34.1.8 the Service Commencement Date has not occurred prior to the SCD Long-Stop Date; or
- 34.1.9 the Compliance Certificate for the Final Service Transition Milestone is not achieved prior to the Transition Long-Stop Date.
- 34.2 Without prejudice to any of the Authority's other rights, powers or remedies (whether under the Contract or otherwise) if the Service Provider is in breach of any of its warranties, or obligations either under Clause 12 or any other provision of this Contract, the Service Provider shall, if required to do so by the Authority, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and obligations. Nothing in this Clause 34.2 shall prevent the Authority from procuring the provision of any Services or any remedial action in respect of any Services from an alternative contractor and, where the Authority so procures any Services or any remedial action, the Authority shall be entitled to recover from the Service Provider all additional cost, loss and expense incurred by the Authority and attributable to the Authority procuring such Services or remedial action from such alternative contractor.
- 34.3 Subject to Clauses 34.4 and 34.6, neither Party shall be deemed to be in breach of the Contract, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is due to a Force Majeure Event and, provided that, where that Party is the Service Provider, the impact of that Force Majeure Event could not have reasonably been avoided or prevented by the Service Provider and the Service Provider has complied with Clause 34.4. If a Force Majeure Event has continued for more than 8 weeks from the date on which that Force Majeure Event first arose and is having a material adverse effect on either Party's performance of its obligations under the Contract ("**the Affected Party**"), then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("**Innocent Party**") may terminate the Contract immediately upon giving notice to the Affected Party. If the Contract is terminated in accordance with this Clause 34.3 then without prejudice to any rights and liabilities which accrued prior to termination (and, in the case of the Service Provider, to it having complied with Clause 34.4), the Affected Party shall not be liable to the Innocent Party by reason of such termination.
- 34.4 If a Force Majeure Event occurs which affects the Service Provider, the Service Provider will:
- 34.4.1 promptly upon becoming aware of the Force Majeure Event give notice to the Authority setting out details of the nature, extent and anticipated duration of the Force Majeure Event, the expected impact of the Force Majeure Event on

its ability to perform its obligations and the steps it is taking and/or proposes to take to comply with Clause 34.4.2;

- 34.4.2 use its reasonable endeavours to mitigate the effects of the Force Majeure Event, to continue to perform the affected obligations notwithstanding the occurrence of the Force Majeure Event and to ensure that the Force Majeure Event comes to an end, including taking such steps as may be reasonably required by the Authority;
- 34.4.3 keep the Authority informed of all developments relating to the Force Majeure Event and the steps being taken to comply with Clause 34.4.2, including by providing regular written updates in respect of all the matters covered by the notice given under Clause 34.4.1 and by attending such meetings and supplying such information as may reasonably be required by the Authority from time to time;
- 34.4.4 continue to perform all of its obligations under this Contract, the performance of which is not affected by the Force Majeure Event; and
- 34.4.5 to the extent it is able to do so notwithstanding the occurrence of the Force Majeure Event, provide all such assistance to the Authority and/or such other persons as the Authority may request in connection with the Authority securing an alternative supply of those Services which the Service Provider is delayed in or prevented from supplying due to the Force Majeure Event (including by providing and permitting the use by the Authority or its nominee of assets, equipment and personnel).
- 34.5 A Party will not be in breach of this Contract or otherwise liable to the other Party for any failure to perform or delay in performing its obligations under this Agreement to the extent that this is due to a Force Majeure Event affecting the other Party. In particular, if the Service Provider is the Party affected by the Force Majeure Event the Authority will have no liability to pay Charges to the Service Provider in respect of any Services which the Service Provider does not supply due to the Force Majeure Event.
- 34.6 Nothing in Clause 34.3 will relieve the Service Provider from its obligations under this Contract to create, implement and operate the Major Incident Plan. Accordingly, if a Force Majeure Event affecting the Service Provider occurs which is an event or circumstance that is within the scope of the Major Incident Plan, or would have been had the Service Provider and/or Major Incident Plan complied with Clause 9 (Major Incident Management) and Schedule 8 (Service Management), then Clause 34.3 will only apply to that Force Majeure Event to the extent that the impacts of that Force Majeure would have arisen even if the Major Incident Plan had complied with, and had been fully and properly implemented and operated in accordance with, Clause 9 and Schedule 8, and the terms of the Major Incident Planning respect of that Force Majeure Event.
- 34.7 Without prejudice to the Authority's right to terminate the Contract under Clause 34.1 or to terminate at common law, the Authority may terminate the Contract at any time without cause subject to giving the Service Provider written notice of the period specified in Schedule 1 (Key Contract Information), provided that this Clause 34.7 may be disapplied by notice to that effect in Schedule 1.
- 34.8 Without prejudice to the Authority's right to terminate the Contract under Clauses 34.1, 34.7 or at common law, the Authority may terminate the Contract

at any time following a Declaration of Ineffectiveness in accordance with the provisions of Clause 38.

- 34.9 To the extent that the Authority has a right to terminate the Contract under this Clause 34 then, as an alternative to termination, the Authority may by giving notice to the Service Provider require the Service Provider to provide part only of the Services with effect from the date specified in the Authority's notice ("Change Date") whereupon the provision of the remainder of the Services will cease and the definition of "the Services" shall be construed accordingly. The Charges applicable with effect from the Change Date will be adjusted in accordance with the Variation procedure proportionately or if in the Authority's opinion a proportionate adjustment would not be reasonable in such manner as the Authority may determine.
- 34.10 The Service Provider may by providing not less than three (3) months' written notice, terminate this Contract if the Authority fails to pay any undisputed sum in accordance with Clause 11 which is in excess of £10,000 (ten thousand pounds sterling) and has subsequently failed to remedy such breach within sixty (60) days of written notice of such breach from the Service Provider provided that in the case of such termination:
- 34.10.1 the Authority shall be responsible for making such payments to the Service Provider as have accrued and are properly payable in respect of the period prior to the Expiry Date but;
- 34.10.2 in no circumstances shall the Authority have any other liability to the Service Provider in respect of or connected with such termination, including (without limitation) any loss of anticipated profit.

35 CONSEQUENCES OF TERMINATION OR EXPIRY

- 35.1 Notwithstanding termination of this Contract pursuant to Clause 34 or expiry in accordance with Clause 2, any applicable Handback Period shall apply pursuant to Schedule 11 (Handback of Service) and the provisions of this Contract shall continue until the Expiry Date.
- 35.2 [Not used].
- 35.3 The termination or expiry of the Contract shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Party prior to or after such termination or expiry.
- 35.4 Upon expiry or termination of the Contract (howsoever caused):
- 35.4.1 the Service Provider shall, at no further cost to the Authority:
- 35.4.1.1 in accordance with Schedule 11 (Handback of Service) take all such steps as shall be necessary for the orderly handover of Services to the Authority (or its nominee), such that the Services can be carried on with the minimum of interruption and inconvenience to the Authority and to effect such handover; and
- 35.4.1.2 on receipt of the Authority's written instructions to do so (but not otherwise), arrange to remove all electronically held information by a