



HM Revenue & Customs

5W Ralli Quays
3 Stanley Street,
Salford M60 9LA

&

Santander UK plc

Commercial Directorate Ref: Doc69172039 - 1612-SCR-SR48417996-
Emergency Payment Services

Form of Agreement

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Form of Agreement

This Agreement is made between Her Majesty's Revenue and Customs (the Client) of Ralli Quays, 3 Stanley Street, Salford, M60 9LA and Santander UK plc (the Contractor) whose main or registered office is at 17, Ulster Terrace, Regents Park, London, NW1 4PJ, together referred to as "the Parties" and is effective as of 5th June 2017 ("Commencement Date")

It is agreed that:

This Form of Agreement together with the Terms and Conditions and Schedules are the documents that collectively form the "Contract".

The Contract effected by the signing of this Form of Agreement constitutes the entire agreement between the Parties relating to the subject matter of the Contract and supersedes all prior negotiations, representations or understandings whether written or oral.

Signed for and on behalf of:

	HM Revenue & Customs		Santander UK plc
Signature:		Signature:	
Name:		Name:	
Capacity:		Capacity:	
Date:		Date:	
Address:		Address:	
Telephone:		Telephone:	
email:		email:	

TERMS AND CONDITIONS

A Section A - General Provisions

A1 Definitions & Interpretation

A1.1 In this Contract except where the context otherwise requires, the following expressions shall have the meanings given to them below:

“BPSS” means the HMG Baseline Personnel Security Standard staff vetting procedures, issued by the Cabinet Office Security Policy Division and Corporate Development Group;

“Client” means Her Majesty’s Revenue and Customs (HMRC);

“Client Confidential Information” all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Client, including all IPR, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential;

"Client Data" means

(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which:

(i) are supplied to the Contractor by or on behalf of the Client; or

(ii) the Contractor is required to generate, process, store or transmit pursuant to this contract; or

(b) any Personal Data for which the Client is the Data Controller;

“Contractor” means the person, firm or company with whom the Client enters into the Contract;

"Commercially Sensitive Information" means information notified to the Client in writing (prior to commencement of this contract) which has been clearly marked by the Contractor as Commercially Sensitive Information, comprising of information

(a) which is provided by the Contractor to the Client in confidence; and/or

(b) that constitutes a trade secret;

"Confidential Information" means all information however it is conveyed or on whatever media it is stored, which comes to the attention of or into the possession of either party on or after execution of the contract, and which has been designated as confidential by either party in writing or which ought to be considered as confidential;

“Contract Period” means the period of the duration of the Contract set out in the Service Order (Schedule A);

“Contract Price” means the price, exclusive of Value Added Tax, payable by the Client to the Contractor for the delivery of the Services as per the Service Order (Schedule A);

“Default” means any breach of the obligations of the relevant party (including but not limited to fundamental breach or breach of a fundamental term) or any other Default, act, omission, negligence or negligent statement of the relevant party or the Staff in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other;

“Equipment” means all equipment, materials, consumables and plant, other than Client’s Property, to be used by the Contractor in the delivery of the Services;

"Good Industry Practice" means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector;

“Intellectual Property Rights” means patents, inventions, trade marks, service marks, logs, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom and the right to sue for passing off;

“Key Personnel” means those persons named in the Specification as being key personnel;

"Personal Data" shall have the same meaning as set out in the Data Protection Act 1998;

"Product Specific Terms" shall mean those terms and conditions contained in Schedule E;

"Security Plan" means the Contractor's security plan prepared pursuant to the Client's instructions;

"Security Policy" means the Client's security policy as updated from time to time;

“Services” means the services set out in the Service Order, and includes any materials, articles, reports and goods to be supplied thereunder;

“Specification” means the description of the services required included at Schedule A (Service Order)

“Staff” means all persons employed by the Contractor to perform its obligations under the Contract

"Standards" means the British or international standards, Client's internal policies and procedures, Government codes of practice and guidance together with any other specified policies or procedures identified in the requirement;

A1.2 If there is any conflict between the clauses and the schedules and/or any annexes to the schedules and/or any other documents referred to in this Contract, the conflict shall be resolved in accordance with the following order of precedence:

- (a) these clauses;
- (b) Schedule A (Service Order);
- (c) Any other schedules and their annexes other than Schedule E (Product Specific Terms); and
- (d) Schedule E (Product Specific Terms)

A2 Contractor’s Status

A2.1 At all times during the contract the Contractor shall be an independent Contractor and nothing in the contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the parties and accordingly neither party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other party save as expressly permitted by the terms of the contract.

A3 Access to Client’s Premises

A3.1 The Client may, by written notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the Client’s premises to any member of staff or any person

employed or engaged by any member of the Contractor's staff, whose admission or continued presence would, in the reasonable opinion of the Client, be undesirable.

A3.2 At the Client's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in connection with the contract to the premises specifying the capacities in which they are concerned with the contract and giving such other particulars as the Client may reasonably request.

A3.4 Where staff are required to have a pass for admission to the Client's premises, the Client's representative shall, subject to satisfactory completion of approval procedures, arrange for passes to be issued.

A4 Staff Vetting and Government Baseline Security Standard

A4.1 The Contractor shall comply with the HMG Baseline Personnel Security Standard (BPSS) in respect of all persons employed or engaged in the provision of the Services. The Contractor confirms that all persons employed or engaged by the Contractor have been vetted and recruited in accordance with the BPSS.

A4.2 The Contractor hereby warrants and represents that the checks specified in BPSS have been carried out in respect of each person assigned to access Premises, Property or Information belonging to the Client and that the results of those checks are satisfactory.

A4.3 The Contractor shall maintain full and accurate records of BPSS checks such that the Client (or its authorised agents) may verify that the Contractor has carried out such checks in accordance with the BPSS.

A5 Security of Premises

A5.1 The Client shall be responsible for maintaining the security of the Premises in accordance with its standard security requirements. The Contractor shall comply with all reasonable security requirements of the Client while on the Premises, and shall ensure that all of its Staff comply with such requirements.

B Section B - Contract Price and VAT

B1 Contract price and Payment

B1.1 The contract prices and rates shall be as set out in Schedule A (Service Order) exclusive of VAT.

B1.2 The Client shall pay all sums due to the Contractor within 30 days of receipt of a valid invoice, submitted in accordance with the Client's reasonable instructions.

B1.3 The Contractor shall add VAT to the Contract Price at the prevailing rate as applicable and the Client shall pay the VAT to the Contractor following its receipt of a valid VAT invoice.

B2 Compliance with Value Added Tax and Other Tax Requirements

B2.1 The Contractor shall at all times comply with the Value Added Tax Act 1994 and all other statutes relating to direct or indirect taxes.

B2.2 Failure to comply may constitute a material breach of this Contract and the Client may exercise the rights and provisions conferred by Condition G2 (Termination on Default) hereof.

B2.3 The Contractor shall provide to the Client the name and, as applicable, the Value Added Tax registration number, PAYE collection number and either the Corporation Tax or

Self Assessment reference of any agent, supplier or sub-contractor of the Contractor prior to the commencement of any work under this Contract by that agent, supplier or sub-contractor. Upon a request by the Client, the Contractor shall not employ or will cease to employ any agent, supplier or sub-contractor.

B3 Tax Arrangements of Public Sector Appointees

B3.1 Where the Contractor is liable to be taxed in the UK in respect of consideration received under this Contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.

B3.2 Where the Contractor is liable to National Insurance Contributions (NICs) in respect of consideration received under this Contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.

B3.3 The Client may, at any time during the term of this Contract, request the Contractor to provide information which demonstrates how it complies with Clauses B3.1 and B3.2 above or why those Clauses do not apply to it.

B3.4 A request under Clause B3.3 above may specify the information which the Contractor must provide and the period within which that information must be provided.

B3.5 The Client may terminate this Contract if-

(a) in the case of a request mentioned in Clause B3.3 above-

- (i) The Contractor fails to provide information in response to the request within a reasonable time, or
- (ii) The Contractor provides information which is inadequate to demonstrate either how it complies with Clauses B3.1 and B3.2 above or why those Clauses do not apply to it;

(b) in the case of a request mentioned in Clause B3.4 above, the Contractor fails to provide the specified information within the specified period, or

(c) it receives information which demonstrates that, at any time when Clauses B3.1 and B3.2 apply to the Contractor, the Contractor is not complying with those Clauses.

B3.6 The Client may supply any information which it receives under Clause B3 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

C Section C - Statutory Obligations and Regulations

C1 Prevention of Corruption and the Bribery Act 2010

C1.1 The Contractor shall comply, and shall ensure that its employees, agents and sub-contractors comply, with the provisions of the Bribery Act 2010

C1.2 The Contractor shall not offer or give, or agree to give, to the Client or any other Crown body or any person employed by or on behalf of the Client or any other Crown body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other Contract with the Client or any other Crown body, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such Contract.

C1.3 The Contractor warrants that it has not paid commission or agreed to pay commission to the Client or any other Crown body or any person employed by or on behalf of the Client or any other Crown body in connection with the Contract.

C1.4 If the Contractor, its Staff or anyone acting on the Contractor's behalf, engages in conduct prohibited by Clauses C1.2 or C1.3, the Client may:

(a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Client resulting from the termination, including the cost reasonably incurred by the Client of making other arrangements for the supply of the Services and any additional expenditure incurred by the Client throughout the remainder of the Contract Period; or

(b) recover in full from the Contractor any other loss sustained by the Client in consequence of any breach of those Clauses.

C2 Prevention of Fraud

C2.1 The Contractor shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Contractor (including its shareholders, members, directors) in connection with the receipt of monies from the Client.

C2.2 The Contractor shall notify the Client immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

C2.3 If the Contractor or its Staff commits Fraud in relation to this or any other Contract with the Crown (including the Client) the Client may:

(a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Client resulting from the termination, including the cost reasonably incurred by the Client of making other arrangements for the supply of the Services and any additional expenditure incurred by the Client throughout the remainder of the Contract Period; or

(b) recover in full from the Contractor any other loss sustained by the Client in consequence of any breach of this Clause.

C3 Health and Safety

C3.1 The Contractor shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of its obligations under the Contract.

C3.2 The Contractor shall promptly notify the Client of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract. The Client shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Premises and which may affect the Contractor in the performance of its obligations under the Contract.

C3.3 While on the Premises, the Contractor shall comply with any health and safety measures implemented by the Client in respect of Staff and other persons working there.

C3.4 The Contractor shall notify the Client immediately in the event of any incident occurring in the performance of its obligations under the Contract on the Premises where that incident causes any personal injury or damage to Property which could give rise to personal injury.

D Section D – Data Security and Protection of Information

D1 Client Data

D1.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Client Data.

D1.2 The Contractor shall not store, copy, disclose, or use the Client Data except as necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the Client.

D1.3 To the extent that Client Data is held and/or processed by the Contractor, the Contractor shall supply that Client Data to the Client as requested by the Client in the format specified in the Services Description and any exit management plan.

D1.4 The Contractor shall take responsibility for preserving the integrity of Client Data and preventing the corruption or loss of Client Data.

D1.5 The Contractor shall perform secure back-ups of all Client Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Business Continuity and Disaster Recovery Plan. The Contractor shall ensure that such back-ups are available to the Client at all times upon request and are delivered to the Client at agreed intervals.

D1.6 The Contractor shall ensure that any system on which the Contractor holds any Client Data, including back-up data, is a secure system that complies with the Security Policy.

D1.7 If the Client Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Client may:

D1.7.1 require the Contractor (at the Contractor's expense) to restore or procure the restoration of Client Data to the extent and in accordance with the requirements specified in any Business Continuity and Disaster Recovery plans and the Contractor shall do so as soon as practicable but not later than any agreed timescale; and/or

D1.7.2 itself restore or procure the restoration of Client Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in any Business Continuity and Disaster Recovery plans.

D1.8 If at any time the Contractor suspects or has reason to believe that Client Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Client immediately and inform the Client of the remedial action the Contractor proposes to take.

D2 Data Protection Act

D2.1 For the purposes of this Clause D2, the terms "Data Controller", "Data Processor", "Data Subject", "Personal Data", "Process" and "Processing" shall have the meaning prescribed under the DPA.

D2.2 The Contractor shall (and shall ensure that all Staff) comply with any notification requirements under the DPA and both Parties will duly observe all their obligations under the DPA which arise in connection with the Contract.

D2.3 Notwithstanding the general obligation in Clause D2.2, where the Contractor is processing Personal Data as a Data Processor for the Client the Contractor shall:

(a) Process the Personal Data only in accordance with instructions from the Client (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the Client to the Contractor);

(b) Comply with all applicable Laws;

(c) Process the Personal Data only to the extent and in such manner as is necessary for the provision of the Contractor's obligations under this Contract or as is required by Law or any Regulatory Body;

(d) Implement appropriate technical and organised measures to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

(e) Take reasonable steps to ensure the reliability of Staff and agents who may have access to the Personal Data;

(f) Obtain prior written consent from the Client in order to transfer the Personal Data to any sub-contractor for the provision of the Services;

(g) Not cause or permit the Personal Data to be transferred outside of the European Economic Area without the prior consent of the Client;

(h) Ensure that all Staff and agents required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause D2;

(i) Ensure that none of the Staff and agents publish disclose or divulge any of the Personal Data to any third parties unless directed in writing to do so by the Client;

(j) Not disclose Personal Data to any third parties in any circumstances other than with the written consent of the Client or in compliance with a legal obligation imposed upon the Client; and

D2.4 Notify the Client within 5 Working Days if it receives:

(a) A request from a Data Subject to have access to that person's Personal Data; or

(b) A complaint or request relating to the Client's obligations under the DPA;

D2.5 Provide the Client with reasonable cooperation and assistance in relation to any such complaint or request made, including by:

(a) Providing the Client with full details of the complaint or request;

(b) Assisting the Client to comply with any such request in accordance with the Client's reasonable instructions; and

(c) Providing the Client with any Personal Data it holds in relation to a Data Subject (within the timescales reasonably required by HMRC).

D2.6 The provision of this Clause D2 shall apply during the Contract Period and indefinitely after its expiry.

D3 Official Secrets Acts and related Legislation

D3.1 The Contractor shall comply with, and shall ensure that its Staff comply with, the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) Section 182 of the Finance Act 1989; and
- (c) Section 18 and Section 19 of the Commissioners for Revenue and Customs Act 2005

D3.2 In the event that the Contractor or its Staff fail to comply with this Clause, the Client reserves the right to terminate the Contract with immediate effect.

D4 Confidential Information

D4.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Agreement, each party shall:

D4.1.1 treat the other party's Confidential Information as confidential and safeguard it accordingly; and

D4.1.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

D4.2 Clause D4.1 shall not apply to the extent that:

D4.2.1 such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations;

D4.2.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

D4.2.3 such information was obtained from a third party without obligation of confidentiality;

D4.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or

D4.2.5 it is independently developed without access to the other party's Confidential Information.

D4.3 The Contractor may only disclose the Client's Confidential Information to the Contractor Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.

D4.4 The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Client's Confidential Information received otherwise than for the purposes of this Agreement.

D4.5 Where appropriate and at the written request of the Client, the Contractor shall procure that those members of the Contractor Personnel identified in the Client's notice signs a confidentiality undertaking prior to commencing any work in accordance with this Agreement.

D4.6 Nothing in this Agreement shall prevent the Client from disclosing the Contractor's Confidential Information:

D4.6.1 to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;

D4.6.2 to any Contractor, Contractor or other person engaged by the Client or any person conducting an Office of Government Commerce gateway review;

D4.6.3 for the purpose of the examination and certification of the Client's accounts; or

D4.6.4 or any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Client has used its resources.

D4.7 The Client shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-Contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause D4.6 is made aware of the Client's obligations of confidentiality.

D4.8 Nothing in this clause D4 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.

D5 Freedom of Information

D5.1 The Contractor acknowledges that the Client is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Client to enable the Client to comply with its Information disclosure obligations.

D5.2 The Contractor shall and shall procure that any sub-contractors shall:

(a) transfer to the Client all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receiving a Request for Information;

(b) provide the Client with a copy of all Information in its possession or power in the form that the Client requires within 5 Working Days (or such other period as the Client may reasonably specify) of the Client's request; and

(c) provide all necessary assistance as reasonably requested by the Client to enable the Client to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

D5.3 The Client shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.

D5.4 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Client.

D5.5 If the Client receives a Request for Information relating to Information previously considered by the Parties to be Commercially Sensitive Information that is exempt under the FOIA the Client shall:

(a) consider whether the Information is, in fact, exempt and;

(b) consider whether the public interest in maintaining the exemption outweighs the public interest in disclosing the Information (unless the Information benefits from an absolute exemption) and;

(c) consult with the Contractor prior to disclosure of the Information whenever reasonably practicable.

D5.6 Without prejudice to Clause D5.5 the Client shall consult with the Contractor before disclosing any Confidential Information of the Contractor unless the Client is obliged under the FOIA to disclose such Information without consulting the Contractor.

D5.7 The Client shall not be liable for any loss or damage suffered by the Contractor, whether in Contract, tort or any other way, as a result of the Client disclosing Information in response to a request made under the FOIA.

D5.8 The Contractor shall ensure that all Information is retained for disclosure in accordance with any legislation or guidelines from time to time in place and shall permit the Client to inspect such records as requested from time to time.

D6 Security Requirements

D6.1 In the performance of this Contract, the Contractor shall comply with (and shall ensure that its Staff comply with) the Client's specific security requirements as described in the Specification of Requirements at Schedule A as appropriate. Failure to do so may result in the termination of the Contract in accordance with Clause G2. The Contractor shall be obliged to inform the Client of any security incident, regardless of its size or perceived impact on the Client's business, as soon as the Contractor becomes aware of such an incident, and shall maintain auditable records of such events.

D6.2 Where required by the Client, the Contractor shall comply, and shall procure the compliance of its Staff, with the HMRC Security Policy and the Security Plan at Schedule D of this Contract and the Contractor shall ensure that its Security Plan fully complies with the Security Policy.

D6.3 The Client shall notify the Contractor of any changes or proposed changes to the Security Policy.

D6.4 If the Contractor believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the Goods or Services it may submit a Change Request. In doing so, the Contractor must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate these costs. Any such change shall then be agreed in accordance with the change procedures previously agreed between the Client and the Contractor.

D6.5 Unless and/or until such a change is agreed by the Client pursuant to Clause D6.4 the Contractor shall continue to perform the Services in accordance with its existing obligations under the Contract.

D6.6 The Contractor shall, as an enduring obligation for the Contract Period, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.

D6.7 Notwithstanding Clause D6.6, if Malicious Software is found, the Parties shall cooperate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Client Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.

D6.8 Any cost arising out of the actions of the parties taken in compliance with the provisions of Clause D6.7 shall be borne by the parties as follows:

(a) by the Contractor where the Malicious Software originates from the Contractor Software, the Third Party Software or the Authority Data (whilst the Authority Data was under the control of the Contractor); and

(b) by the Client if the Malicious Software originates from the Client Software or the Client Data (whilst the Client Data was under the control of the Client).

D7 Publicity, Media and Official Enquiries

D7.1 The Contractor shall not:

(a) make any press announcements or publicise this Contract or its contents in any way; or

(b) use the Client's name or brand in any promotion or marketing or announcement of orders;

Without the prior written consent of the Client, which shall not be unreasonably withheld or delayed.

D7.2 Each Party acknowledges to the other that nothing in this Contract either expressly or by implication constitutes an endorsement of any products or Services of the other Party and each Party agrees not to conduct itself in such a way as to imply or express any such Approval or endorsement.

D7.3 Both Parties shall take all reasonable steps to ensure that their servants, employees, agents, sub-contractors, suppliers, professional advisors and consultants comply with Clause D7.3.

D8 Intellectual Property Rights

D8.1 All Intellectual Property Rights in any guidance, Specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material (the "IP Materials") furnished to or made available to the Contractor by the Client shall remain the Property of the Client and the Contractor shall not, and shall ensure that its Staff shall not (except when necessary for the performance of the Contract) without Prior Approval, use or disclose any Intellectual Property Rights in the IP materials.

D8.2 The Client acknowledges that ownership in all Intellectual Property Rights in any guidance, Specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material (the "IP Materials") prepared by or for the Contractor on behalf of the Client for use, or intended use, in relation to the performance by the Contractor of its obligations under the Contract shall remain with the Contractor.

D8.3 The Contractor hereby grants to the Client a non-exclusive licence to use, reproduce, modify, develop and maintain the material prepared by or for the Contractor on behalf of the Client for use, or intended use, in relation to the performance by the Contractor of its obligations under the Contract including but not limited to all Intellectual Property Rights in the same. Such licence shall be non-exclusive, perpetual, royalty free and irrevocable.

D8.4 The Contractor shall not infringe any Intellectual Property Rights of any third Party in supplying the Services and the Contractor shall, during and after the Contract Period, indemnify and keep indemnified and hold the Client and the Crown harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses

and other liabilities which the Client or the Crown may suffer or incur as a result of or in connection with any breach of this Clause, except where any such claim arises from:

- (a) items or materials based upon designs supplied by the Client; or
- (b) the use of data supplied by the Client which is not required to be verified by the Contractor under any provision of the Contract.

D9 Use of Contractor's IT Equipment

D9.1 Where the Contractor has cause to use its own personal computer(s) for the purpose of delivering the services under this Contract, it should ensure that those computers meet the security standards set by the Client and detailed in Schedule D of the Contract.

D9.2 Where the Client is required to provide by e-mail to the Contractor / Contractor, any departmental or customer data or any other information with a security marking of "PROTECT", to enable it to deliver the services under this Contract, the Contractor / Contractor shall not store that information on its personal computer or any form of removable media.

D9.3 Any breach of this provision will be fully investigated by the Contract Manager named in the Contract, reported to the Client's security unit, and may result in termination of the Contract under clause G2 Termination on Default.

D10 Client's Right to Publish the Contract

D10.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Client shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of this Contract, the Contractor hereby gives his consent for the Client to publish the Contract in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted) including from time to time agreed changes to the Contract, to the general public.

D10.2 The Client may consult with the Contractor to inform its decision regarding any redactions but the Client shall have the final decision at its absolute discretion.

D10.3 The Contractor shall assist and cooperate with the Client to enable the Client to publish this Contract

E Section E- Control of the Contract

E1 Variation of the Service

E1.1 The Client reserves the right on giving reasonable written notice from time to time to require changes to the Services (whether by way of the omission of Services, the addition of new Services, or increasing or decreasing the Services or the locations where they are to be provided or otherwise) for any reasons. Such a change is hereinafter called "a variation".

E1.2 In the event of a variation the price to be paid under the Contract may also be varied. Such variation in the price shall be calculated by the Client and agreed with the Contractor and shall be such amount as properly and fairly reflects the nature and extent of the variation in all the prevailing circumstances. Failing agreement the matter shall be determined by negotiation or mediation.

E1.3 The Contractor shall provide such information as may be reasonably required to enable such varied price to be calculated.

E2 Entire Agreement

E2.1 The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this Clause shall not exclude liability in respect of any Fraud or Fraudulent misrepresentation.

F Section F - Liabilities

F1 Liability

F1.1 Neither Party excludes or limits liability to the other Party for:

- (a) death or personal injury caused directly or indirectly by its negligence; or
- (b) Fraud; or
- (c) Fraudulent misrepresentation; or
- (d) any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.

F1.2 Subject to Clauses F1.3 and F1.4, the Contractor shall indemnify the Client and keep the Client indemnified against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of or in consequence of the supply, or the late or purported supply, of the Goods or Services, or the performance or non-performance by the Contractor of its obligations under the Contract, or the presence of the Contractor or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to the Client's Property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly or indirectly by any negligent act or omission of the Contractor.

F1.3 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is solely caused by the negligence or wilful misconduct of the Client or by breach by the Client of its obligations under the Contract.

F1.4 Subject always to Clause F1.1, the liability of either Party for Defaults shall be subject to the following financial limits:

- (a) the aggregate liability of either Party for all Defaults resulting in direct loss of or damage to the Property of the other under or in connection with the Contract shall in no event exceed one million pounds; and
- (b) the annual aggregate liability under the Contract of either Party for all Defaults (other than a Default governed by Clauses D8.4 (Intellectual Property Rights) or F1.4(a) shall in no event exceed the greater of £5 million or 100%) of the Contract Price paid or payable by the Client to the Contractor in the year in which the liability arises;
- (c) The aggregate liability of the Contractor under Clause D8.4 (Intellectual Property Rights) where applicable shall in no event exceed £5 million pounds.

F1.5 Subject always to Clause F1.1, in no event shall either Party be liable to the other for any:

- (a) loss of profits, business, revenue or goodwill; and/or
- (b) loss of savings (whether anticipated or otherwise); and/or
- (c) indirect or consequential loss or damage.

F1.6 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of its obligations

under the Contract, including in respect of death or personal injury, loss of or damage to Property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor and shall be maintained for the Contract Period

F1.7 The Contractor shall hold employer's liability insurance to a minimum of £5,000,000 in respect of Staff in accordance with any legal requirement from time to time in force.

F1.8 The Contractor shall give the Client, on request, copies of all insurance policies referred to in this Clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

F2 Professional Indemnity

F2.1 The Contractor shall hold and maintain Professional Indemnity insurance cover and shall ensure that all professional Contractors involved in the provision of the Project hold and maintain appropriate cover. Such insurance to be held by the Contractor or by any agent, sub-Contractor or sub-Contractor involved in the provision of the Project may be limited in respect of any one claim (but shall not be limited in any other respect). PROVIDED THAT any such limit shall in any event be £1,000,000 (one million pounds). Such insurance shall be maintained for a minimum of six years following expiration or earlier termination of this Contract.

G Section G – Termination and Default

G1 Termination on insolvency and change of control

G1.1 The Client may terminate the Contract with immediate effect by notice in writing where the Contractor is a company and in respect of the Contractor:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
- (c) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
- (e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
- (g) being a "small company" within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (h) any event similar to those listed in G1.1(a)-(g) occurs under the Law of any other jurisdiction.

G1.2 The Client may terminate the Contract with immediate effect by notice in writing where the Contractor is an individual and:

- (a) an application for an interim order is made pursuant to Sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Contractor's creditors; or
- (b) a petition is presented and not dismissed within 14 days or order made for the Contractor's bankruptcy; or
- (c) a receiver, or similar officer is appointed over the whole or any part of the Contractor's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or
- (d) the Contractor is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986; or
- (e) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Contractor's assets and such attachment or process is not discharged within 14 days; or
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005; or
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.

G1.3 The Contractor shall notify the Client immediately if the Contractor undergoes a change of control within the meaning of section 450 Corporation Tax Act 2010 ("Change of Control"). The Client may terminate the Contract by notice in writing with immediate effect within six Months of:

- (a) being notified that a Change of Control has occurred; or
- (b) where no notification has been made, the date that the Client becomes aware of the Change of Control,

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

G2 Termination on Default

G2.1 Either Party may terminate the Contract, or terminate a provision of any part of the Contract by written notice to the other Party with immediate effect if the other Party commits a Default and:

- (a) has not remedied the Default to the satisfaction of the injured Party within 25 Working Days or such other period as may be agreed between the Parties, after issue of a written notice specifying the Default and requesting it to be remedied; or
- (b) the Default is not, in the opinion of the injured Party, capable of remedy; or
- (c) the Default is a material breach of the Contract.

G2.2 In the event that through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall reimburse the Client in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

G2.3 If the Client fails to pay the Contractor any undisputed sums of money when due, the Contractor shall notify the Client in writing of such failure to pay. If the Client fails to pay such undisputed sums within 90 Working Days of the date of such written notice, the Contractor may terminate the Contract in writing with immediate effect.

H Section H – Disputes and Law

H1 Governing Law and Jurisdiction

H1.1 The Client and the Contractor accept the exclusive jurisdiction of the English courts and agree that the Contract and all non-Contractual obligations and other matters arising from or connected with the Contract are to be governed and construed according to English Law.

H2 Dispute Resolution

H2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director (or equivalent) of each Party.

H2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

H2.3 If the dispute cannot be resolved by the Parties pursuant to Clause H2.1 the Parties shall refer it to mediation unless (a) the Client considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.

H2.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation and the Contractor and the Staff shall comply fully with the requirements of the Contract at all times during the Contract Period.

I Section I – Provision of Services

I1 The Services

I1.1 The Contractor shall supply the Services during the Contract Period in accordance with the Client's requirements as set out in the Specification and the provisions of the Contract in consideration of the payment of the Contract Price and in accordance with the Product Specific Terms. The Client may inspect and examine the manner in which the Contractor supplies the Services during normal business hours on reasonable notice.

I1.2 If the Client informs the Contractor in writing that the Client reasonably believes that any part of the Services does not meet the requirements of the Contract or differs in any way from those requirements, and this is other than as a result of a Default by the Client, the Contractor shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Client.

I2 Manner of Carrying Out the Services

I2.1 The Contractor shall ensure that all Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services as described in the specification at Schedule A.

I3 Remedies in the Event of Inadequate Performance

I3.1 Where a complaint is received about the standard of Service or about the way any Services have been delivered or work has been performed or about the materials or procedures used or about any other matter connected with the performance of this Contract, then the Contract Manager shall take all reasonable steps to ascertain whether the complaint is valid.

I3.2 In the event that the Client is of the opinion that there has been a breach of this Contract by the Contractor, or the Contractor's performance of its duties under the contract has failed to meet the requirements, then the Client may do any of the following:

(a) make such deduction from the payment to be made to the Contractor as the Client shall reasonably determine to reflect sums paid or sums which would otherwise be payable in respect of such of the Services as the Contractor shall have either failed to provide or have provided inadequately.

(b) without determining the Contract, itself provide or procure the provisions of part of the Services until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Client that the Contractor will once more be able to perform such part of the Services to the Contract Standard.

(c) without determining the whole of the Contract, determine the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself provide or procure a third party to provide such part of the Services; and

(d) determine, in accordance with Condition G2, the whole of the Contract.

I4 Key Personnel

I4.1 Where Key Personnel are essential to the proper provision of specific Services to the Client, those Key Personnel shall not be released from supplying the Services without the agreement of the Client, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment and other extenuating circumstances.

I4.2 Any replacements to the Key Personnel shall be subject to the agreement of the Client. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

I4.3 The Client shall not unreasonably withhold its agreement under Clause I4.2. Such agreement shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse impact on the Contract which could be caused by a change in Key Personnel.

SCHEDULE A – SERVICE ORDER

REDACTED

SCHEDULE B – Contract Management, KPIs and MI

General KPI/SLA

The supplier will respond to routine communications from HMRC within a maximum of 5 working days.

The supplier will respond to urgent communications from HMRC on the day of receipt

The supplier will provide customer service from 8.00-18.00 as a minimum.

The supplier will comply with all Association for Payment Clearing Services (APACS) standards in providing the agreed services to HMRC

The supplier will keep HMRC informed, as far in advance as possible, of changes in the APACS standard and of any changes to its own systems, services or requirements which may impact upon HMRC's working procedures and documents

The supplier will recognise HMRC's interest in discussions with APACS and other parties on matters relating to an agreement

All parties agree to keep the contents of this document confidential unless disclosure is authorised by the other party.

Management Information (MI)

The new service must provide MI to include as a minimum -

- The Unique payment reference number
- Value of instrument of payment
- Encashment date time and location
- Details of the ID produced prior to encashment
- The account debited.
- Details of expired payments (payments that have been issued to customers but have not been redeemed within the validity window)
- Details of any failed payments (Where HMRC have requested a payment be issued to a customer but the supplier has been unable to deliver the request to the customer)

SCHEDULE C – Exit Management Plan

Exit Management

HMRC would require 18 months informal notice of a supplier's intention to exit the contract.

HMRC would require a minimum of 6 months formal notice of a supplier's intention to exit the contract

SCHEDULE D – HMRC Security Plan

Security

In addition to meeting the Departmental security standards the new service must minimise risk to fraud by:-

- The robust checking of customers ID at the point an instrument of payment is presented for encashment to ensure that they are the intended recipient.
- Any ID discrepancies should be reported immediately to HMRC. Payments must not be issued without ID being produced.

SCHEDULE E – Product Specific Terms

REDACTED